



DISCIPLINARY POLICY AND PROCEDURE

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1. 1.0 INTRODUCTION

- 1.1 The purpose of Heston Community Academy Trust's [the School]'s Disciplinary Policy and Procedure and Disciplinary Rules are to help and encourage employees to achieve and maintain acceptable standards of conduct, efficient and safe performance of work and to maintain satisfactory relationships between employees and the School.
- 1.2 The Policy and Procedure has been drafted in line with the ACAS Code of Practice on Disciplinary and Grievance Procedures, adhering to the basic principles of fairness, reasonableness and transparency.
- 1.3 The Governing Body has a special responsibility to maintain the highest standards of staff conduct. All staff are expected to comply with the Conditions of Service, the Articles of Association, Memorandum of Understanding and appropriate legislation.
- 1.4 The Headteacher has the prime responsibility for the day-to-day management and discipline within the School. S/he should consider seeking advice from HR, as and when appropriate.
- 1.5 This procedure does not form part of any employee's contract of employment and it may be amended at any time following consultation. We may also vary application of this procedure, including any time scales for action, as appropriate. The School reserves the right not to follow the Disciplinary Policy and Procedure in respect of employees with less than two years' continuous service.
- 1.6 The Board of Trustees is required to establish:

A Disciplinary Committee

For Disciplinary Hearings where the Headteacher does not have delegated authority* and for Hearings where the Headteacher is himself/herself the subject of a Disciplinary Hearing or has had a close involvement in the case.

An Appeals Committee

The function of the Appeal Committee is to ratify, nullify or reduce the severity of the disciplinary action taken by the Headteacher or the Disciplinary Committee.

The quorum for both Committees is at least three Trustees, to be chosen from those appointed by the Board of Trustees. No Trustee who has had prior involvement in the case should sit on either Committee. Further, no Trustee should be assigned to both committees.

The Headteacher may choose to hear "minor" breaches of discipline cases which support the volunteers on the Board of Trustees from being over used given the demands of their other duties.

2. 2.0 SCOPE

- 2.1 This Policy and Procedure will apply to all staff, including the Headteacher appointed to posts in the School.

2.2 This Policy and Procedure does not cover issues of poor performance, which should be addressed in line with the School's Appraisal and Capability Procedure.

3.0 GENERAL POLICY PRINCIPLES

3.1 Wherever possible, potential disciplinary issues and minor breaches of discipline will be resolved informally, as part of the day-to-day management of staff, without recourse to formal action. We may make a note of the discussion, which will be placed on your personnel file for future reference, but we will not issue a formal warning. This should be the normal approach taken, except in cases of serious or gross misconduct or where a series of minor breaches of discipline have occurred, warranting formal action.

3.2 At all formal stages of the procedure the Employee will have the right to be accompanied at hearings by a representative of a Professional Association, Trade Union or an employee of the School. There is no right to be accompanied during informal discussions or during the investigation stage of this procedure.

3.1 As recognisable figures in the local community, the behaviour and conduct of staff outside of work can impact on their employment. Therefore, conduct outside work may be treated as a disciplinary matter if it is considered that it is relevant to the employee's employment or may reasonably be regarded as detrimental to the School's reputation [see Appendix 1 - Disciplinary Rules].

3.5 An Employee will have the right to appeal against any formal disciplinary action taken.

3.6 The procedure may be implemented at any stage if the Employee's alleged misconduct warrants such action.

3.7 No formal disciplinary action will be taken against a Union or Staff Representative until the circumstances of the case have been discussed with a Full-Time Official of that Union, provided the Union or Staff representative provides their agreement to their matter being discussed and this agreement is not withheld unreasonably.

3.9 Where disciplinary action is being considered against the Headteacher, the Chair of Trustees should designate a person to act in the role normally performed by the Headteacher. All of the provisions of this document will apply and the early HR advice should be sought.

3.9 No parties involved in a disciplinary process should disclose any confidential information in relation to the disciplinary case, except as required or permitted in accordance with this procedure. Any person who does so may themselves be subject to disciplinary action.

4.0 CONFIDENTIALITY AND DATA PROTECTION

4.1 It is the aim of the School to deal with disciplinary matters sensitively and with due respect for the privacy of any individuals involved. All employees must treat any information communicated to them in connection with an investigation or disciplinary matter as confidential.

4.2 Employees, and anyone accompanying them [including witnesses], must not make electronic recordings of any meetings or hearings conducted under this procedure.

4.3 Employees will normally be told the names of any witnesses whose evidence is relevant to disciplinary proceedings against them, unless there is good reason that a witness's identity should remain confidential.

4.4 During any informal or, formal stages of the procedure, the School will collect, process and store personal data in accordance with our Data Protection Policy. The data will be held securely and accessed by, and disclosed to, individuals only for the purposes of completing the disciplinary procedure. Records will be kept in accordance with our Workforce Privacy Notice, our Retention and Destruction Policy and in line with the requirements of Data Protection Legislation and the retained General Data Protection Regulation and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, any breach of data protection may constitute a disciplinary offence, and be dealt with under this procedure.

