



Monmouth | Ysgol Gyfun
Comprehensive School | **Trefynwy**

"Learning to Lead our Lives"
"Dysgu Trwy Arwain"

Model Staff Disciplinary Procedure for maintained schools

EAS/Monmouthshire

Introduction

This model procedure presupposes that a delegation is in place allowing the Head-teacher to deal with accusations constituting lesser misconduct. Where this is not the case, suitable adjustments will need to be made.

- 1.** This staff disciplinary procedure applies to school staff (with the exception of some school-based staff employed by the LA), supply staff provided by agencies and any self-employed supply staff. Members of staff have been made aware of this procedure and copies will be given to any member of staff who is the subject of any allegation.
- 2.** All timescales included in this staff disciplinary procedure have been agreed by the governing body and the school's local staff unions. Depending on the circumstances of the case, there may need to be flexibility with these timescales, e.g. where there is a large amount of paperwork or unavailability of staff.
- 3.** Where required throughout this procedure the chair of governors will take appropriate action unless they are compromised, in which case the vice chair of governors will take over the role and actions normally carried out by the chair. If the vice chair is also compromised the governing body will have to select another governor who is not compromised and minute this decision.

Purpose and scope

- 4.** The governing body is responsible for the conduct and discipline of school staff and is required to have a procedure in place for dealing with staff disciplinary matters.
- 5.** Disciplinary procedures are necessary for promoting orderly employment relations, achieving fairness and consistency in the treatment of individuals and minimising disagreement about disciplinary matters.
- 6.** This disciplinary procedure is intended to help and encourage all employees to achieve and maintain acceptable standards of conduct and to make clear to all concerned the procedure to be followed by this school and governing body to address concerns about an individual's behaviour or conduct and any subsequent disciplinary action that may be taken.
- 7.** The aim of the procedure is to ensure consistent and fair treatment for all members of staff within the school.

Matters outside the scope of the procedure

8. The following matters are outside the scope of this disciplinary procedure:

- where employment is terminated:
 - by reason of redundancy
 - by an employee reaching the end of a temporary or fixed-term contract
- where any deficiencies in performance on the part of the staff member arise from a lack of aptitude or skill (in such cases the capability procedure will be used)
- staff grievances and grievances lodged as a result of disciplinary action. If, however, action under the staff grievance procedure results in the need for disciplinary action then this disciplinary and dismissal procedure will apply
- termination during or at the end of a probationary period, whether or not extended beyond its originally specified duration
- matters which ought to be dealt with through the governing body's general complaints procedure and which do not raise staff disciplinary issues for individual members of school staff
- **Foundation and voluntary aided schools only** – the function of the staff disciplinary and dismissal committee of a foundation school, foundation special school or voluntary-aided school to decide that a person employed at the school should not have their contract of employment renewed.

Principles

9. This procedure is a way of helping and encouraging improvement in members of staff whose conduct is unsatisfactory and is not to be viewed as simply a means of imposing sanctions or punishment.

10. In all cases, the school and governing body will ensure that disciplinary cases are dealt with in an unbiased, open and fair way.

11. The principles in summary are as follows.

- Where appropriate, every effort will be made to address concerns about behaviour or conduct without recourse to formal procedures.
- No disciplinary action will be taken against a member of staff until the case has been fully investigated by a person who has no connection with the case in question.

- An investigator will be impartial, suitably qualified and experienced. Reasonable objections to an investigator relating to their inability to act impartially, or their competence for the role, will mean that the investigator will be changed.
- Where it is decided to deal with a disciplinary matter through lesser misconduct procedures, the member of staff will be informed of the allegation against them and will be given the opportunity to defend the allegation at the disciplinary hearing before the Head-teacher, or the chair of governors for allegations against the Head-teacher.
- A member of staff will not be dismissed for a first breach of discipline in cases of lesser misconduct. However, should this lesser misconduct be repeated it may result in the member of staff being disciplined for gross misconduct as they are not moderating or amending their behaviour. This behaviour and the improvements/changes expected.
- Where it is decided to proceed to the formal stage, i.e. the allegations amount to gross misconduct, the member of staff will be informed of the allegation, date, time and place of any hearing before the governing body staff disciplinary and dismissal committee (subject to mutual agreement), the purpose of the hearing and the stage reached in the disciplinary procedure.
- The member of staff will be provided with the membership of the staff disciplinary and dismissal committee prior to a hearing and advised of their right of objection to any committee member on the basis of evidence that calls into question their ability to act impartially in the circumstances of the case.
- The member of staff will be provided, prior to the hearing, with the name of the presenting officer, the names of persons who will be present at the hearing and in what capacity, full details of the allegations, an outline of the evidence to be presented with supporting evidence, the names of any witness to be called and copies of written statements.
- The member of staff will have the right to be accompanied by a Trade Union representative or work colleague during the investigation, the disciplinary hearing and the appeal hearing.
- Dismissal for gross misconduct will take place immediately following the decision of the staff disciplinary and dismissal committee or following the outcome of any appeal by the member of staff. Dismissal under these circumstances will be without notice or payment in lieu of notice.
- A member of staff will have the right to appeal against any disciplinary sanction imposed by the Head-teacher or chair of governors (in respect of lesser misconduct matters), or the staff disciplinary and dismissal committee (in respect of gross misconduct matters).
- The process will be supportive towards the needs of the member of staff.
- Investigations and hearings will be conducted (all or part) in English or Welsh, or with access to interpretation, at the request of the member of staff.

Informal discussion with the Head-teacher – outside of disciplinary process

12. There will be occasions when it is appropriate for a member of staff's actions to be discussed with them as part of normal supervisory arrangements and without recourse to the formal procedures. In these circumstances the member of staff will be given guidance and support from their line manager. This could take the form of advice, counselling, training instruction, coaching or other managerial strategies as is appropriate. Such activity may be delegated to a member of the senior management team. In respect of the Head-teacher however, this would be carried out by the chair of governors with advice and support from the LA HR advisor.

