

Schools HR Policy & Procedure Handbook



DISCIPLINARY PROCEDURE

Date Policy Adopted: Sept 2020

Date Policy to be reviewed: Sept 2021

This Policy has been agreed by the following professional associations and Trade Unions representing Teachers, Headteachers and Support Staff:

- National Union of Teachers
- National Association of Schoolmasters Union of Women Teachers
- Association of Teachers and Lecturers
- National Association of Headteachers
- Association of School and College Leaders
- Unison
- GMB

January 2015

DISCIPLINARY PROCEDURE - STAFF IN SCHOOLS

1. INTRODUCTION

The purpose of the procedure is to uphold the standards of conduct expected of staff in schools and to ensure fairness and consistency in the treatment of employees who are subject to disciplinary investigation and action. Copies of the procedure will be made available to all staff in the school.

This disciplinary procedure, agreed by Shropshire Council with the appropriate professional associations/trade unions representing staff employed in schools, is commended to the Governing Body of Shropshire Schools and Academies for adoption and use in the exercise of their powers.

The procedure is drawn up with a need to ensure compliance with relevant employment legislation, the School Staffing (England) Regulations 2009, relevant regulations relating to school governance and the relevant terms and conditions of service for staff employed within the school. It also reflects fully advice contained in the ACAS Code of Practice on Disciplinary and Grievance Procedures. Headteachers and Governors should seek HR advice on the operation of the procedure.

Headteachers have an obligation to advise their staff when their conduct falls below acceptable standards. Staff also have a right to be advised of management concerns, to have the opportunity to express views and opinions about the concerns, and, if necessary, be clearly advised what they need to do to rectify any failings.

This disciplinary procedure is not to be used for capability and sickness absence management matters. It should be used where staff have wilfully or deliberately refused to perform their duties in a satisfactory manner, or have committed an act of misconduct. Poor performance due to a lack of skill or ability and suspension/dismissal on health grounds are not regarded as disciplinary matters.

SCOPE

This procedure covers all teaching staff (other than Headteachers) employed under the Conditions of Service for Schoolteachers in England and Wales, including those employed by the governors of an Academy and Aided school where adopted. It also applies to support staff employed in schools and Academies covered under the NJC National Agreement on Pay and Conditions of Service.

The procedure will be applied fairly and consistently to such staff regardless of:

- Racial group
- Gender
- Disability
- Marital or civil partnership status
- Sexual orientation
- Age
- Religion or belief
- Transgender
- Trade union membership

- Contract type (i.e. it applies to full time and part time staff and also to staff employed regularly on a temporary or fixed term contract, but not the non-renewal of such contract)

This procedure does not apply in respect of staff who employed on a casual basis, including "supply teachers", where further employment is not offered or guaranteed. A separate procedure has been agreed with the appropriate professional associations / trade unions for use in relation to the employment of supply teachers.

3. OVERVIEW

The disciplinary procedure is the means by which rules are observed and standards are maintained. The aim of the procedure is to encourage the employee to improve rather than purely as a way of imposing punishment. This procedure is for managing conduct which falls short of the required standard. A separate capability procedure should be used for dealing with performance issues.

The procedure should be applied fairly and consistently. The Headteacher and other designated senior school staff should deal with issues promptly as they arise. This has the potential of stopping minor issues escalating into more serious cases.

There are two fundamental aspects of the Disciplinary process, Informal Management Action and the Formal Disciplinary Action. In cases where the misconduct is minor, it is best dealt with through the informal route. However, in cases where the informal route has not had the desired effect or the misconduct is considered too serious, the formal route should be followed.

4. INFORMAL MANAGEMENT ACTION

This procedure allows for the Headteacher and other designated Senior School Staff to deal with matters of concern about a member of staff's conduct on an informal basis where appropriate. In such cases the member of staff should be spoken to, the cause for concern should be outlined and the member of staff should be given a right of reply. The desirability of giving a member of staff reasonable time to improve his/her conduct is emphasised. Advice to Headteachers on dealing with matters of conduct on an informal basis is given in Appendix A.

In all other circumstances where concerns have been raised an investigation must be conducted in accordance with section 5 onwards.

5. GENERAL

This disciplinary procedure will be used when an employee's conduct at work is considered to be unacceptable. Disciplinary action may also be considered in relation to acts of misconduct which take place outside of work depending on the nature of the misconduct in relation to the member of staff's role and responsibility to the school. When considering action under this procedure because of concerns about an employee's conduct, the Headteacher should seek advice from HR. In safeguarding cases, reference should be made to the Dealing with Allegations Against Staff in Schools Procedure.