5.0 CRIMINAL ALLEGATIONS

5.1 Where conduct is the subject of a criminal investigation, arrest, charge or conviction the facts will be investigated before deciding whether to take formal disciplinary action. Disciplinary action will not be automatic and will depend upon the circumstances. Employees should inform the Headteacher immediately if they are involved in a criminal investigation, arrest, or are subject to a charge or conviction. Failure to notify their line manager may result in disciplinary action.

5.2 The School will not usually wait for the outcome of any prosecution before deciding what action, if any, to take. Where employees are unable or have been advised not to attend an investigation meeting or disciplinary hearing or say anything about a pending criminal matter, a decision may have to be made based on the available evidence.

5.3 A criminal investigation, charge or conviction relating to conduct outside work may be treated as a disciplinary matter if it is considered that it is relevant to the employee's employment.

5.4 Where a criminal investigation relates to allegations of abuse of children or young people the School will co-operate and share information about the employee with other relevant agencies as appropriate. In any event, where information is requested from the School by the Police or other relevant agencies as part of a criminal investigation, this will be provided.

5.5 Allegations which involve issues of child protection and/or abuse of children by staff should be referred immediately to the Designated Officer of the Local Authority. See the Allegations of Abuse Against Staff Policy for further guidance on the management of this type of allegation. No further action under this procedure will usually be taken until the Designated Officer of the Local Authority has been consulted.

6.0 REFERRALS TO THE DEPARTMENT FOR EDUCATION ["DFE"] AND THE DISCLOSURE AND BARRING SERVICE

6.1 When a registered teacher is dismissed or ceases employment for reasons of misconduct or incompetence, or where they resign in circumstances where dismissal was a possibility, the Headteacher or Board of Trustees [where the case involves the Headteacher] is required to notify the [DfE] in writing.

6.2 In cases where the misconduct involves a risk of harm to children and young people, they are required to refer cases to the Disclosure and Barring Service [DBS]. Please contact the HR Manager for further information on the process.

7.0 THE DISCIPLINARY PROCEDURE

Informal Stage

7.1 Informal Discussion

- 7.1.1 An initial informal discussion is often more effective in dealing with minor conduct issues than a Disciplinary Hearing. If the Employee's Manager /Headteacher has concerns about conduct, they will meet with the Employee to discuss their concerns.
- 7.1.2 A prompt, informal discussion or investigation can often prevent the repetition of minor misconduct and stop it from escalating into more serious misconduct.
- 7.1.3 The Employee will be told of the expected standards of conduct required, and given an opportunity to explain their conduct and any mitigating circumstances. They should be advised when the matter will be reviewed again, which should generally be within three months. Should further problems arise before the review date, the Manager/Headteacher may take further action before the timescale has elapsed. The Employee should be made aware that this could happen.
- 7.1.4 A follow up letter/email summarising the discussion, outcome, expectations and potential consequences of further breaches of conduct will be issued following the meeting.
- 7.1.5 Informal discussions may not always be the most appropriate action. Where a Manager/Headteacher is uncertain as to whether or not informal action is appropriate, they should seek advice from HR.

7.2 Investigation

- 7.2.1 It is important that all disciplinary allegations are investigated fully before any action is taken. The Headteacher will usually appoint an Investigating Officer to carry out the investigation. This will be an appropriate person to the nature of the allegations and the role of the employee. In the case of allegations made against the Headteacher the Chair of Governors will be responsible for the management of the procedure and determining an appropriate investigating officer, either internally or externally.
- 7.2.2 If an incident occurs or an allegation is made just prior to the end of term, it may not be feasible to undertake an investigation. However, the Investigating Officer should at the very least:
 - 7.2.2.1 Inform the Employee both verbally and in writing of the details of the allegation, that an investigation is pending and that they will be contacted again at the earliest opportunity with further details of the investigation
 - 7.2.2.2 Take witness statements, wherever possible.
- 7.2.3 If there is an alleged safeguarding incident and the employee concerned is leaving at the end of term, the Investigation may be carried out after the end of term [See Allegations of Abuse Against Staff Policy].
- 7.2.4 The Investigation will normally be conducted by a senior member of staff, supported by HR if necessary.

- 7.2.5 The Employee under investigation must be informed, in writing
- That an investigation is being carried out
 - The nature of the complaint or allegation under investigation
 - The name of the person leading the investigation
 - That notes will be kept of the meeting and, if needed, will be used at a later stage
 - They must also be given a copy of the School's Disciplinary Policy and Procedure and Disciplinary Rules.
- 7.2.6 The Employee will be given reasonable notice of any Investigatory Meetings. However, it is desirable that such meetings should take place as soon as possible.
- 7.2.7 The aim of the Investigation is to establish the facts. The Investigating Officer will present the management case in the event that a case proceeds to a Disciplinary Hearing.
- 7.2.8 The Employee and any witnesses will be interviewed separately in the course of Investigatory Meetings.
- 7.2.9 Notes of the Meeting should be taken by a designated note-taker. A copy of the notes should be provided to the Employee, as soon as is reasonably practicable, to be checked for accuracy.
- 7.2.10 Notes of the meeting, witness statements and any supporting documents should be signed and dated and retained as possible evidence at any future Disciplinary Hearing, if appropriate.
- 7.2.11 The Investigating Officer will prepare a report of their Investigation indicating their findings and determining whether or not a Disciplinary Hearing is required. Furthermore, the Investigating Officer will decide whether the Headteacher or the Disciplinary Committee of Governors will hear the case. If it is decided that it is not appropriate to convene a Disciplinary Hearing, the Employee will be informed in writing that either no disciplinary action is being taken or informal action will be taken in accordance with 6.1 above.