13. The aim of this action is to ensure that problems are discussed so as to encourage and help the member of staff to improve and understand:

- what they need to do in relation to their conduct
- how future conduct will be monitored and reviewed
- the period of time over which conduct will be monitored
- that formal action might be taken if the conduct in question recurs.

14. Where discussions and support structures which have been put in place to help the member of staff do not lead to the necessary improvement or the relevant changes in conduct, within the agreed timescale, the member of staff will normally be advised in writing of further action to be taken, which may be formal.

Formal procedure for lesser misconduct

15. Responsibility for disciplinary matters where the allegation could constitute lesser misconduct is usually delegated by the governing body to the Head-teacher.

16. If an allegation which could constitute lesser misconduct is made against the Head-teacher, the chair of governors will be responsible for disciplinary action.

The investigation

17. As soon as the alleged breach of discipline has been brought to the attention of the Head-teacher or the chair of governors (in the case of the Head-teacher) a full investigation must be carried out. Where possible the Head-teacher or chair of governors will arrange for any investigation to be carried out externally, e.g. by the LA, diocesan authority (where appropriate) or a person who is unbiased.

18. The member of staff who is the subject of the alleged breach of discipline and all witnesses, will be interviewed and requested to provide a signed statement. Notes will be taken at all investigation meetings and a copy given to the party involved. No undertaking of confidentiality will be given to witnesses; however, the overall confidentiality of the disciplinary process will be respected.

19. The member of staff will be given the opportunity to respond to the allegation and will have the right to be accompanied by a trade union or a work colleague at an investigation interview meeting.

20. Once the investigation has been concluded, the investigating officer will present the findings to the Head-teacher or the chair of governors (in the case of a Head-teacher) in a written report. This will be done as soon as practicable after the conclusion of the investigation. The investigation report will be based on matters of fact and not opinions; references to or expressions of views on the personalities of individuals will not form a part of the report.

21. The Head-teacher or chair of governors (in the case of a Head-teacher) may conclude that:

- no further action will be taken
- matters can be dealt with by informal discussion (refer to paragraphs 12–14 of this procedure)
- there appears to be sufficient evidence for a hearing before the Head-teacher or chair of governors (if the Head-teacher is to be disciplined) and the possible outcome may be sanctions short of dismissal
- there appears to be sufficient evidence that the allegation constitutes gross misconduct to trigger a formal disciplinary hearing before the staff disciplinary and dismissal committee.

22. Where dismissal could result because a member of staff is currently on a final written warning, the case must be referred to the staff disciplinary and dismissal committee.

The hearing before the Head-teacher or chair of governors

23. Conduct that is considered to fall within the scope of lesser misconduct has been delegated to the Head-teacher to deal with. The chair of governors will deal with lesser misconduct allegations against the Head-teacher. A hearing will take place with the Head-teacher or the chair of governors (in respect of the Head-teacher) supported by advice from the LA or diocesan authority (where appropriate). Should the chair of governors be compromised this role should be delegated to the vice chair (providing the vice chair is not compromised).

24. The member of staff will be sent a copy of these procedures and will be informed in writing of the following information:

- the nature of the alleged misconduct
- the stage reached in the procedure
- the date, time and place for the hearing
- the possible outcome of the hearing
- their right to:
 - produce written statements which will be circulated to all parties in advance of the hearing
 - ask questions relating to any written statements so produced

- state their case in person and/or through a representative
- produce witnesses
- be accompanied by a trade union representative or companion of their choice.

25. There are five possible outcomes following on from such a hearing:

- informal action
- oral warning
- first written warning
- final written warning
- referral to a disciplinary hearing before the governing body's staff disciplinary and dismissal committee.

26. In many cases lesser misconduct can be dealt with in the first instance by informal action. However, there may be occasions when it will be appropriate to give a member of staff an oral warning or a written warning. The sanctions used will depend on the circumstances of the member of staff's behaviour.

27. Further advice on each of these sanctions is set out below. The sanctions a member of staff could receive will be in line with the nature and severity of the allegation. However, there may be occasions where a member of staff has had repeated lesser misconduct allegations against them and has not altered or improved their behaviour. This may result in a more severe sanction being given, e.g. a final written warning. Alternatively, the lesser misconduct behaviour may be serious enough to warrant an immediate final written warning instead of any other sanction.

Informal action

28. As a result of the hearing, the Head-teacher or the chair of governors (in respect of the Head-teacher), with support from the LA HR advisor, may deal with matters by giving advice, counselling, training instruction, coaching or other managerial strategies as is appropriate. Such activity may be delegated to a member of the senior management team. In respect of the Head-teacher however this will be carried out by the chair of governors with advice and support from the LA HR advisor.

29. The aim of this action is to ensure that problems are discussed so as to encourage and help the member of staff to improve. The member of staff needs to understand:

- what they need to do in relation to their conduct
- how future conduct will be monitored and reviewed
- the period of time over which conduct will be monitored
- that formal action might be taken if the conduct in question recurs.

30. Where discussions and support structures which have been put in place to help the member of staff do not lead to improvement or the relevant changes in conduct in the

agreed timescale, the member of staff will normally be advised in writing of further action to be taken.

Warnings

31. Where the member of staff's conduct is satisfactory for the specified period of a warning such warnings will be expunged from the staff member's file after a specified period and cannot be referred to again once spent.

Suitable periods would be:

- oral warning – three months
- first written warning – six months
- final written warning – 12 months.

Oral warning

32. If at the conclusion of the hearing it is decided to proceed with disciplinary action by way of an oral warning, the Head-teacher or the chair of governors (in respect of the Head-teacher) will issue the oral warning to the member of staff in the presence of their trade union representative or work colleague.

33. An oral warning will be confirmed in writing with a copy to any person who accompanies the member of staff in accordance with these procedures and will state:

- the nature of the misconduct
- the stage reached in the procedure
- what is expected for the future
- the right to appeal, the time limit within which the appeal should be made, and how the appeal should be made.

