

HR Policy 13(a) Disciplinary Procedure

Including Model Letters

This policy/procedure/guidance is written by Worcestershire County Council HR and has been adopted by DOWMAT Board on 7.10.22 to apply to all Academies in the DOWMAT. It is to be read in conjunction with the DOWMAT Scheme of Delegation (HR policies and procedures section and Appendix 1.).

Our Vision

'To Love, To Learn, To Serve' sums up the DoWMAT's vision for those who come together to create the MAT, enabling all to flourish both as individuals and in community with each other; living life in all its fullness (John 10:10).

Our Values

To Love

The New Testament sums up the entire law as a call to “love your neighbour as yourself” (Galatians 5:14). The Bible teaches that we are only able to love because God first loved us (1 John 4:10). This love is expected to characterise the way in which the DoWMAT operates, makes decisions, builds relationships, and carries out its day-to-day business: each person putting the needs of others before their own, with a commitment to the flourishing of all. The exposition of love in 1 Corinthians 13 reminds us that love is patient, kind, forgiving, generous, humble, trusting, respectful, hopeful, resilient and enduring. Those who learn and work in the DoWMAT, and all who come into contact with it, can expect to experience that love in the way that they are treated.



To Learn



The DoWMAT is a Christian learning community that is committed to enabling all to live a life of freedom and transformation as a result of the hope and wisdom that learning brings. Learning is at the heart of the Church of England’s vision for and commitment to education. Growing in wisdom is celebrated in the Bible and all are exhorted to listen, to seek guidance, to acquire knowledge and to learn discretion (Proverbs 1: 1-6), largely through human relationships and interactions. Jesus’ teaching, as summed up in the Beatitudes (Matthew 5:3-10), describes human beings who are learning to live a life that is characterised by humility, compassion, mercy, righteousness and peace. The learning that takes place within the DoWMAT is expected to be recognisably rooted in these godly characteristics and focused upon enabling the holistic development of people who are made in the image of God.

To Serve

Service and servant leadership, was a striking feature of the way in which Jesus lived his life. The example he gave to his disciples in washing their feet (John 13:1-17) provides us with a role model for the way in which we should seek to live in community with others. Putting the needs of others before our own, supporting people in their growth and development as holistic human beings, enabling people’s gifts and talents to come to the fore as a result of our service to them are all defining characteristics of the way in which the DoWMAT operates. In serving others and meeting their needs through generosity of spirit, we manifest God’s grace and love for others (1 Peter 4:8-11).



These core values underpin all aspects of our Trust as we strive to make a positive difference to the lives of all DoWMAT pupils whilst they are at school and in later life. Through these values, we can be sure our community is one of hope; a place of transformation and trust, where all are treated with respect and dignity.

OUTSTANDING PROFESSIONALS | COLLABORATIVE PARTNERSHIPS | STRONG SYSTEMS | CONFIDENT LEARNERS

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1. INTRODUCTION

- 1.1. The Trust values employees who work to the high standards of behaviour and conduct as specified in its Code of Conduct. The Trust recognises there is a need to be clear to employees, in the interests of openness and understanding, how any 'shortfall' in meeting the expected standards will be responded to.
- 1.2. The Senior Leadership of the Trust will make employees aware when they are not considered to be achieving or maintaining the expected standards of conduct or behaviour. The Trust's Managing Performance and Managing Attendance procedures should be referred to where a 'shortfall' relates to respective capability concerns.
- 1.3. This disciplinary policy will be used where there is an allegation of a shortfall in an employee's acceptable behaviour or conduct, examples of which are listed, including gross misconduct, in the Code of Conduct.
- 1.4. In accordance with the principles below, this policy seeks to ensure that misconduct matters are dealt with promptly, fairly and consistently and identify any support measures that may help employees to achieve the expected standards of behaviour.

2. SCOPE

- 2.1. This policy applies to all employees of the Trust and is subject to a collective agreement with the recognised Trades Unions.

3. EQUALITY AND DIVERSITY

- 3.1. Equality and diversity under-pins all Trust employment policies, procedures and practices. The Trust actively promotes equality of opportunity and values diversity among its employees. The potential equality impact of this policy has been assessed.

4. PRINCIPLES

- 4.1. This policy pays due regard to the provisions of the ACAS Code of Practice on Disciplinary and Grievance Procedures. Where silent on any particular aspect, the provisions of the ACAS Code of Practice will be considered to apply.
- 4.2. The Senior Leadership of the Trust will adhere to the provisions of the policy to ensure cases are dealt with promptly, fairly and consistently. However, timescales within the policy may be varied as necessary or appropriate subject to agreement of all parties.
- 4.3. An employee will not be dismissed for a first offence (unless it is considered gross misconduct, where dismissal, without notice or payment in lieu of notice, may be determined).