8. SUSPENSION PROCEDURE

8.1 Suspension

- 8.1.1 An Employee can only be suspended by the Headteacher or another teacher with delegated authority in his/her absence, or in the case of a Headteacher, by the Chair of Trustees.
- 8.1.2 Suspensions must be notified to the Chair of Trustees.
- 8.1.3 The suspension may be invoked at any stage of the investigation, should new evidence come to light.
- 8.1.4 Wherever possible, alternatives to suspension such as temporary redeployment/relocation or working from home will be carefully considered.
- 8.1.5 Suspension is a neutral act. Suspension will not be treated or viewed as a form of discipline or penalty for the Employee.

8.2 The Suspension Process

- 8.2.1 In some circumstances it may be necessary to suspend the Employee from work, where there are reasonable grounds to do so. The suspension will be for no longer than is necessary to investigate the allegations and conclude the disciplinary process. The arrangements will be confirmed to the Employee in writing as soon as possible.
- 8.2.2 Suspension of this kind is not a disciplinary penalty and does not imply that any decision has already been made about the allegations. Employees will continue to receive normal salary and benefits during the period of suspension.
- 8.2.3 Alternatives to suspension, for example re-organisation of duties, work location, temporary redeployment to another role etc. will be explored where relevant before a decision to suspend is made. The nature and severity of the allegations will need to be considered as well as the Employee's role and if their continued presence would result in potential harm to the organisation or others, or make it difficult to investigate.
- 8.2.4 Where allegations are made that involve the protection of children, suspension will not be considered to be automatic. A reasoned decision will be made based on all available information. Additional information on the management of these allegations is available in Allegations of Abuse Against Staff Policy.
- 8.2.5 The suspension will be kept under review as the investigation progresses. As information is gathered it may become appropriate to lift the suspension during the course of the investigation or prior to any disciplinary hearing.

8.3 Stage 1 – The Decision to Suspend

- 8.3.1 When deciding whether to suspend an Employee, the Headteacher should consider all the circumstances and in particular should address the following issues:
- Are there reasonable grounds for the suspension?
 - What are the implications of suspension for the Employee?
 - What is the risk to the School, student or other employees?
 - Is suspension necessary for a proper investigation of the allegations?
 - How long will the suspension last?
 - Would moving the Employee to other duties remove the need for suspension?

The Headteacher should contact HR for advice on whether suspension is appropriate, giving full details of the alleged misconduct. An Employee can only be suspended by the Headteacher [or another teacher with delegated authority in his/her absence, or in the case of the Headteacher by the Chair of Trustees].

8.4 Stage 2 - Practical Arrangements

- 8.4.1 If it has been agreed to proceed with suspension and following a preliminary investigation, the Headteacher should agree with HR and the Line Manager the practical arrangements on how to implement the suspension to include:
- Notifying the Employee to attend a suspension meeting
 - Safeguarding of relevant documents, records and other items of School property
 - Handing over keys and other equipment, which may include a work mobile or IT equipment
 - Accompanying the Employee back to the workplace/staffroom to collect

- personal belongings, if required
- Limiting or removing access to IT systems [please see further guidance below]
- Guidance about contact with other Employees whilst on suspension, e.g. it may be necessary, in some circumstances, for a suspended employee to be prohibited from contact with particular named employees
- Escorting the Employee off the premises
- How the Employee's absence from work will be communicated to internal and external colleagues, students and others.

8.5 Access to IT systems and networks

When a decision to suspend has been taken, the Headteacher should also consider the implications of maintaining the individual's access to their e-mail account and the School's IT systems and networks. There may be instances where it is advisable to restrict or remove access to these IT systems. For example:

- Staff who have administration rights to School IT systems
- Instances of child/vulnerable adult abuse where Employees have access to client information systems
- Where soft copy evidential documents may be deleted or tampered with
- Instances of harassment/bullying where cyber bullying may continue or witness intimidation may take place
- Where an Employee works from home and therefore may have the access to continue to work from home.

8.6 Preparing a Suspension Letter

A Suspension Letter will need to be prepared by the Headteacher, with guidance from HR.

The letter should include:

- A statement confirming that suspension does not constitute disciplinary action
- The reason for suspension
- The length of the suspension and arrangements for reviewing
- Actions that will be taken during the suspension
- That suspension will be on full contractual pay
- Details of who the Employee may contact within the School and for what purpose
- Support available to the employee, for example the details for the employee assistance programme

8.7 Stage 3 – Advising the Employee of Suspension

8.7.1 When the above arrangements are in place, the Headteacher should convene a suspension interview as soon as possible after the alleged misconduct.