34. The member of staff will be required to indicate receipt of the written confirmation of the oral warning. A record of the warning will be placed on the member of staff's file. Where the member of staff's conduct is satisfactory for the specified period (usually three months) following an oral warning, such warnings shall be expunged from their record and therefore cannot be referred to again once spent.

First written warning

35. If at the conclusion of the hearing, it is decided to proceed with disciplinary action by way of a first written warning, the Head-teacher or the chair of governors (in respect of the Head-teacher), will issue the first written warning to the member of staff in the presence of their trade union representative or work colleague.

36. With the agreement of the member of staff a written warning will be copied to any person who accompanies the member of staff in accordance with these procedures and will state:

- the nature of the misconduct
- the stage reached in the procedure
- what is expected for the future

- the right to appeal, the time limit within which the appeal should be made, and how the appeal should be made.

37. The member of staff will be required to indicate receipt of the written warning. A copy of the warning will be placed on the member of staff's file. Where the member of staff's conduct is satisfactory for the specified period (usually six months) following a written warning, such warning shall be expunged from their record and therefore cannot be referred to again once spent.

Final written warning

38. A final written warning may be issued where lesser misconduct recurs despite attempts by senior managers to support the member of staff and improve their behaviour or conduct. A final written warning may also be issued where a single instance of proven misconduct is considered to be of a serious nature.

39. Final warnings may be given following a hearing before the Head-teacher or the chair of governors (in respect of the Head-teacher) who will issue a final written warning to the member of staff in the presence of their trade union representative or work colleague.

40. With the agreement of the member of staff a final warning will be copied to any person who accompanies the member of staff in accordance with these procedures, and will state:

- the nature of the misconduct
- the stage reached in the procedure
- what is expected for the future
- that the next stage will be dismissal
- the right to appeal, the time limit within which the appeal should be made, and how the appeal should be made.

41. The member of staff will be required to indicate receipt of the written confirmation of final warning. A record of the warning will be placed on the member of staff's file. Where a member of staff's conduct is satisfactory for the specified period (usually 12 months) following a final warning, such warning shall be expunged from their record and therefore cannot be referred to again once spent. At the end of the period of the final written warning, if the member of staff's behaviour has not improved, the matter can be referred to the staff disciplinary and dismissal committee for a formal hearing which could result in dismissal. The member of staff must be informed of this at the time the final written warning is issued.

Appeals against formal warnings

42. There is a right of appeal against any disciplinary action (refer to paragraphs 79–85 of this procedure for information on appeals).

Referral for consideration under procedures for gross misconduct

43. There may be rare occasions where, at the end of an investigation into lesser misconduct matters, the evidence in the investigation report indicates that the behaviour constitutes gross misconduct. If the Head-teacher (or chair of governors in respect of the

Head-teacher) with support from the LA or diocesan officer or another agreed appropriate person, concludes that this is the case, a referral for formal disciplinary action for gross misconduct may be justified. In these circumstances the member of staff will be informed immediately of the decision made and that the matter is being referred to the staff disciplinary and dismissal committee for their consideration. The most appropriate way for a member of staff or Head-teacher and their respective trade union representatives to be informed of this decision will be through a meeting with the Head-teacher or chair of governors (in respect of the Head-teacher). As this is likely to be a rare occurrence this meeting does not form part of the lesser misconduct process.

Gross misconduct (where the allegation does not relate to child protection issues)

44. The term gross misconduct is used to mean an act, or omission, or a series of actions or omissions by a member of staff that fundamentally repudiates the contract of employment. All gross misconduct allegations will be subject to a formal disciplinary hearing before the governing body's staff disciplinary and dismissal committee. The staff disciplinary and dismissal committee and staff disciplinary and dismissal appeals committee shall each have a minimum of three governors. The staff disciplinary and dismissal appeals committee must have at least the same number of governors as the staff disciplinary and dismissal committee. No governor will be a member of both committees and both committees will also have separate advisers.

45. Where alleged gross misconduct is to be considered responsibility for the arrangements to set up a disciplinary investigation rests with the chair of governors through the clerk to the governing body.

46. Gross misconduct allegations are usually sent to the Head-teacher or chair of governors (if the allegation is about the Head-teacher). On receipt of an allegation the Head-teacher or chair of the governors will make an initial assessment of the situation (but not investigate) to determine the nature and circumstances of the allegation, i.e. witnesses, when it occurred, etc. If the conclusion is that the allegation may be true the member of staff and their trade union representative will be informed of the allegation immediately and that the formal disciplinary process is being engaged.

47. The Head-teacher or chair of governors will arrange for the allegation to be thoroughly and fairly investigated. At this point the member of staff may be suspended by the Head-teacher or chair of governors, on full pay and in line with the governing body's agreed procedure. Both the Head-teacher and chair of governors can suspend staff but only the governing body can end a suspension. The governing body has delegated this function to the chair of governors/the chair of the staff disciplinary and dismissal committee. The decision has been minuted. Suspensions will be reviewed by the chair of governors at intervals set out in this disciplinary procedure and the outcome will be reported to the member of staff and the governing body.

48. However, if after making the initial assessment of the allegation the conclusion of the Head-teacher or chair of governors (in respect of an allegation against the Head-teacher) is that beyond any doubt it is impossible for the allegation to be true, the Head-teacher or chair of governors may take no further action. The member of staff and their trade union representative will be informed immediately of this decision.

The investigation

49. As a possible outcome for gross misconduct hearings is dismissal, it is important that investigations into gross misconduct allegations are unbiased and thorough. Consequently, and wherever possible, all investigations will be carried out externally by an appropriate person who has no connection or involvement with the case and has the relevant skills. The governing body may engage, for example, LA or diocesan officers, ex-Head-teachers or ex-LA officers, who are impartial and have no connections with the case. Only in exceptional circumstances would the chair of governors, members of staff or governors be asked to investigate gross misconduct cases. The chair of governors is responsible for controlling and managing all aspects of the disciplinary process including the engagement of an appropriate investigator. The member of staff has the right to object to an investigator if they have reasonable doubts as to their ability to act impartially.