- 4.4. The Senior Leadership of the Trust will ensure all conduct matters will be dealt with sensitively and with due respect for the privacy of any individuals involved.
- 4.5. All employees must treat any information communicated to them in connection with an investigation or conduct matter as confidential. A failure to do so could result in formal action being taken.
- 4.6. The Senior Leadership of the Trust are responsible for making sure that employees know when they are not achieving or maintaining the expected standards of conduct or behaviour. Employees will always be given an opportunity to put their case in response before any decisions are made.
- 4.7. Employees are responsible for ensuring they understand the requirements of the Trust's Code of Conduct (the Code of Conduct) for employees and any terms and conditions, rules, standards and requirements that apply to them in their job. Examples of unacceptable behaviour, which may be considered to be misconduct or gross misconduct depending on the relevance to an employee's roles/seniority, seriousness of the matter and the particular circumstances, are listed in the Code of Conduct.
- 4.8. Action (sanctions) under this policy will not be taken without proper investigation, appropriate to the circumstances, to establish the facts of the case (see Section 6 below).
- 4.9. Employees have a right to request they are accompanied at any formal hearing (see Section 5 below).
- 4.10. The procedure, and level of action, may be implemented at any stage if the employee's alleged misconduct or behaviour warrants it.
- 4.11. The Local Academy Board or the Trust Board (see DoWMAT Scheme of Delegation) have the authority to dismiss or impose alternatives to dismissal (e.g. demotion). This may be delegated to a panel of Local Academy Board/Trust Board members, or Local Academy Board members from another academy within the Trust in line with the Trust's Scheme of Delegation. The panel or individual are referred to as the Decision Maker/s. **(Delegation of Authority: see Formal Hearing Guide - Appendix 2)**
- 4.12. The Headteacher, Head of School or Executive Headteacher, CEO or member of the Trust Board (see DoWMAT scheme of delegation) will be responsible for taking disciplinary action decisions up to and including issuing a Final Written Warning (Decision Maker).
- 4.13. Employees have the right to appeal against any formal decision made (see Section 10 below).
- 4.14. Appropriate written records of formal conduct hearings and sanctions will be kept on the employee's personal file. Records will be treated as confidential and kept no longer than necessary in accordance with General Data Protection Legislation.

5. RIGHT TO BE ACCOMPANIED

- 5.1. Employees have the right to be represented by a TU Official or accompanied by a work colleague at a formal hearing and/or appeal hearing. (See Formal Hearing Guide - Appendix 2).

6. INVESTIGATION

- 6.1. An investigation is a fact-finding exercise to collect all the relevant information regarding the issue prior to deciding what course of action to take. The format of the investigation will be relative to the seriousness of the matter. In some cases, this may require only a concise chronology of events. Or the 'fact finding' may be more formal and involve a more detailed investigation including meeting with the employee and others, such as witnesses, relevant to the case from which a written investigation report will be produced before deciding whether the case should proceed to a formal conduct hearing.
- 6.2. Where necessary, the Headteacher, Head of School or Executive Headteacher, CEO or member of the Trust Board (see DoWMAT scheme of delegation) will be appointed to carry out the investigation so that different people conduct the investigation and the disciplinary hearing to enable as much impartiality as possible. Occasionally a Governor or independent person may be asked to carry out an investigation to allow this impartiality. Investigations will be commenced promptly and completed as quickly as possible whilst ensuring it is sufficiently thorough to be fair and reasonable.
- 6.3. The Headteacher, Head of School or Executive Headteacher, CEO or member of the Trust Board (see DoWMAT scheme of delegation) will inform the employee under investigation in writing of the allegations against them and give advance warning that an investigation will be carried out to give the employee time to prepare. The employee will be notified who has been appointed as the investigator.
- 6.4. Investigation meetings are not formal hearings giving a right to be accompanied. However, the Trust recognises the value of providing support to the employee at such meetings and so will consider requests to be accompanied by a Trade Union representative or work colleague, providing this doesn't cause unreasonable delay. Similarly, where this would be a reasonable adjustment for an employee with a disability in accordance with the provisions of the Equality Act 2010.
- 6.5. Depending on the circumstances of the case, an employee's **suspension** from work with pay may be necessary during the investigation. Suspensions will be carried out in accordance with the Suspension Guide, a copy of which will be provided to the employee. (See Suspension Guide - Appendix 3).
- 6.6. On completion of the investigation, the investigator will produce a report in which they will recommend to the manager whether:

- (i) it is considered there is a conduct case to answer – in which case the matter will proceed to the formal procedure (see Section 8 below)
- (ii) it is considered there is insufficient evidence of a conduct case to answer and therefore the employee is advised either there will be no further action, or
- (iii) it is considered there remains a need to show improvements in their behaviour or conduct which will be addressed by some other action such as training or coaching support to the employee and/or management guidance issued to confirm expectations for future conduct.