8.7.2 Under normal circumstances, the Headteacher should ask the Employee to attend a suspension interview, giving a brief outline of the reasons for the interview, advising the employee that they have the right to have a recognised Trade Union Representative, Professional Association Representative or work colleague present at the suspension interview and also remind the employee that suspension is not a disciplinary action. The terms of the suspension should be confirmed in writing [see Appendix 8 for Template Letter]

8.8 Stage 4 – Meeting to advise of suspension

- 8.8.1 The Headteacher should chair the meeting, and state from the outset that suspension does not constitute disciplinary action and does not of itself imply any presumption of guilt on the part of the Employee.
- 8.8.2 The Employee should be advised that brief notes of this meeting will be made by the Headteacher.
- 8.8.3 The Headteacher should inform the Employee:
- a. The reason for the suspension
 - b. The likely duration of the suspension and that it will be reviewed every two weeks with a view to them returning to work as soon as possible
 - c. That suspension will be on full pay
 - d. Of the conditions of the suspension, which should include:
 - No access to School premises
 - No use of School equipment or resources
 - No contact with School staff, parents/carers or students other than to ask them to be a witness or accompany the employee at a meeting under this Policy;
 - The requirement to be contactable and available for work and to attend meetings during normal working times
 - The requirement to notify any periods of sickness during the suspension, in the normal way
 - The requirement to return the specified-School property for the duration of the suspension.

The Employee should be given a named contact at the School with whom they may communicate for the purposes of obtaining information in order to prepare their case. Such access may be reasonably restricted or denied but a decision should be given within one working day.

Note: Employees will not generally be prevented from social contact outside of a work context with fellow Employees who may be friends or relatives of the suspended Employee.

- 8.8.4 The Headteacher should also discuss with the Employee what will be communicated to internal and external colleagues and students to explain their absence from work and how the School will respond to any enquiries from the media [if appropriate] about the Employee's absence from work.
- 8.8.5 During the suspension interview, the Headteacher should allow the Employee the opportunity to comment on the alleged misconduct and the decision to suspend, and any comments made by the Employee will be noted for the record.
- 8.8.6 At the conclusion of the meeting, the Headteacher must give or send the original copy of the Suspension Letter to the Employee
- 8.8.7 The Headteacher needs to be sensitive to reactions from the Employee including shock, stress or distress and may need to consider offering the Employee support either to their home or a place of safety. Even at this stage it may still be feasible to consider alternatives to suspension. If suspension is not initiated, then any pre-prepared documentation not subsequently used should be destroyed.

8.9 Impact on Pay

Suspension will be on contractual pay. However, the School reaffirms that suspension does not constitute disciplinary action and therefore will seek to avoid the Employee suffering any short-term unexpected financial loss as a result. An Employee's pension will not be affected by suspension.

8.10 Sickness and Holiday

If the Employee becomes ill during the suspension, the normal sickness absence procedure will apply [i.e. notification, monitoring of absence and trigger points etc.] The normal contractual sick pay entitlements will come into force for the period of the illness. However, the Suspension Rules remain unchanged. Annual Leave Entitlement, where appropriate, will continue to be accrued throughout the Suspension and the Employee may request Annual Leave in the normal way. If pre-approved holidays fall during a period of suspension, this will still count as holiday leave and will be deducted from the employee's holiday entitlement as normal.

8.11 Suspension Reviews

8.11.1 The Headteacher and HR should review the suspension every two weeks whilst the Investigation is carried out, keep a written record of each review and ensure that the Chair of Trustees is kept up to date.

8.11.2 The Review should:

- Assess whether the conditions for suspension are still met
- Consider whether the suspension can be lifted and the Employee allowed to return to work in their substantive post, or whether they could work in a different location or capacity, only after full discussion and agreement with the Employee.

8.11.3 The Headteacher or a nominated Manager will keep the Employee informed of each review. Records of Suspension will be written by the Headteacher and forwarded to the Chair of Trustees when either the suspension is lifted or a Disciplinary Hearing arranged.

8.12 Support during Suspension

8.12.1 Throughout all stages of the Suspension Process the Employee will be given as much information as possible about the allegations or issues of concern, subject only to protecting the interests of any other party.

8.12.2 Suspended Employees may experience significant levels of stress and sensitivity must be shown throughout the Suspension. For example, Headteacher should be sensitive about dispatching letters to suspended Employees which will arrive on a Friday or Saturday where Employees may have no opportunity to contact anyone at the School.

8.12.3 The Headteacher should also ensure that a support officer is identified and that this person maintains regular contact with the Employee. The Employee should be made aware of the availability of any Employee Helpline Service.

8.12.4 Although suspension should not lead to social isolation it may be necessary in some circumstances for a suspended Employee to be prohibited from contact with

particular named employees [e.g., witnesses].

- 8.12.5 The School should ensure that all employment matters relating to an individual employee remain confidential. Should there be a press enquiry or other request for a statement regarding the position of any employee, the Headteacher should inform the individual Employee of this enquiry and consult the Local Authority.

8.13 Ending the Suspension

- 8.13.1 Suspension can only be ended by the Board of Trustees. If the Headteacher wishes to end a suspension, they must write to the Chair of Trustees stating:

- Why they feel it is no longer necessary for the Employee to remain on suspension.
- That there are no safeguarding risks if the Employee returns to work.

- 8.13.2 If the Board of Trustees agrees to the Suspension being lifted, the Headteacher should write to the Employee to confirm this.