Under the terms of the School Staffing Regulations 2009, the Governing Body may delegate its power to dismiss any member of staff at the school to:

- a) the Headteacher

- b) one or more governors, or
- c) one or more governors and the Headteacher

In adopting this procedure the Governing Body has resolved to delegate such power for all staff to a Staff Dismissal Committee comprising at least three members to be appointed by the Governing Body. The Headteacher or any governor who is employed to work at the school cannot serve as a member of this Committee or any other Governors' Committee which has a responsibility to take action under this procedure.

A Committee comprising at least three members to be appointed by the Governing Body will have delegated responsibility to hear and decide upon appeals for all staff against disciplinary action taken against them by the Headteacher in accordance with this procedure. It shall also have the other functions delegated to it as outlined within the disciplinary procedure in connection with the review at predetermined dates of previous disciplinary decisions. Its decision in all matters of appeal is final. There is a right of appeal to a Committee with delegated responsibility against a decision to dismiss a member of staff.

Where a Committee is convened to hear an appeal against disciplinary action taken by a Committee of governors, including dismissal, then in accordance with the School Governance (Procedures) (England) Regulations 2003 no members of the first decision making Committee shall sit as members of the Committee established to consider the appeal.

A Committee acting in accordance with this procedure shall report, as necessary, on its actions to the Governing Body.

The procedure shall not be construed as restricting the right of the Employer to dismiss a member of staff summarily after a hearing for gross misconduct or as requiring the Employer to give notice in any case where a contract of employment is terminated by expiration of time, frustration or any other rule of law.

The objective of this procedure at all stages before consideration of dismissal should be to encourage improvement in the member of staff's conduct. Both parties should adopt a constructive approach.

No formal disciplinary steps should be initiated against an official of a recognised trade union unless the circumstances of the case have been discussed beforehand with a full-time paid official of the union concerned. (N.B. Suspension is not a disciplinary step although whenever possible there will be similarly such discussion prior to suspension).

In cases where gross misconduct may have occurred, or where there are grounds for doubt as to the suitability of a member of staff to continue at work pending investigation by the police, the member of staff will be suspended. During a period of suspension a member of staff will continue to receive full pay subject to their Conditions of Service (see Section 6 - Suspension from Duty).

The procedure is based upon the assumption that the investigation of disciplinary matters is normally carried out by an appropriate person appointed by the Headteacher. The investigation will be conducted in accordance with Section 7 below.

6.0 SUSPENSION FROM DUTY

Under the School Staffing Regulations 2009 the Headteacher and the Governing Body both have the power to suspend without loss of emoluments any member of staff at the school where, in their opinion, exclusion from the school is required. It is the duty of the Headteacher or Governing Body, when exercising that power, to inform Shropshire Council (and each other) forthwith, where Shropshire Council is the employer. This procedure assumes that an action to suspend will be instigated by the Headteacher, in consultation with the Chair of Governors or Chair of Governors' Committee responsible for staff discipline. Any suspension may only be ended by the Governing Body. The Governing Body, on ending a suspension, shall immediately inform the Headteacher and, where appropriate, Shropshire Council. (In practice suspension by the Governing Body or the lifting of suspension will be an action taken by the Chair of Governors under emergency powers)

A member of staff may be suspended in cases where they are thought to have committed an act of gross misconduct or where misconduct may have occurred and there are grounds for doubt as to the suitability of the person to continue at work pending an investigation. In the latter case this could include where it is considered that through remaining at work the member of staff could impede a full and fair investigation.

A suspension should not be imposed automatically however. Consideration will be given to the particular circumstances and the feasibility of alternative action such as temporary transfer of duties. In all cases where the suspension of a member of staff is being considered, advice should be sought from HR. Specific reasons for the suspension must be included in the letter of suspension which should be issued within one working day of the employee being suspended.

Wherever possible, a member of staff, if he/she is a trade union/professional association member, should be given opportunity to have a representative present at any meeting where suspension is to be considered. Where this is not possible, a meeting to include a representative will then be organised to discuss the terms of suspension. In an emergency where immediate advice is not available, the Headteacher may send a member of staff home whilst advice is sought over whether a suspension is required. As referred to in section 5, if the member of staff is an official of a recognised trade union, then prior to suspension there should be discussion with a full-time paid official of the union concerned.

Suspension in itself does not constitute disciplinary action it should be regarded as neutral act. During a period of suspension a member of staff will (normally) continue to receive contractual pay in accordance with the relevant conditions of service, provided they comply with the conditions outlined in the letter of suspension. Suspensions should be reviewed regularly (for example monthly). Where the suspension period extends longer than 4 weeks, the suspension should be reviewed and should be reviewed monthly thereafter.