50. Prior to the investigation, the member of staff will be informed in writing of their rights under the school's disciplinary procedure, including the right to be accompanied by a trade union representative or work colleague, at all meetings held in connection with the disciplinary matter.

51. Notes will be taken of the meeting and a copy given to the member of staff and their trade union representative following the meeting. No undertaking of confidentiality can be given to witnesses. However the overall confidentiality of the disciplinary process will be respected.

The investigation report

52. The report, once completed, will be given to the Head-teacher and the chair of governors (or chair of governors and another governor in respect of investigations into the conduct of the Head-teacher), who will consider the findings and decide whether, based on the findings of the report:

- there is no evidence to support the allegations and the matter is closed
- the conduct does not amount to gross misconduct but to lesser misconduct which can be dealt with by the appropriate person
- based on evidence, the conduct does amount to gross misconduct and is required to be referred to a staff disciplinary and dismissal hearing.

53. This discussion and decision will be minuted by the clerk. The member of staff will be advised of the outcome of the investigation as soon as possible in writing by the clerk to the staff disciplinary and dismissal committee.

54. A copy of the investigation report, including all interview notes, will automatically be provided to the member of staff against whom the allegation has been made, within the timescales set out in this disciplinary procedure, if the case is to proceed as outlined above.

Allegations that involve issues of child protection – receipt of an allegation

55. Allegations involving issues of child protection will be brought immediately to the attention of the Head-teacher or the chair of governors (if the allegation is in respect of the

Head-teacher) and the designated child protection officer in the school and referred to the statutory authorities, e.g. the police and social services.

56. The Head-teacher or chair of the governors (in respect of the Head-teacher) will make an initial assessment (but not investigate) to determine the nature and circumstances of the allegation, i.e. witnesses, when it occurred, etc. If the conclusion is that beyond any doubt it is impossible for the allegation to be true the matter will be discussed by the chair of governors, Head-teacher and the lead child protection officer in the LA, to determine whether a referral to social services and/or the police is required. If the allegation is about the Head-teacher the chair of governors will have the same discussion without the Head-teacher being present. If the conclusion of all parties is that it is impossible for the allegation to be true the Head-teacher or chair of governors may not take any further action against the member of staff and no referral to the statutory authorities is required. If there is any doubt and agreement between these parties cannot be reached, the matter will be referred to the statutory authorities.

57. If however, the initial assessment by the Head-teacher or chair of governors (if the allegation is about the Head-teacher), in discussion with the LA lead child protection officer, indicates that an allegation might be true, there will be an immediate referral to the statutory authorities (social services and/or the police), in accordance with local child protection procedures.

58. The member of staff and their trade union representative will normally be informed of the decision, as agreed by the statutory authorities, that a referral is being made. However, there may be some circumstances where this will not be appropriate. At this point the Head-teacher or chair of governors (if the allegation is about the Head-teacher) may suspend the member of staff, on full pay, in line with the governing body's agreed procedures. Both the Head-teacher and chair of governors can suspend a member of staff but only the governing body can end a suspension. The governing body has delegated this function to the chair of governors/the chair of the staff disciplinary and dismissal committee. The decision has to be minuted. Suspensions will be reviewed at intervals set out in the disciplinary policy and the outcome reported to the member of staff and the governing body.

59. After the statutory authorities (e.g. the police and social services) have completed their consideration of the allegation, it will be referred back to the governing body to complete the staff disciplinary process. This will happen even if the statutory authorities take the decision not to pursue a criminal investigation.

60. The Head-teacher and chair of governors or the chair of governors and another governor (if the Head-teacher is the subject of the allegation), with advice from the school's designated child protection officer and LA lead child protection officer as appropriate, will discuss:

- whether the allegation is of a child protection nature and the behaviour constitutes gross misconduct which requires it to be independently investigated prior to any disciplinary hearing
- whether there is evidence of misconduct which should be treated as lesser misconduct
- whether no further action is required.

61. If there is any doubt at all, or agreement cannot be reached as to whether the matter is a child protection issue, the allegation will be independently investigated.

Referral for an independent investigation

62. The requirement in education law is that the governing body must refer child protection allegations for independent investigation. However, the appointment of an independent investigator is not required where the person has admitted the allegation or has been convicted of a criminal offence relating to the allegation. In such circumstances there should be sufficient information and evidence available from the police and/or social services that could be shared with school for it to complete the disciplinary process. In order to make the process easier this task has been delegated to the (Chair of Governors) and the governing body's decision to this effect has been minuted. This must be done prior to the hearing of any disciplinary proceedings. The independent investigator's contact in relation to the running of the investigation will be with the governing body e.g. the (Chair of Governors) and not the Local Authority or Head-teacher. The purpose of an independent investigation is to enable the governing body to comply with the law and to provide members of the (Staff Discipline & Dismissal Committee) with a thorough and unbiased investigation report, produced by persons with appropriate skills and training, to enable them to reach fair and balanced decisions.

63. The independent investigator will be appointed as soon as the governing body makes a referral; however, the independent investigator will not commence the investigation until after the statutory authorities have completed their investigation. Once the statutory authorities have completed their investigation the independent investigator will then be able to conduct their investigation.

The independent investigation

64. The independent investigator will set the parameters of the investigation and interview all witnesses in order to ensure a completely impartial and unbiased investigation is carried out. The report will not contain any conclusions and recommendations as these are matters for the committee to determine.