9. 9.0 DISCIPLINARY HEARING PANEL AND CHAIR

- 9.1 Where it is believed that there is a disciplinary case to answer a Formal Disciplinary Hearing will be convened.

- 9.2. The Disciplinary Panel of Governors will convene, chair the Hearing and issue correspondence accordingly.

- 9.3. Where the Headteacher is the subject of the Disciplinary Hearing, the Hearing will be convened by the Chair of Trustees and heard by the Disciplinary Committee.

- 9.4. Where dismissal is a potential outcome of the disciplinary hearing, the Disciplinary Panel will be assisted by an HR representative, who will provide guidance on the procedural aspects of the process.

- 9.5. The Disciplinary Panel members should have had no prior involvement in the case.

10. 10.0 NOTIFICATION OF A FORMAL HEARING

- 10.1. Following an investigation, if there are grounds for formal disciplinary action, the employee will be required to attend a disciplinary hearing. The Headteacher [or in the case of a Headteacher, the Chair of Governors] will notify the Employee in writing of the intention to hold a Disciplinary Hearing. The Letter instructing the Employee to attend the disciplinary hearing should:

- Give the Employee at least 10 working days' notice of the Hearing
- Set out the date, time and place of the Hearing and the name/s of the members of the Disciplinary Hearing Panel
- Confirm the nature of the alleged offence, conduct or complaint. This should be set out as one or more disciplinary allegations specifying in each case the allegation and the Disciplinary Rule which it is alleged that the Employee has breached
- Advise the Employee of their right to be represented at the Hearing by either a recognised Trade Union Representative, a Representative of a Professional

- Association or a workplace colleague
- Advise of the names of any witness intended to be called and copies of any documents or statements which will be produced. This will include the Investigation Report
- Advise that the offence, if proven, may result in a formal disciplinary sanction being imposed
- Where the allegation[s] is/are of Gross Misconduct the Letter should indicate that a potential outcome may be the summary termination of employment [i.e. without notice or without payment in lieu of notice] or where the Employee already has a 'live' Final Warning, the Letter should indicate that a potential outcome may be dismissal with notice or with a payment in lieu of notice.
- Advise of the requirement that the Employee inform the Headteacher of the name of their Representative and the names of any witnesses to be called at least 5 working days before the Hearing.
- Advise of the requirement to provide copies of any documentation material at least 5 working days prior to the Hearing.

10.2 Where possible, the letter should include, as an attachment, any documents that the Investigating Officer will present at the Hearing, although these can be sent under separate cover, provided they arrive no later than 5 working days before the Hearing.

11. 11.0 ATTENDANCE AT A FORMAL HEARING

The following may be in attendance at a Disciplinary Hearing:

- The Employee facing disciplinary action
- The Disciplinary Committee Members who will undertake the role of Disciplinary Officer to hear the case
- An HR representative who shall act as an impartial Adviser to the Panel
- The Employee's Representative
- The Investigating Officer
- A Note Taker
- Any witnesses invited to attend [who shall remain only for the duration of their evidence]

12. REQUESTS FOR POSTPONEMENT

12.1 If the Employee's Representative is unavailable at the time or on the date a disciplinary hearing has been scheduled, the Employee may specify an alternative date within no more than 5 working days of the original date of the disciplinary hearing.

12.2 The Hearing will not normally be re-arranged more than once. Further requests for postponement of a Hearing will be considered on their merits by the Chair of the Panel but may not always be agreed. Following one postponement the Chair of the Panel may ask the Employee to choose another companion or the Employee may be informed that the Hearing will proceed in the absence of the Employee.

13. CONDUCTING THE DISCIPLINARY HEARING

The Chair of the Panel will have reviewed the investigation pack ahead of the

hearing and will order of business at a Disciplinary Hearing as follows:

- Introduce those present and explain their roles
- Explain the purpose of the Hearing and how it will be conducted
- State precisely what the allegation or series of allegations are
- Asking the employee questions regarding the allegation to understand their position on this
- Ask the Investigating Officer to detail the School's case by presenting the evidence, calling witnesses if appropriate
- Giving the Employee and/or their representative the opportunity to ask questions in relation to the evidence presented and/or any witnesses
- Ask any questions of the Investigating Officer and/or witnesses
- Give the Employee and/or their representative the opportunity to state their case, present evidence and call witnesses. The Employee should be encouraged to explain any mitigating circumstances which exist
- Give the Investigating Officer the opportunity to question any evidence presented by the Employee and/or witnesses
- Ask any further questions necessary to establish the facts and clarify any points of doubt
- Give the Investigating Officer the opportunity to sum up their case
- Give the Employee and/or their representative the opportunity to sum up their case
- Adjourn the Hearing to give proper consideration to the matters raised before reaching a decision. In certain circumstances further information may need to be gathered, in which case this should be undertaken as quickly as possible and the Hearing reconvened to consider any new evidence before a decision is reached
- The decision will be communicated in writing, as soon as possible and without undue delay following the Hearing, giving the reasons for the decision
- If the decision is not made within 10 working days, the Employee will be notified in writing and given an expected date for the decision.