If a school receives notification from the National College for Teaching and Leadership (NCTL) that a teacher is prohibited from teaching (including an interim prohibition order), the teacher will be immediately removed from teaching and called to a consideration of suspension meeting where the teacher would be suspended. The timescale and process followed thereafter would be in line with any information received from the NCTL.

On being suspended, a member of staff will be assigned a named point of contact at the school, who is not involved in the investigation, with whom the member of staff

may keep in contact throughout the period of their suspension. They will also have support available to them from an appropriate Counselling Service. Details are available from Occupational health, HR or Trade Union/professional associations.

If during suspension, there is a change in the member of staff's contact address or other personal circumstances, he/she should notify their named contact immediately. They must also be available during the period of the suspension to attend an interview at any time during normal working hours. This includes attendance at an interview with the investigating officer and any formal disciplinary hearing.

If the member of staff is certified as sick and produces a medical certificate during their suspension, this will be treated as sickness in accordance with the rules of the relevant sick pay scheme. Medical certificates should be sent to the school. The terms of the suspension will continue to apply during any such period of sickness.

If it is agreed that the employee should return to work following suspension careful planning is necessary to ensure that this is managed as sensitively as possible for all individuals affected.

A suspension checklist and letter can be provided by HR.

7. CONDUCTING THE INVESTIGATION

The task of the person appointed to conduct the investigation (investigating officer) is to establish, as far as possible, the facts of the case through collection and collation of evidence calling on assistance as necessary to do so. Whilst it is important that staff conduct matters are dealt with as quickly as possible it is also important that any investigation will be as thorough as is necessary and reasonable in the circumstances. It is allowable under the procedure for the Headteacher to act as both investigating officer and Hearing Officer where appropriate and reasonable given the circumstances. HR advice should be sought before a headteacher believes it appropriate to act as investigating office and hearing officer. The Headteacher should not act as both in cases of gross misconduct.

Investigation interviews should be carried out as soon as possible. The investigating officer should interview any relevant witnesses who are likely to be in a position to give direct, or when appropriate indirect, evidence. It is important that witnesses are informed that their evidence will be included in a report of the investigation which could then be subject to consideration at a formal disciplinary hearing. Consideration will be given to whether witnesses should be offered the option to be accompanied at the interview, e.g. by a work colleague or representative, in order that they feel secure and supported. This will be a particular consideration where pupils are to be interviewed as witnesses. The investigating officer will ensure that the evidence of witnesses is supported by signed and dated written statements or through them signing and dating a record of the interview held.

The investigating officer will interview the member of staff whose conduct is the cause for concern. Prior to the interview the member of staff should be informed of the nature of the concerns and must be informed that they can be accompanied to the interview by a professional association/trade union representative or other person of their choice. It should be clarified for the member of staff that the purpose of the interview is to simply try and establish any facts surrounding the matter(s) of concern and not to make a decision about further action.

Each person's statement and/or record of their interview should be signed and dated by the interviewee. Anyone interviewed as part of the investigation should be advised that:

- they may have a colleague or trade union representative with them;
- the procedure and issues discussed are confidential;
- their statement may be used at any future formal disciplinary hearing;
- they may be required to attend any hearing as a witness, if appropriate.

The investigating officer will prepare a written report for consideration by the Headteacher. The report will set out the findings arising from the investigation and will include signed statements from the interviewees and any other relevant documentation. The investigating officer may feel it appropriate to draw attention to any breach of relevant standards, specific rules or aspects of the school's code of conduct which are indicated by evidence collected but will not include in the report any recommendation or advice on action which should be taken.

8. PROCEDURE AT AND AFTER FORMAL DISCIPLINARY HEARINGS

Following an investigation in accordance with section 5, it may be necessary to hold a formal disciplinary hearing. This is a matter for the Headteacher's professional judgement. In exceptional circumstances the headteacher may decide, following the investigation, to deal with the matter under informal management action. The member of staff must be told in writing at least five clear working days (Monday to Friday excluding bank holidays) in advance of the date and time of the hearing and its purpose. In that communication a summary will be given of the matters giving rise to concern in sufficient detail for a response at hearing to be prepared. A copy of this disciplinary procedure should also be attached to the letter requiring the member of staff to attend. The letter should be delivered by hand or by prepaid recorded delivery post to the individual's last notified home address. Action under this paragraph will normally only be taken following consultation with HR.

There may be circumstances where following consideration of the report of the investigation the Headteacher feels it appropriate to refer the matter for consideration by the Governors' Staff Discipline/Dismissal Committee without firstly conducting a formal disciplinary hearing. This procedure allows such action in the following circumstances:

- the Headteacher feels that there is clear evidence that an act constituting gross misconduct has been committed;
- the Headteacher feels that there is clear evidence of misconduct on the part of a member of staff for whom a final written warning, issued under this procedure, is in place; or
- the matters of concern relate to a member of staff's conduct towards the Headteacher and it is therefore considered that it would be inappropriate for the Headteacher to sit in judgement of any action.