The independent investigation report

65. The report, once completed, will be given to the Head-teacher and chair of governors, or chair of governors and another governor in respect of investigations into the conduct of the Head-teacher. They will consider these findings and decide whether, based on the findings of the report:

- there is evidence to support a decision that the child protection allegations are well-founded, that they constitute gross misconduct behaviour and that they will require a disciplinary hearing before the staff disciplinary and dismissal committee
- there is evidence to support a decision that the allegation constitutes lesser misconduct behaviour which can be dealt with by the Head-teacher or chair of governors (if the allegation is against the Head-teacher)
- there is no evidence to support the child protection allegation and no further action needs to be taken against the member of staff.

66. If there is any doubt at all, or agreement cannot be reached by the Head-teacher or the chair of governors, or the chair of governors and another governor in respect of the Head-teacher, the matter will be referred for a full hearing before the staff disciplinary and dismissal committee.

67. The member of staff and trade union representative will be informed of the decision as soon as reasonably practicable.

68. The chair of governors will ensure that all relevant papers, including the full investigation report, are sent to the member of staff and/or their trade union representative, the person presenting the case against the member of staff, and members of the staff disciplinary and dismissal committee within the timescales set out in this procedure.

69. No evidence will be removed by any party from the investigation report before it is sent to the governing body staff disciplinary and dismissal committee.

Appointment of independent non-governor member on staff disciplinary and dismissal committees and staff disciplinary and dismissal appeals committees dealing with child protection allegations

70. As required in law the staff disciplinary and dismissal committee and the staff disciplinary and dismissal appeals committee will have at least two governors plus an independent non-governor with voting rights. The appeal committee will have the same number of governors as the first committee. The governors, including the independent non-governor on the appeal committee will be different from those on the first committee.

The disciplinary hearing in respect of all gross misconduct cases

71. A disciplinary hearing will be held as soon as it can be arranged by the clerk to the staff disciplinary and dismissal committee even if the member of staff has subsequently resigned or is on sick leave.

72. The member of staff will be informed in writing of:

- the date, time and place for the disciplinary hearing, seeking agreement to dates from members of the committee, the member of staff, any witnesses appearing in person and the LA and diocesan authority (if appropriate)
- the purpose of the hearing and the range of possible outcomes
- the right of the member of staff to be accompanied by a trade union representative or work colleague
- the membership of the staff disciplinary and dismissal committee and staff disciplinary and dismissal appeals committee
- the name of the person presenting the case against the member of staff
- the full details of the allegation, the evidence to be presented and the names of any witnesses to be called, etc.
- who is to be the adviser to the staff disciplinary and dismissal committee and the staff disciplinary and dismissal appeals committee
- the date by which all relevant documentation should be received by the clerk prior to the hearing.

73. The clerk will arrange for the documentation from both parties to be distributed to the member of staff and their representative prior to the hearing, including up-to-date procedures, in accordance with the timescales set out in this procedure.

74. The staff member will be afforded the right to object to any member of the committee or the investigator on the basis of evidence that calls into question their ability to act impartially in the circumstances of the case.

At the hearing

75. The hearing will be conducted in a fair manner with all parties having the opportunity to present evidence and call and question witnesses. There will also be an opportunity for the presenting officer and the member of staff and/or their trade union representative to summarise their case. The clerk to the governing body will be present to record the hearing in detail.

76. Once this part of the hearing is completed there will be an opportunity for the staff disciplinary and dismissal committee to receive advice. Once this is received members of the committee will be left alone with the clerk to discuss the evidence and make their decision. Where possible this will be given verbally at the end of the hearing. If for some reason this is not possible the committee's decision will be given in writing to the member of staff as soon as possible after the hearing. At this point the member of staff will also be informed of their right to appeal and the timescale within which this must be made.

Decision reached after the hearing has taken place

77. Having considered all the evidence and taken into account advice provided, the staff disciplinary and dismissal committee may conclude that:

- the allegation is unproven and there is no action to be taken
- the alleged behaviour constitutes lesser misconduct and a formal oral written warning or final written warning should be issued
- the allegation of gross misconduct is proven and, depending on the severity of the misconduct, an appropriate sanction shall be imposed.

Possible sanctions may be:

- relegation to a lower-graded position (if practical and appropriate) and loss of salary
- specified training and development
- issue of a formal warning (where the alleged behaviour constitutes lesser misconduct)
- dismissal of the member of staff without notice.

78. Matters that are considered lesser misconduct may be dealt with by means of informal action set out in paragraphs 28–30.

Disciplinary hearing – appeal

79. A member of staff is entitled to appeal against a decision of the staff disciplinary and dismissal committee. The notice of the intention to appeal needs to be lodged with the clerk

to the staff disciplinary and dismissal appeals committee within the specified time limit set out in this procedure. The appeal notice will need to include the grounds for the appeal.

80. The appeal will be heard by the disciplinary and dismissal appeals committee within a specified time set out in this procedure. Appeal hearings will focus on the issues set out in the appeal notification, therefore the appeal process may not always take the form of a complete hearing. However, under certain circumstances, e.g. where new evidence comes to light or the first hearing process was considered flawed or biased, it may be appropriate to rehear part, if not all, of the case. The member of staff will be given notice of the date and time of the appeal hearing.

In line with ACAS guidance, an appeal committee is provided with a record of the findings and conclusions from the original hearing.

Agreeable times and dates will be arranged for all parties concerned where possible.

81. The staff disciplinary and dismissal appeals committee may, after considering all the facts presented to it, including any new evidence, come to one of three conclusions:

- uphold the decision of the staff disciplinary and dismissal committee
- impose a lesser penalty
- conclude that no disciplinary action should be taken against the member of staff.

82. The staff disciplinary and dismissal appeals committee cannot impose a more severe penalty than that imposed by the Head-teacher or chair of governors in respect of the Head-teacher (in lesser misconduct cases) or the staff disciplinary and dismissal committee (in gross misconduct cases).

83. The decision of the staff disciplinary and dismissal appeals committee will be final and the staff member will be informed in writing.

84. The member of staff will be given a copy of the minutes of the appeal hearing and a copy of the disciplinary and dismissal appeals committee's conclusions.