14. DECIDING THE OUTCOMES OF A DISCIPLINARY HEARING

- 14.1 Having considered everything they have heard at the Disciplinary Hearing, the Disciplinary Panel shall consider first of all whether the procedure has been correctly applied and, if so, whether the disciplinary allegations have been proven on the balance of probabilities.
- 14.2 Where the disciplinary allegations are proven, the Panel shall consider whether or not to apply any disciplinary sanction. In deciding on the appropriate disciplinary sanction, no account should be taken of any lapsed warnings.
- 14.3 The possible outcomes of a Hearing are:
- No further action
 - Written Warning
 - Final Written Warning
 - Dismissal with Notice
 - Summary Dismissal [i.e. without notice].

Note: If the outcome is 'no further action' or a written warning this may be supplemented by management advice, guidance and/or recommendations for counselling, development etc. as appropriate.

14.3.1 No Further Action

If no further action is to be taken, this must be clearly indicated in the letter confirming the decision. The Panel may feel it is appropriate to set out for the employee expected standards of behaviour in order to avoid further allegations or incidents which may lead to disciplinary action. This does not, however, constitute a Written Warning.

If the Panel recommends development activities, these should include a monitoring period for reviewing progress.

14.3.2 Written Warning

A Written Warning will be issued for serious matters or repetition or continuation of an offence which previous informal discussions have failed to curtail or resolve. A written warning will generally be given for a first offence of misconduct [other than Gross Misconduct].

The Headteacher or Governing Body has the authority to determine the appropriate duration of the warning having regard to the seriousness of the offence and any mitigating circumstances. This will normally be for 12 months.

The Letter, signed by the Headteacher will include the following:

- Details of the allegation[s] and the improvement required [if required] within a given time
- Details of the warning and its expiry date
- The likely consequences of further misconduct
- The Employee's right of appeal, the procedure for lodging an appeal and the time limit for doing so.

The Letter should be sent to the employee without undue delay following the disciplinary hearing and copied to HR. A copy will be permanently retained on the Employee's personal file. The Employee is responsible for forwarding a copy to their Trade Union or Professional Association Representative.

Once the duration of the warning has expired, it will be disregarded for the purposes of any future disciplinary action. Expired warnings will not be referred to for the purposes of employment references, unless the case involves safeguarding issues, in which case those issues may be referred to in a reference.

14.3.3 Final Written Warning

A Final Written Warning will be issued if:

- A written warning has already been issued and another offence has occurred, or
- Where the conduct is of such a serious nature that a first written warning is not deemed appropriate, or
- Where the offence may warranted dismissal but the panel decides, taking into account any mitigating circumstances, to substitute this with a lesser sanction.

The Disciplinary Panel has the authority to determine the appropriate duration of the warning having regard to the seriousness of the offence and any mitigating circumstances.

The Letter, signed by the Headteacher will include the following:

- Details of the allegation[s] and the improvement required within a given time
- Details of the warning and its expiry date
- The likely consequences of further misconduct
- The Employee's right of appeal, the procedure for lodging an Appeal and the time limit for doing so.

The Letter should be sent to the Employee without undue delay following the disciplinary hearing within 5 working days and copied to HR. A copy will be permanent retained on the Employee's Personal File. The Employee is responsible for forwarding a copy to their Trade Union or Professional Association Representative.

Once the duration of the warning has expired, it will be disregarded for the purposes of any future disciplinary action. Expired warnings will not be referred to for the purposes of employment references, unless, the case involves Safeguarding issues, in which case those issues may be referred to in a reference.

14.3.4 Dismissal

Where the Governing Body has delegated dismissal decisions to the Headteacher, they will hold a Hearing before reaching any decision to dismiss an Employee. The Employee shall have the right of appeal to the Governor's Appeals Committee. In cases where the Headteacher has been directly involved in the events leading to Dismissal or is the subject of disciplinary proceedings, the case will be heard by the Governor's Disciplinary Committee.

Where the decision is made that an Employee should be dismissed, this decision will be reported to the next meeting of the Full Governing Body.

The Letter to the Employee confirming Dismissal must be authorised and signed by the Chair of Trustees.

Dismissal will normally be with notice. However, where Gross Misconduct is found, Summary Dismissal without notice may be appropriate. Gross Misconduct is defined as conduct serious enough to constitute a fundamental breach of the Contract of Employment.

15. APPEALS AGAINST DISCIPLINARY ACTION

15.1 An Employee may appeal against any disciplinary action taken against them by giving notice in writing within 5 working days or 10 working days in the case of Dismissal to the Chair of Trustees, who will arrange for a meeting of the Appeal Committee to be convened as soon as reasonably practicable and inform all concerned of the date, time and place of the Hearing at least 10 working days beforehand. If the Employee is appealing against dismissal, the date on which Dismissal takes effect will not be delayed pending the outcome of the Appeal. However, if the appeal is successful, the Employee will be reinstated with no loss of continuity or pay.

15.3 At an Appeal Hearing, the Appellant and the Investigating Officer shall each be entitled to appear and to be assisted by a Representative of a Professional Association, Trade Union or a work colleague.

15.4 The purpose of the Appeal is to review the decision taken by the Governing Body,

not to re-hear the case [although in very exceptional circumstances this may be appropriate]. The Appeal Committee may ratify, nullify or reduce the severity of the disciplinary action taken by the Governing Body. The comments of the Appeal Committee may be recorded alongside any warning it ratifies, nullifies or reduces.