Prior to deciding to take action in accordance with this paragraph the Headteacher will take advice from HR. Where it is then decided to directly refer on the matter as described a meeting of the Staff Discipline/Dismissal Committee will be arranged in accordance with the procedures at Section 10.

Where the Headteacher determines to hold a formal disciplinary hearing the member of staff must be informed in the letter that he/she may be accompanied by a trade union/professional association representative or work colleague.

The disciplinary hearing shall be postponed for a reasonable period if the Headteacher is satisfied on medical or other grounds that the member of staff is unavailable or is unable to be represented at the time given. The member of staff must make all reasonable efforts to attend any formal disciplinary hearing. Where a member of staff fails to attend without proper excuse, is unable or unwilling to attend the hearing without good cause and is unable to substitute a proposed alternative date, within 5 working days, then the hearing may proceed in the member of staff's absence and a decision may be made on the basis of the available evidence. In such circumstances the member of staff would be given opportunity to submit written representations and informed in writing the hearing may proceed in their absence.

If a member of staff has a disability or their fluency in English is restricted and in either case their ability to represent themselves during the disciplinary process may be affected, the member of staff should notify the headteacher or HR immediately. The Headteacher will then consider what if any steps it can take to ensure that the member of staff is not unreasonably disadvantaged during the disciplinary process.

Members of staff are entitled to know the evidence which has given rise to the disciplinary hearing. Any documentary evidence which the investigating officer or Hearing Officer wishes to introduce into the proceedings shall be supplied to the member of staff and his/her representative. The headteacher must ensure that all evidence and documentation being relied upon at a formal disciplinary hearing is included as part of this disciplinary documentation. Where other employees, pupils or individuals are named it may not be appropriate to release complete documents but an extract must be provided sufficient to enable the member of staff to respond to the matters which have given rise to the disciplinary hearing. This documentary evidence will normally be attached to or included in the letter convening the hearing.

Witnesses will not normally be called at formal disciplinary hearings, although the report by the Hearing Officer or investigating officer should give sufficient detail about information provided by witnesses which is relevant to the proceedings.

Each hearing held within this procedure shall normally be conducted by the Headteacher on the basis set out below. A HR representative (as representative of the Director of Children's Service where the Council is the employer), will normally attend the hearing in order to provide advice.

- (a) The Hearing Officer, normally the Headteacher, will introduce those present, and confirm the status and purpose of the hearing.
- (b) The Hearing Officer (or investigating officer(s), where appointed separately) will present a report setting out the grounds for complaint against the employee.
- (c) The Hearing Officer may ask questions of the investigating officer if a report has been presented in this way.
- (d) The employee together with his/her representative may ask questions of the investigating officer(s) and/or the Hearing Officer.
- (e) The employee or his/her representative may make an oral or written statement.
- (f) The Hearing Officer (and the investigating officer(s)) may ask questions of the employee and his/her representative.
- (g) The Hearing Officer will ask the parties present whether there are any final points which they wish to have taken into consideration.

Where, after a formal disciplinary hearing, the Hearing Officer is satisfied that the grounds for complaint against the member of staff have not been substantiated, no disciplinary action shall be taken. The Hearing Officer will be responsible for ensuring that all papers relating to the matters giving rise to the hearing are removed from the member of staff's file. The individual shall be notified of the position in writing.

Where the Hearing Officer decides that disciplinary action short of dismissal is appropriate he/she will make a decision, taking into account any advice received from HR. Wherever possible an oral decision will be given following the hearing and followed up in writing. Where this is not possible confirmation of the decision should be sent by letter to the member of staff as soon as possible after the hearing, with a copy provided for the member of staff to give to the representative involved, if he/she so wishes. A copy should also be sent to the HR representative.

The decision will be one of the following:

1. **no further formal action (although advice as to the employee's future conduct may be necessary and an archive record may be retained on the personal file);**
2. **formal verbal warning (confirmed in writing);**
3. **formal written warning;**
4. **formal final written warning.**

Where the decision of the Hearing Officer is to issue the member of staff with a warning, the letter confirming the decision should include:

1. confirmation of the status of the warning
2. a summary of the reasons for the decision
3. clear details of the corrective action required of the member of staff
4. confirmation of the period over which the warning will be reviewed
5. a statement of the consequences of failing to achieve the desired improvement. This will usually involve reference to further disciplinary action being considered, or, in the case of a final written warning, to the possibility of dismissal
6. confirmation of the member of staff's right of appeal against the decision.