85. If, as the result of an appeal, disciplinary action is withdrawn, all details will be expunged from the member of staff's personal file and they will be informed accordingly. The member of staff will be given a copy of the minutes of the appeal hearing and a copy of the disciplinary and dismissal appeals committee's conclusions.

Suspension

86. Suspension pending disciplinary proceedings will normally only be considered where allegations relate to gross misconduct behaviour and where:

- it appears to be necessary to exclude the member of staff from the school, for the protection of pupils, other staff or property or the orderly conduct of the school
- the continued presence at work of the member of staff would be an obstacle to proper investigation of the allegations made against that member of staff.

87. Suspension is a serious step and will not be used in a punitive way. Suspension will be on full pay and without loss of emoluments. The continued effect of the suspension will be kept under review and the outcome of the review reported to the member of staff and the governing body.

88. The decision to suspend can be taken by the Head-teacher or the chair of governors but only the governing body can end a suspension. However the governing body has delegated the task of ending a suspension to the chair of governors/the chair of the staff disciplinary and dismissal committee.

89. The decision to suspend will be discussed with the Head-teacher, chair of governors (or vice chair if the chair is not available) in consultation with the chief education officer of the maintaining LA and, where applicable, the diocesan authority, prior to implementing any suspension or redeployment. Written notice will be given to all relevant parties following a decision to suspend.

90. If the staff member is absent due to sickness, the staff disciplinary and dismissal committee will usually postpone the hearing. However, where the staff member may be absent for an indeterminate period, the staff disciplinary and dismissal committee may decide to hold the hearing provided that it has informed the member of staff and their representative and has offered the member of staff the opportunity to send a representative or submit written evidence to present their case. The representative will have the same opportunity as the staff member to present evidence, call witnesses and sum up the staff member’s case.

Summary

91. In adopting this procedure the governing body has taken due regard of advice and guidance from the LA and the *Disciplinary and dismissal procedures for school staff* Welsh Government circular no: 002/2013 (2013). It has also consulted the local trade union representatives.

92. The governing body will also consult further before any amendments are made to this disciplinary procedure.

Further detailed guidance on the stages of this policy can be found in the revised *Disciplinary and dismissal procedures for school staff* Welsh Government circular no: 002/2013

This policy was agreed by the Governors

Signed: Chair of Governors

Date:

Signed: Headteacher

Date:

Annex J: Model letters that can be used during the disciplinary process

Letter (i): Sample letter inviting a member of staff to attend an investigation meeting in respect of lesser or gross misconduct allegations

Date:

Dear

Re: Investigation meeting on

I write to request your attendance at an investigation meeting with who is investigating the allegations made against you, as below:

- a).....
- b).....
- c).....

The meeting will be held on at

You are entitled, if you wish, to be accompanied by a trade union representative or work colleague.

Yours sincerely

Letter (ii): Sample letter inviting a witness to attend an investigation meeting in respect of lesser or gross misconduct allegations

Date:

Dear

I am writing to request your attendance at an investigation meeting with who is investigating an allegation made against

The meeting will be held onat

You are entitled, if you wish, to be accompanied by a trade union representative or work colleague.

Yours sincerely

Letter (iii): Sample letter to a witness to request their attendance at a disciplinary hearing for either lesser or gross misconduct

The hearing in respect of lesser misconduct allegations would be before the Head-teacher or chair of governors if about the Head-teacher.

Date:

Dear

Re: Disciplinary hearing on

I am writing to inform you that you are required to attend as a witness at the disciplinary hearing of The hearing will take place on and will commence at

The Head-teacher (or chair of governors if allegations are about the Head-teacher) will be hearing evidence concerning the allegation(s).

Should you wish to discuss this matter please feel free to contact me on the above number.

Yours sincerely

Gross misconduct allegations would be heard by the governing body staff disciplinary and dismissal committee.

Date:

Dear

Re: Disciplinary hearing on

I am writing to inform you that you are required to attend as a witness at the disciplinary hearing of The hearing will take place on and will commence at

The governing body staff disciplinary and dismissal committee will be hearing evidence concerning the allegation(s).

Should you wish to discuss this matter please feel free to contact me on the above number.

Yours sincerely

Letter (iv): Sample letter to member of staff to request their attendance at a disciplinary hearing for either lesser or gross misconduct

Lesser misconduct allegations would be heard by the Head-teacher or chair of governors if about the Head-teacher.

Gross misconduct allegations would be heard by the governing body staff disciplinary and dismissal committee.

Date:

Dear

Re: Disciplinary hearing on

I am writing to inform you that you are required to attend a disciplinary hearing. The hearing will take place on and will commence at

The Head-teacher and/or chair of governors or governing body staff disciplinary and dismissal committee **[delete as appropriate]** will be hearing evidence concerning the allegation(s).

Should you wish to discuss this matter please feel free to contact me on the above number.

Yours sincerely

Letter (v): Sample letter for lesser misconduct – conclusion from a disciplinary hearing with the Head-teacher/chair of governors (if about the Head-teacher), notice of final written warning

Date:

Dear

Final written warning

I refer to the disciplinary hearing before the Head-teacher/chair of governors which you attended on I am writing to confirm the decision taken that you be given a final written warning under the provisions of the school’s staff disciplinary procedure.

The unsatisfactory conduct in respect of which this warning is given was:

The conduct improvement expected is:

-
-
-
-

This warning will be placed on your personal file, but will be disregarded for disciplinary purposes after a period of **[insert number]** months, subject to the maintenance of satisfactory conduct. For the avoidance of doubt this means that this warning will remain in effect until **[insert date]**.

The likely consequence of further misconduct/insufficient improvement **[delete as appropriate]** is your dismissal.

You have the right of appeal against this decision in writing to the clerk of the governing body within **[insert number]** school days of receipt of this letter.