The Employee should be notified by the Chair of the Appeal Committee, in writing, of the outcome of the Appeal without undue delay following the hearing.

15.5 Following the appeal hearing the Appeal Committee may:

- (a) Confirm the original decision;
- (b) Revoke the original decision; or
- (c) Substitute a different penalty.

16. 16.0 REFERRALS TO EXTERNAL BODIES

In some cases, referrals to the Teaching Regulation Agency and/or the Disclosure and Barring Service may be made where the thresholds for referral are met. Resignation during a disciplinary process will not avoid referrals taking place.

Appendix 1

Disciplinary Rules

1.0 Introduction

- 1.1 The Disciplinary Rules are set out so that all School Staff understand the standards of conduct expected of them. The Rules also give an indication of action and/or behaviour which is considered unacceptable. The aim is to specify those rules which are necessary for the safe and efficient performance of work and to maintain satisfactory working relationships. The rules required may vary according to particular circumstances.
- 1.2 The lists below are not exhaustive and the School reserves the right to take action for matters not listed or alluded to. Employees should also refer to other School Policies and Procedures and the relevant national Scheme of Conditions of Service, where other rules and standards are implied. In addition, Employees are required to work in accordance with relevant statutory obligations, professional standards, Health and Safety regulations and other rules governing their profession or working environment.
- 16.3 Breaches of these rules may lead to disciplinary action being taken in accordance with the Disciplinary Procedure. Employees may be suspended from work as part of the Disciplinary Procedure. Misconduct may lead to Dismissal, although the Employee will be entitled to appropriate notice. Gross Misconduct, however, may lead to Dismissal without notice. The form of disciplinary action taken will vary depending on:
- The seriousness and nature of the offence
 - The Employee's previous record
 - Mitigating circumstances and
 - In some instances - the nature of the job.
- 1.4 In considering individual offences, the level and severity of misconduct will be a key element in deciding upon the action to be taken. Some misdemeanours, which would normally result in a warning, could in extreme circumstances warrant Summary Dismissal.

2.0 EXAMPLES OF MISCONDUCT OFFENCES

- 2.1 Misconduct will not normally warrant Dismissal without a previous warning [please also refer to Gross Misconduct, Section 3 below].

General Conduct

- Failure to carry out a reasonable management instruction
- Abuse of authority in relation to a colleague or a member of the public
- Rudeness towards or conduct likely to cause harm or offence to a parent/carer, colleague, member of the public or a fellow employee
- Obscene language or other offensive behaviour
- Refusal to comply with appropriate standards of appearance and / or personal hygiene acceptable to management
- Behaviour at work likely to offend decency
- Failure to wear the appropriate uniform provided by the School
- Sleeping on duty
- Unauthorised absence from duty

- Failure to notify Line Manager of absence from duty and reasons, including non-attendance at an approved course of training
- Persistent lateness
- Persistent absenteeism
- Time wasting
- Neglect of duty or negligence in the performance of the employee's duties
- Failure to discharge obligations in accordance with a Statute or Contract of Employment or minor breaches of the employee's Contract of Employment and/or our policies and procedures [such as sickness absence, health and safety etc.]
- Negligent or inadequate standards of work
- Damage to, or unauthorised use of, the School's property [including but not limited to use of telephones, email or internet]
- Acceptance of gifts or gratuities without permission [where an employee is offered a gift or gratuity this must be reported to the Headteacher]. In this particular area there needs to be a good deal of common sense and reasonableness, and it will be left to the Headteacher's discretion in each case, having regard to all the circumstances; However, as an example, it is not expected that inexpensive promotional tokens [e.g. pencils, calendars etc.] would come within this category
- Failure to hand lost property to an appropriate member of staff
- Smoking in no-smoking areas and/or in School vehicles.

Health and Safety

- Failure to wear the appropriate protective clothing provided by the School for particular duties
- Failure to comply with the accident reporting procedure[s]
- Failure to follow safety instructions and Codes of Practice and Safety Policy statements issued from time to time by the School
- Failure to comply with hygiene requirements
- Failure to obey a lawful and reasonable instruction, including deliberate failure to observe any operational regulations and rules of the School

Unauthorised Private Work

- Engaging in employment, including self-employment, during off-duty hours when such employment conflicts with, or is detrimental to the interest of the School or in any way weakens public confidence in the conduct of the School
- Private work which might involve any dealings with the School must be disclosed and can only be undertaken with the Headteacher's approval.

3.0 EXAMPLES OF GROSS MISCONDUCT OFFENCES

- 3.1 Gross Misconduct is a serious breach of contract and includes misconduct which, in our opinion, is likely to prejudice the School or its reputation or irreparably damage the working relationship between the School and the Employee. Gross Misconduct will be dealt with under this procedure and will normally result in Summary Dismissal [i.e. dismissal without notice or payment in lieu of notice] if proven.
- 3.2 It is not usually the number of offences but rather the nature of the disciplinary offence[s] that determines whether or not Gross Misconduct may be considered at a disciplinary hearing. However, repeated disciplinary offences which, individually might otherwise have amounted to misconduct might, when aggregated, may amount to Gross Misconduct.