Where following the disciplinary hearing the Hearing Officer decides that consideration should be given by the Governors' Staff Dismissal Committee to dismissal, the Hearing Officer will refer the matter for consideration in accordance with section 10 of this procedure. Wherever the question of dismissal is referred to the Staff Dismissal Committee the Hearing Officer shall wherever possible inform the member of staff orally following the hearing. Where this is not possible the Hearing Officer shall write and confirm his/her decision as soon as possible after the hearing and provide a second copy of the letter for the member of staff to give to the representative involved, if he/she so wishes. A copy should also be sent to the HR representative.

In any case a record of the hearing will be prepared and attached to the letter, or if this is not practicable, provided as soon as possible. The record will reflect the content of the hearing but will not be a verbatim report. If the member of staff is dissatisfied with the record of the hearing, the reasons for his/her dissatisfaction shall be considered and, unless satisfactorily resolved, shall be recorded.

9. DISCIPLINARY ACTION

If the circumstances warrant, the member of staff will be given a formal warning in

accordance with the warning set out below unless it is a case where dismissal is regarded as the appropriate disciplinary action. The reason for the warning, the period of review and the corrective action required must be stated clearly (see section 8).

Formal verbal warning - Where the head teacher is satisfied that the employee's conduct has been below the required standard, a formal verbal warning may be issued and confirmed in writing. The record of this warning will be retained on the personal file and the record will no longer be considered as current after a period of six months' satisfactory conduct. The employee's conduct will not be deemed to have been satisfactory if any further warning has been issued within the six-month period.

Formal written warning - In more serious cases, or where one or more recorded verbal warnings appear not to have had the desired effect, a formal written warning may be issued. The record of this warning will be retained on the personal file and will no longer be considered as current after a period of 12 months' satisfactory conduct. The employee's conduct will not be deemed to have been satisfactory if any further warning has been issued within the 12-month period.

Formal final written warning - A formal final written warning may be issued after more than one formal warning, or in circumstances where the misconduct is sufficiently serious to warrant such action. The letter to the employee must make it clear that any further unsatisfactory conduct could result in dismissal. The record of this warning will be retained on the personal file and will no longer be considered as current after a period of two years' satisfactory conduct. Conduct will not be deemed to have been satisfactory if any further warning has been issued within the two-year period.

Written records of the investigation, report, hearing and sanction will be retained on an employee's file. It will only be considered as a current record for the duration of any disciplinary sanction.

Where no action is taken records will be retained on file for six months.

It should not be considered that there is a graduated system of warnings which will apply in all cases. Depending on the nature of the offence, it may be appropriate to issue a warning at any of the levels described.

Dismissal - A decision to dismiss a member of staff may follow an earlier warning or warnings to which the member of staff has failed to respond or to respond adequately. In a case of gross misconduct, however, a member of staff may be dismissed without a prior warning. Where the reason for dismissal is other than for gross misconduct, the member of staff's statutory and contractual notice entitlements shall be observed, although payment in lieu of notice may be appropriate.

Acts of gross misconduct fundamentally breach the trust and confidence required in any employment relationship and will normally lead to dismissal without notice. Whilst such acts cannot be comprehensively defined, the following list gives examples of offences which are deemed to fall into this category and may warrant dismissal:

- a) theft, fraud, unauthorised possession of school property, deliberate falsification of records or any other form of dishonesty
- b) acts or threats of physical violence, obscene or abusive behaviour
- c) acts that seriously breach the schools adopted Equality policy, including any form of unlawful discrimination, victimisation, bullying or harassment of pupils or colleagues.

- d) Making a false declaration or failing to disclose information in relation to being disqualified from the provision of childcare, or becoming disqualified from providing childcare.
- e) deliberate and serious damage or misuse of school property
- f) deliberate and serious misuse or abuse of the school's ICT facilities or equipment
- g) serious acts of insubordination
- h) incapability whilst on duty through use of alcohol or illegal or non-prescribed drugs
- i) unauthorised disclosure of confidential information, bringing the school into serious disrepute
- j) Conviction of a criminal offence which adversely affects the reputation of the Council and its interests.(Subject to the nature of the offence)
- k) malicious transmitting of confidential information pertaining to the organisation
- l) unauthorised access to computer records and/or misuse of the computer, email or internet facilities
- m) serious negligence or breach of health and safety rules which may cause unacceptable loss, damage or injury.
- n) Abandoning duty without notification
- o) Unauthorised absence

Where a teacher is dismissed, a referral to the NCTL will be considered. If a referral is made the teacher will be informed in writing.

If a member of staff is dismissed as a result of safeguarding concerns, a referral to the Disclosure and Barring Service will be considered. If a referral is made the teacher will be informed in writing.