Yours sincerely

Letter (vi): Sample letter for lesser misconduct – conclusion from a disciplinary hearing with the Head-teacher/chair of governors (if about the Head-teacher)

Date:

Dear

Oral warning/written warning/training and/or development

I refer to the disciplinary hearing before the Head-teacher/chair of governors you attended on I am writing to confirm the decision taken that you be given an oral warning/written warning/training and/or development under the provisions of the staff disciplinary procedure.

The unsatisfactory conduct in respect of which this warning is given was:
.....

The conduct improvement expected is:
.....
.....
.....
.....

This warning will be placed on your personal file, but will be disregarded for disciplinary purposes after a period of **[insert number]** months, subject to the maintenance of satisfactory conduct. For the avoidance of doubt this means that this warning will remain in effect until **[insert date]**.

The likely consequence of further misconduct or insufficient improvement may be a final written warning.

You have the right of appeal against this decision and your appeal should be made in writing to the clerk of the governing body within **[insert number]** school days of receiving this disciplinary decision.

Yours sincerely

Letter (vii): Sample letter for lesser misconduct – notice of appeal hearing with the staff disciplinary and dismissal appeals committee

Date:

Dear

Invitation to attend a staff disciplinary appeal hearing

You have appealed against the training and development/ oral warning/written warning/final written warning **[delete as appropriate]** given to you by the Head-teacher (or chair of governors in respect of the Head-teacher), and which was confirmed in writing to you on

The appeal hearing **[you should specify whether a complete rehearing or an appeal on specific grounds is required]** will take place on **[date]** at **[place]** at **[time]** a.m./p.m., as agreed. It will be conducted by the staff disciplinary and dismissal appeals committee of the governing body.

You have the right to be accompanied by a companion or trade union representative. If your chosen representative is unable to attend the appeal hearing at the time given above, you may propose another date and time for the meeting to take place.

You should ensure that a copy/copies/agreed bundles of any written submissions, upon which you wish to rely at the appeal hearing, are submitted at least **[insert number]** school days before the hearing, together with the names of any witnesses that will be attending on your behalf. The members of the staff disciplinary and dismissal appeals committee are.....

The decision on this appeal hearing is final and there is no further internal right of review. The possible outcomes from the appeal hearing are:

- **[insert details].**

If there is any aspect of this letter or of the staff disciplinary procedure, to the extent that it applies to you, which requires further clarification, please contact me.

Yours sincerely

Clerk of the Governing Body’s Disciplinary and Dismissal Appeals Committee

[In the case of disciplinary action against a Head-teacher, the letter should be sent by the chair of governors.]

Letter (viii): Sample letter – conclusion of an appeal before a disciplinary appeal hearing against a training and development/verbal/written warning given by the Head-teacher/chair of governors

Date:

Dear

Confirmation of outcome of staff disciplinary appeal hearing

You appealed against the decision made at the disciplinary hearing held on when you were given a warning, which is in accordance with the staff disciplinary procedure. The appeal hearing, before the governing body staff disciplinary and dismissal appeals committee was held on

I am now writing to inform you of the decision taken by the staff disciplinary and dismissal appeals committee who conducted the appeal hearing. The decision of stands/the decision of is to be revoked **[amend as appropriate – specify if no disciplinary action is being taken or what the new disciplinary action is]**.

You have now exercised your right of appeal under the staff disciplinary procedure. The decision on the appeal hearing is final and there is no further internal right of review.

Yours sincerely

[If the Head-teacher appeals against a warning given by the chair of governors under lesser misconduct, the appeal would be heard by the staff disciplinary and dismissal appeals committee.]

Letter (ix): Sample letter for gross misconduct – notice of a disciplinary hearing before the staff disciplinary and dismissal committee

Date:

Dear

Invitation to attend a staff disciplinary and dismissal committee hearing on [insert date]

I am writing to advise you that as a result of the investigation into allegations that **[set out summary details of the staff member’s alleged misconduct]**, your attendance is required at a formal disciplinary hearing before the governing body staff disciplinary and dismissal committee. If the allegation(s) is/are proven this could lead to the issuing of a written warning/final written warning/the termination of your employment **[delete as appropriate]**.

The hearing will take place on **[date]** at **[place]** at **[time]** a.m./p.m. as agreed. It will be conducted by the staff disciplinary and dismissal committee of the governing body.

You have the right to be accompanied by a companion or trade union representative. If your chosen representative is unable to attend the hearing at the time given above, you may propose another date and time for the meeting to take place within five days of the date suggested in this letter for the hearing.

You also have the right to provide written submissions and to invite witnesses to give evidence in support of your case. You should ensure that a copy/copies/agreed bundles of any written submissions upon which you wish to rely at the hearing are submitted at least **[insert number]** school days before the hearing, together with the names of any witnesses that will be attending on your behalf. The governor members of the staff disciplinary and dismissal committee are.....

I confirm that Mr/Mrs/Miss/Ms **[insert name]** who will be the presenting officer has indicated that the following witnesses will be attending the hearing as part of the management case.

• [Insert details]

You will also have the right to appeal against the decision of the staff disciplinary and dismissal committee.

If there is any aspect of this letter or of the staff disciplinary procedure, to the extent that it applies to you, which requires further clarification, please contact me.

Yours sincerely

Clerk of the Governing Body’s Disciplinary and Dismissal Committee

[In the case of disciplinary action against a Head-teacher, the letter should be sent by the chair of governors.]

Letter (x): Sample letter for gross misconduct – conclusion from a disciplinary hearing with the staff disciplinary and dismissal committee

Date:

Dear

Specified training and/or development/oral warning/written warning/final written warning/confirmation of decision to dismiss you from your employment [delete as appropriate]

You attended a disciplinary hearing before the governing body oninto allegations that..... I am writing to confirm the decision taken that you be given specified training and/or development; or oral warning/written warning/final written warning or dismissed in accordance with the staff disciplinary procedure.

[A. The following words should be used for any sanction other than dismissal. This applies to any category of school.]