- 3.3 This may include acts committed outside working hours as well as those committed at work, depending on the nature of the offence, the duties of the employee's post, and any damage to the reputation and integrity of the School.
- 3.4 The following are non-exhaustive examples of offences which may be deemed Gross Misconduct and may lead to summary dismissal without any previous written or verbal warnings having been given.

Dishonesty, Fraud and Corruption

- Failure to disclose a conviction for a criminal offence [unless under the terms of the Rehabilitation of Offenders Act 1974 the conviction is "spent"] and the post is exempt
- Undertaking unauthorised paid or unpaid private work on the School premises and/or during hours when contracted to work for the School - This includes unpaid voluntary work, unless it has been approved - and wilful disregard of duties or of instructions
- Falsification of any information used in support of or connected with an application for a post with the School, including failure to disclose any known relationship with a Governor or senior member of the School's staff
- Giving false information as to qualifications or entitlement to work [including immigration status] in order to gain employment or any other benefits
- Knowingly taking family-friendly leave when not eligible to do so or for a purpose other than supporting a child
- Improper use of official position for personal and/or financial advantage or for the private advantage of some other person or organisation including soliciting or accepting bribes
- Deliberate falsification or forgery or other dishonesty in respect of any records e.g. fabrication of time sheets, bonus sheets, claim forms, sickness self-certification forms, invoices, receipts, accounts etc. relating to the Employee or any other employment
- Theft or misappropriation of money or property, whether belonging to the School, another employee, students or their parents/carers/guardians or a third party.
- Deliberate, malicious or serious damage to School premises or property belonging to the School, its students or their parents/carers/guardians, other employees or third parties;
- Any breach of trust or unauthorized disclosure of information relating to the School's to any third party
- Breaches of the School's gifts and hospitality guidance
- Failure to inform the School of any criminal charges, convictions or police cautions that may affect its reputation or otherwise affects your suitability to work for the School.

Harassment, Bullying and Discrimination etc.

- Acts of harassment, victimisation, intimidation, incitement or discrimination against any individual or group [e.g. includes colleagues, visitors, students and parents/carers] or other breaches of the School's Equal Opportunities Policy. Note: This includes misuse of the internet and social media.
- Conduct prejudicial to the School's interest whether committed at work, or committed outside working hours [depending on the nature of the offence, the duties of the Employee's post and any damage to the reputation and integrity of the School]. This includes activities via the internet, on social networking sites and personal blogs.
- Dangerous or reckless behaviour involving risk of injury to other persons or

- oneself
- Being under the influence of drugs, including alcohol, during working hours, so that performance of duties is detrimentally affected.

Deliberate Misuse and Falsification of Information

- Making false and/or deliberately misleading statements, whether verbally or in writing, in respect of official business
- Failing within a reasonable period of time to report any matter which there is a duty to report
- Deliberate destruction or damage to any documents required for the purposes of the School
- Unauthorised disclosure of confidential information relating to the business of the School, its employees, or the public with whom it has dealings.

Improper Use of Equipment etc.

- Unauthorised use of School vehicles, whether during or outside the working day
- Unauthorised use of any School equipment and/or facilities for private purposes
- Use of School labour for private purposes
- Use of wasted School materials and/or equipment without express authority
- Unauthorised interference with a computer [e.g. Misuse of a password to gain entry to a computer for the purpose of extracting information to which the employee is not entitled and/or deliberate corruption of computer records].

Neglect of Duty / Health and Safety

- Failure to meet expected standards of work or behaviour amounting to serious neglect of duty
- Gross negligence or dangerous behaviour, which causes or might cause unacceptable loss, damage or injury
- Serious or repeated breaches of health and safety rules or serious misuse of safety equipment
- Non-compliance with a safety code such as to endanger life or cause injury
- Allowing or assisting any unauthorised person to gain entry to the School's premises
- Driving on School business without an appropriate licence and/or the appropriate insurance.

Other Gross Misconduct

- A serious or wilful breach of the School's rules, regulation, policies and/or procedures
- Actual or threatened violent behaviour e.g. fighting, physical assault or behaviour which provokes violence.
- Gross indecency, immoral behaviour sexual offences or grossly offensive behaviour or language
- Deliberate and serious breach of confidence relating to the School's or its students or their parents/carers/guardians affairs
- Unauthorised consumption of alcohol on the School's premises, or reporting for work under the influence of alcohol or controlled substances
- Any taking, possession, use or supply of controlled substances or stimulants, which have not been prescribed by a registered medical practitioner
- Misuse of the Internet (including social media, e-mail) such that it is of a sexual, racist or other serious matter, or is potentially a criminal act
- Gross insubordination or repeated or serious failure to obey legitimate instructions given by any member of the senior leadership team

- Any breach of legal statute, which has a direct effect on your ability to undertake your stated duties and/or on the desired characteristics of your position
- Serious misuse of the School's property or name
- Bringing the School into disrepute
- Unauthorised removal of School property or the property of a colleague, student, contractor or other third party
- Repeated absences from duty without authorisation
- Deliberately accessing internet sites containing pornographic, offensive or obscene material or serious breaches of the School's IT policy
- Unauthorised use, processing or disclosure of personal data contrary to the School's data protection policy.