10. REFERRAL OF CONCERNS FOR CONSIDERATION BY THE GOVERNORS' STAFF DISCIPLINE/DISMISSAL COMMITTEE

Where the Headteacher refers concerns in accordance with section 8 of this procedure or where, following a formal disciplinary hearing, the Hearing Officer decides that consideration should be given by the Governors' Staff Dismissal Committee to dismissal; a meeting of the Committee will be arranged in order for the case to be heard. The Headteacher/Hearing Officer shall, at the same time as he/she notifies the member of staff of the decision to refer the matter, notify the Clerk to the Governors, the Chair of Governors and the Director of Children's Service (where the Council is the employer) forthwith.

The Clerk to the Governors shall as soon as practicable convene a hearing of the Staff Discipline/Dismissal Committee giving to the parties at least ten working days notice of the hearing. A HR representative (as representative the Director of Children's Service where the Council is the employer) will attend the hearing in an advisory capacity. The hearing will normally be held during working hours.

The procedure to be followed at the hearing shall be as set out at Appendix B. Where the Headteacher has referred concerns over a member of staff's conduct without firstly holding a formal disciplinary hearing, under section 8, both the Headteacher and the investigating officer will attend the hearing. The member of staff may be accompanied at the hearing by a trade union/professional association representative or work colleague.

The decision shall be one of the following:

- a) to exonerate the employee and direct that all references to the matter be removed from their personal file;
- b) to find that the allegations are proven in whole or in part and accordingly:
 - resolve that no action be taken, or
 - issue a warning or final warning, or
 - determine that the employee ceases to work at the school and is summarily dismissed (without notice) or dismissed with notice or pay in lieu of notice.

The decision of the Staff Discipline/Dismissal Committee will, wherever possible, be issued orally at the conclusion of the hearing. Any decision of the Committee must be confirmed by the Chair of the Committee in a letter sent to the member of staff and in the case of dismissal must clearly state the grounds of dismissal, and his/her right of appeal. Two copies of the letter will be sent to the member of staff who should be asked to sign and return one copy as an acknowledgement. A copy of the letter must also be sent without delay to the Director of Children's Service where the Council is the employer. Formal notice of dismissal must be issued in accordance with the provisions of the School Staffing (England) Regulations 2009. Where the Council is the employer HR will issue such notice following receipt of a written instruction by the Chair of Governors as a consequence of the dismissal decision. Notice will be withdrawn should an appeal be successful.

11. APPEAL AGAINST ACTION SHORT OF DISMISSAL

A member of staff shall have a right of appeal to the Governors' Committee with delegated responsibility against any formal disciplinary action short of a decision of dismissal taken against him/her (excluding a decision to suspend) and must be notified of this right in the written confirmation of the action taken. In all cases an intention to appeal must be notified in writing to the Clerk to the Governors stating the grounds of appeal within five working days of receipt of the letter confirming the disciplinary action that has been taken. The grounds of appeal should make it clear whether the appellant contests the evidence put forward by way of new evidence or otherwise or whether the appeal is on the grounds of undue severity or inconsistency of the disciplinary sanction. The hearing will normally be held during working hours.

The appeal will allow for a re-hearing of the evidence, including any new evidence arising. Evidence which has been submitted at the earlier hearing should be circulated in advance of the appeal. Where possible this should indicate where evidence is disputed.

The procedure to be followed at the hearing will be as set out at Appendix C. The member of staff may be accompanied by a trade union/professional association representative or work colleague. A HR representative will attend the hearing in an advisory capacity.

12. APPEAL AGAINST A DECISION TO DISMISS

The arrangements for appeal against a decision of dismissal will be made by the Clerk to the Governors. The member of staff's intention to appeal must be notified in

writing to the Clerk to the Governors stating the grounds for appeal within ten working days of receipt of the letter confirming the decision that has been taken. The hearing will normally be held during working hours.

The appeal will be by way of a rehearing of the evidence, including any new evidence arising. Evidence which has been submitted at the earlier hearing should be circulated in advance of the appeal. Where possible this should indicate where evidence is disputed.

The procedure to be followed at the appeal is as set out at Appendix B. The member of staff may be accompanied by a trade union/professional association representative or work colleague. A HR representative (as representative of Director of Children's Service where the Council is the employer) will attend the hearing in an advisory capacity.

13. REVIEW AND REMOVAL OF WARNINGS

Other than in the case of a final written warning, where it will be indicated that any recurrence of this or other misconduct may lead to dismissal, it will be appropriate for future disciplinary purposes only to remove and disregard a warning on a member of staff's record after a period of satisfactory conduct.