The training and development requirements identified are: A letter confirming these training and development requirements will be placed on your personal file but will be disregarded after a period of provided the required training and development has been satisfactorily undertaken.

This oral/written/final **[delete as appropriate]** warning will be placed on your personal file but will be disregarded for disciplinary purposes after a period of months **[i.e. insert actual date of sanction expiry]**, provided that: **[please list the behaviours or improvements required or are to be achieved within the life of this warning]**.

You have the right of appeal against this decision and your appeal should be made in writing to the clerk of the governing body within **[insert number]** school days of receiving this disciplinary decision.

[B. The following words should be used for a sanction of dismissal.]

[For community, community special and voluntary controlled schools and maintained nurseries.]

The staff disciplinary and dismissal committee considered all the information received and the reason for recommending to the LA your dismissal is as follows: **[insert reason for dismissal]**.

You have the right of appeal against this decision and your appeal should be made in writing to the clerk of the governing body within **[insert number]** school days of receiving this disciplinary decision.

Yours sincerely

[Note: For the schools mentioned above the LA will issue the notice of dismissal within 14 school days of the appeal being heard.]

[For Voluntary aided and foundation schools.]

The staff disciplinary and dismissal committee considered all the information received and the reason for your dismissal is as follows: **[insert reason for dismissal]**.

You have the right of appeal against this decision and your appeal should be made in writing to the clerk of the governing body within **[insert number]** school days of receiving this disciplinary decision.

Yours sincerely

[Note: as the governing body in voluntary aided and foundation schools is the employer the governing body terminates the contract of employment and informs the local authority.]

Letter (xi): Sample letter for gross misconduct – notice of appeal hearing before the staff disciplinary and dismissal appeals committee

Date:

Dear

Invitation to attend disciplinary appeal hearing

You have appealed against the written warning/final written warning/ dismissal **[delete as appropriate]** confirmed in writing to you on

The appeal hearing **[you should specify whether a complete rehearing or an appeal on specific grounds is required]** will take place on **[date]** at **[place]** at **[time]** a.m./p.m., as agreed. It will be conducted by the staff disciplinary and dismissal appeals committee of the governing body.

You have the right to be accompanied by a companion or trade union representative. If your chosen representative is unable to attend the appeal hearing at the time given above, you may propose another date and time for the meeting to take place.

You should ensure that a copy/copies/agreed bundles of any written submissions, upon which you wish to rely at the appeal hearing, are submitted at least **[insert number]** school days before the hearing, together with the names of any witnesses that will be attending on your behalf. The members of the staff disciplinary and dismissal appeals committee are.....

The decision on this appeal hearing is final and there is no further internal right of review. The possible outcomes from the appeal hearing are:

[insert details].

If there is any aspect of this letter or of the staff disciplinary procedure, to the extent that it applies to you, which requires further clarification, please contact me.

Yours sincerely

Clerk of the Governing Body’s Disciplinary and Dismissal Appeals Committee

[In the case of disciplinary action against a Head-teacher, the letter should be sent by the chair of governors.]

Letter (xii): Sample letter for gross misconduct – conclusion of the appeal hearing against warning/dismissal

Date:

Dear

Confirmation of outcome of disciplinary appeal hearing before the staff disciplinary and dismissal appeals committee

You appealed against the decision made at the disciplinary hearing held on when you were given a warning/ or you were dismissed in accordance with the staff disciplinary procedure. The appeal hearing was held on

I am now writing to inform you of the decision taken by the appeals committee who conducted the appeal hearing. The decision of stands/the decision of is to be revoked **[amend as appropriate – specify if no disciplinary action is being taken or what the new disciplinary action is]**.

You have now exercised your right of appeal under the staff disciplinary procedure. The decision on the appeal hearing is final and there is no further internal right of review.

Yours sincerely

Letter (xiii): Sample letter for gross misconduct – confirming suspension from duty

Date:

Dear

Suspension from duty with effect from [insert date]

Thank you for attending the meeting today. In accordance with the staff disciplinary procedure, I am writing to confirm your suspension from duty as from, pending the current investigation into the gross misconduct allegation **[insert details]**. **[Insert name]** has been assigned the role of investigating officer **or** I shall write to you again when I am in a position to be able to confirm who has been appointed to the role of investigating officer.

You are reminded that the act of suspension is not disciplinary action and does not imply a presumption of guilt. But it is a necessary means of ensuring that a full and fair investigation can take place. You will be contacted in the near future to arrange a meeting, so that you may be given the opportunity to comment and provide a statement to the investigating officer on the above allegation.

Please note that you are required to be available during your period of suspension and should not take annual leave without the express permission of the Head-teacher. If you wish to request annual leave, you will need to send a letter to the Head-teacher to request this at least two weeks before you intend to begin your annual leave period.

Also enclosed is a copy of the school's staff disciplinary procedure. Please read the section entitled 'Suspension' as this details all the conditions relevant to you and your employment status while you are suspended from your place of work. You will note from the procedure that you may be accompanied at the above-mentioned meeting by a companion or trade union representative if you wish. Please provide your written undertaking that you will not contact other members of staff or visit your place of work during the suspension period, save where it is not reasonably practicable and where authorised in advance by myself or the Head-teacher. **[For a letter in respect of the Head-teacher, 'Head-teacher' will be deleted.]**

I am also mindful of the isolation suffered by some members of staff who find themselves in such circumstances, I will make arrangements for the LA occupational health unit to contact you directly to offer you any support and any help required. The continued effect of the suspension will be kept under review and I will write to you to notify you if it is considered that the suspension should continue or should come to an end, and the reasons for that decision. Notwithstanding the above, I hope that the matters can be concluded promptly under the provisions of the school's disciplinary procedure.

*I understand you are a member of trade union and that you may wish your representative to be party to all correspondence we send to you. I would be grateful if you could let me know who your representative will be by return post. I have included a prepaid envelope for this purpose.

Yours sincerely

Chair of the Governing Body/Head-teacher

* Optional