During the periods of time referred to in section 9, the member of staff's conduct should be monitored. This monitoring should result in a review meeting half way through the period and at the end of the review period. Immediately prior to the review meeting, a written report on the member of staff's conduct should be provided for consideration at the meeting. If the review indicates that there has been a satisfactory improvement in conduct, a note to that effect should be placed on the member of staff's personal file. If the review indicates insufficient improvement in conduct further disciplinary steps may need to be initiated in accordance with this procedure.

When deciding what disciplinary action is to be taken against a member of staff after an earlier formal warning (or warnings), the Headteacher will consider all relevant factors including periods of satisfactory service, the length of time which has elapsed since any disciplinary action, any instructions previously issued, and any pattern in conduct which is a cause for concern.

In the case of a final written warning a review meeting should be held following a period of one year and again one month before the period terminates. If the Headteacher decides not to remove the warning following the final review meeting, the member of staff may request a written statement of the reasons for the decision and shall be entitled to appeal against the decision to the Governors' Committee with delegated responsibility for hearing appeals under this procedure.

Other than where on an appeal the Committee decides that a final written warning should remain in force for a specified period, the Headteacher shall thereafter review the warning normally at intervals of two years and inform the member of staff of his/her decision. At each such review, if dissatisfied with the Headteacher's decision, the member of staff shall be entitled to appeal as above.

Where it is decided to remove and disregard a disciplinary warning for future disciplinary purposes, a note recording this decision shall be placed on the member of staff's personal file. A copy will be sent to them for information. A copy should also be sent to HR.

If, for any reason, the member of staff is absent from work for a period of one month or more, then the duration of any warning will be automatically extended by the amount of time that they are absent.

14. SICKNESS DURING DISCIPLINARY PROCEEDINGS

If a member of staff goes off sick at any time between the School/headteacher discovering that they may have committed a disciplinary offence and the conclusion of any disciplinary process (including any appeal), and that based on the balance of probability that the member of staff used sickness absence as a method to delay the process, then the headteacher reserves the right to withhold sick pay at its absolute discretion until the disciplinary process is completed.

Appendix A

INFORMAL MANAGEMENT ACTION

1. The Headteacher has a responsibility under the School Teachers Pay and Conditions Document for the leadership, internal organisation, management and control of the school. This duty will require the Headteacher from time to time to use informal management action (advice or admonition) in relation to the conduct of staff.
2. In discharging the responsibility, the Headteacher may need to take informal management action in relation to staff in cases of minor misconduct. (Such action will include constructive criticism and providing support and advice as appropriate). This informal management action will be directed towards registering with the individual the nature of the concern in order to bring about improvement. The Headteacher may delegate this process to a senior member of the school staff.
3. The aim of such action is to resolve the issue informally to avoid escalating to the formal procedure. Informal management action is a two way dialogue to constructively discuss the issue, to ascertain what action, support, training and advice is appropriate, to enable the Headteacher and employee to agree that sustained improvement needs to be made.

The member of staff should be verbally invited to an informal meeting and informed that they may be supported at the meeting if they so wish, by a work colleague, Trade Union or professional association representative. However this is not equivalent to being represented formally at a formal disciplinary hearing. The aim of the informal meeting is to adopt a positive approach to the issue through direct dialogue between Headteacher (or other senior manager) and member of staff.

4. Where the attention of a member of staff is drawn to an aspect of his/her conduct an appropriate note of the cause of concern, together with any response from the member of staff and any remedial action proposed or taken, may be included on his/her personal file. It is expected that such action will be taken by the Headteacher and no further report will be required. Any such note must state clearly that it relates to informal management action only, and a copy be given to the member of staff concerned. It is agreed that it will be appropriate for the Headteacher to remove from the file and disregard material relating to informal action after a period of satisfactory conduct, which should be no longer than 3 months from the date of the meeting. The Headteacher should notify the member of staff of the decision to remove from the file the note of the informal action. If the matter being considered is related to a safeguarding issue, the Headteacher may decide to retain a copy of the note.
5. If following informal action there is a continuing need to address matters of conduct, the Headteacher will consider whether further informal action is appropriate or whether to take action under the formal disciplinary procedure.
6. The disciplinary procedure envisages the exercise of management functions by the Headteacher as indicated above where the concerns which arise are such that they warrant being addressed on an informal basis.

**GOVERNORS' STAFF DISMISSAL COMMITTEE
GOVERNORS' STAFF DISMISSAL APPEAL COMMITTEE
(This procedure applies to hearings of either Committee)**

1. The Chair will introduce those present, confirm the purpose of the hearing and process to be followed and confirm that either side may request an adjournment at any stage of the proceedings.
2. The Headteacher will be invited to present the case (calling such witnesses as may be necessary)*.
3. The employee, or his/her representative, may ask questions of the witnesses (where called) and of the Headteacher.
4. The Headteacher may re-examine the witnesses (where called).
5. The employee, or his/her representative, will be invited to present the case (calling such witnesses as may be necessary).
6. The Headteacher may ask questions of the witnesses (where called), the employee and, where the employee's representative gives evidence, of the representative.
7. The employee or his/her representative may re-examine the witnesses (where called).
8. Members of the Committee may ask questions of the parties or witnesses at any stage but will seek to confine questioning until after questioning of witnesses is completed and prior to re-examination of the parties.
9. The Headteacher will be invited to sum up the case.
10. The employee or his/her representative will be invited to sum up the case.
11. At the conclusion of the hearing the parties and any other persons present with the exception of the HR representative, shall withdraw whilst the Committee deliberates. The decision will be notified in accordance with section 10 of this Disciplinary Procedure.

* NB Where the hearing has been called as a result of a referral by the Headteacher under section 8 of the procedure, i.e. without a formal disciplinary hearing being held, the Headteacher will be accompanied by any investigating officer who will be considered as a "witness" for the purpose of above proceedings.

Notes:

- Arrangements will be made for a record of the hearing to be taken. This record will not normally be a verbatim report but should aim to accurately reflect the content of the hearing and will be provided for both parties' information.
- The Chair of the Committee may during the process above recall witnesses or call for further evidence on specific points but if it becomes necessary to act in this way following conclusion of the hearing (i.e. at 11. above) then both parties must be recalled.

- Either party may present documentary evidence, copies of which shall be served upon the other party at least five working days in advance of the hearing date.
- The employee, in addition to his/her representative or friend who may present his/her case, may be accompanied by one other assistant who takes no active part in the proceedings. The Headteacher, in addition to making use of a clerical assistant, may receive advice from a representative or friend who will take no active part in the proceedings.
- Witnesses shall only be present whilst giving evidence unless the Chair of the Committee directs otherwise.
- Any party may call for an adjournment during proceedings. Whenever possible a room will be provided for the employee and his/her representative for use outside of the hearing.
- Where the Committee decide that dismissal is not appropriate, they may impose a sanction short of dismissal in accordance with this procedure. There will be a right of appeal against a sanction short of dismissal in accordance with Section 11 of this procedure.

APPEAL HEARING AGAINST DISCIPLINARY SANCTION SHORT OF DISMISSAL: PROCEDURE

Where the appeal is against action by the Headteacher short of dismissal, the appeal will be heard by the Governors' Committee with formally delegated responsibility to hear such an appeal. Under this procedure the Committee has the power to confirm or vary any decision of the Headteacher, taking into account any advice from HR representative at their hearing. Their decision is final.

1. The Chair will introduce those present, confirm the purpose of the hearing and process to be followed and confirm that either side may request an adjournment at any stage of the proceedings.
2. The employee or his/her representative will be asked to present the grounds for the appeal (calling such witnesses as may be necessary).
3. The Headteacher may ask questions of the witnesses (where called), the employee and, where the employee's representative gives evidence, of the representative.
4. The employee or his/her representative may re-examine the witnesses (where called).
5. The Headteacher will present the case (calling any witnesses as may be necessary).
6. The employee or his/her representative may ask questions of the witnesses (where called) and the Headteacher.
7. The Headteacher may re-examine the witnesses (where called).
8. Members of the Committee may ask questions of the parties or witnesses at any stage but will seek to confine questioning until after questioning of witnesses by the parties is completed.
9. The Headteacher will be invited to sum up the case.
10. The employee or his/her representative will be invited to sum up the case.
11. At the conclusion of the hearing the parties and any other persons present, with the exception of the HR representative providing advice, shall withdraw whilst the Committee deliberates.

Notes:

- Arrangements will be made for a record of the hearing to be taken. This record will not normally be a verbatim report but should aim to accurately reflect the content of the hearing and will be provided for both parties' information.

- The Chair of the Committee may during the proceedings above recall witnesses or call for further evidence on specific points but if it becomes necessary to act in this way following conclusion of the hearing (i.e. at 11. above then) both parties must be recalled.
- Either party may present documentary evidence, copies of which shall be served upon the other party at least five working days in advance of the hearing date.
- Witnesses shall only be present whilst giving evidence unless the Chair of the Committee directs otherwise.
- Any party may call for an adjournment during proceedings. Whenever possible a room will be provided for the employee and his/her representative for use outside of the hearing.
- In the event that the appeal is against action short of dismissal by the Staff Discipline/Dismissal Committee, then the procedure in this Appendix will be followed save that the role of the Headteacher is taken by the Chair of the Committee responsible for the decision.

Disciplinary Procedure for School Staff excluding Headteachers

The intention in creating this flow chart is to set out, as a logical process, the steps to be followed in the operation of the procedure

Informal process