7. INFORMAL STAGE

- 7.1. Where there are concerns about an employee's conduct or behaviour, but it is felt to be minor in nature and not related to the employee's capability, handling the matter informally and confidentially may be all that is needed to improve the employee's conduct, and thereby avoiding the need for more formal action. However, it should be noted that the informal stage may not be used at all depending on the nature/severity of allegations of misconduct.
- 7.2. The Headteacher, Head of School or Executive Headteacher, CEO or member of the Trust Board (see DoWMAT scheme of delegation) should firstly be sure of, and collect together, all the 'evidence' they believe supports their need to raise the concern. The Line Manager/ Headteacher should then arrange a private, informal meeting for a two-way discussion with the employee with the aim of exploring the conduct issues and exploring ways for the employee's conduct to be improved. This may for example include additional training, coaching, counselling, mentoring and/or advice.
- 7.3. There is no right to be accompanied at this stage of the procedure given the informal nature of this stage. However, where the employee is disabled, they may ask to be accompanied where this would be a reasonable adjustment to support them during the discussion.
- 7.4. The Headteacher, Head of School or Executive Headteacher, CEO or member of the Trust Board (see DoWMAT scheme of delegation) must ensure that the employee understands any expectations of their conduct, any improvements that need to be made and how it will be reviewed.
- 7.5. A brief note of the discussion and any agreed informal action/s and review dates should be added to the employee's personal file for reference purposes and shared with the employee. This is not a formal warning or sanction.
- 7.6. The employee should be made aware that where informal action doesn't result in the required improvement or where the misconduct becomes more serious, the matter could proceed to the formal procedure.

8. FORMAL DISCIPLINARY HEARING

8.1. On receipt of the investigation report, and following consideration of the facts presented in it, or where there has been a failure to improve following an earlier level of action, the Headteacher, Head of School or Executive Headteacher, CEO or member of the Trust Board (see DoWMAT scheme of delegation) will decide whether there is, or remains, a case to answer. If it is reasonably believed that there is a case to answer, the Headteacher, Head of School or Executive Headteacher, CEO or member of the Trust Board (see DoWMAT scheme of delegation) will invite the employee to attend a formal disciplinary hearing.

8.2. Arranging a Formal Hearing

The employee will be invited to the hearing in writing as provided for in the Formal Hearing Guide (see Appendix 2). In particular, the employee will be informed of the allegations against them, the basis of those allegations and the likely range of consequences. The invitation will include confirmation of the employee's right to be accompanied at the hearing and a copy of the investigating officer's report and other written evidence. The employee must be given no less than 5 working days' notice of the hearing in writing with the investigation report/evidence. This may be extended to up to 10 working days if the employee requests time to provide their own documentation to the Decision-Maker/s.

8.3. Holding a Formal Hearing

Formal disciplinary hearings will be held in line with the Formal Hearing Guide by an appropriate Decision Maker/s. A representative from HR will be present in an advisory capacity.

8.4. Deciding on appropriate action

Following the formal hearing, on the balance of the evidence presented, the Decision Maker/s will determine what action, if any, is appropriate. Factors that should be considered to determine whether a formal sanction is justified include:

- whether the behaviour is normally considered gross misconduct
- the sanctions applied/taken in similar cases
- the employee's general work record, work experience, position, and length of service
- the employee's disciplinary/conduct record (including whether there are any current/live warnings)
- how serious the misconduct is and the impact it has/is likely to have on the school / Trust
- whether there are any special circumstances to be taken into account.

8.5. The possible formal hearing outcomes are:

- (i) case found and formal sanction is appropriate (see Section 9, Levels of Formal Sanctions, below)
- (ii) case not found - the manager may decide to take no further action
- (iii) that some form of action other than formal sanction is appropriate (e.g. training).

9. LEVELS OF FORMAL SANCTIONS

- 9.1. **Level 1 - First Written Warning** - will normally remain live for a minimum of 6 months but could be given for up to 12 months in more serious cases (consideration should be given to the timing/length of school holidays). After this period the warning will be disregarded for disciplinary purposes. The warning will also state that if an employee's conduct does not improve or there is a further incident of misconduct within the 6 months, it could lead to a Final Written Warning.
- 9.2. **Level 2 - Final Written Warning** - if an employee has received a First Written Warning which is still live and their conduct has not improved, or if the misconduct is of a serious nature/gross misconduct, an employee may be given a Final Written Warning. This will remain usually be live for 12 months but can be given for up to 3 years as an alternative to dismissal, after which it should be disregarded for disciplinary purposes. A Final Written Warning will also state that if an employee's conduct does not improve or there is a further incident of misconduct, it could lead to further investigation and possible dismissal.

N.B. any warnings issued in relation to safeguarding issues will still be mentioned on a reference even if they are not live.
- 9.3. **Level 3 - Dismissal** - further misconduct whilst a Final Written Warning is current or where an act constitutes gross misconduct occurs, this may result in the employee's dismissal. Where the dismissal is for gross misconduct this will be without notice (summary dismissal).
- 9.4. **Alternatives to dismissal** - Decision Maker/s, at their discretion, have the authority to impose alternatives to dismissal. The Trust reserves the right to impose formal sanctions including, but not limited to, demotion, loss of seniority, reduction in pay and/or compulsory training as alternatives to dismissal. If such an alternative is applied, it may also be accompanied by a Final Written Warning (see above).

10. FORMAL PROCEDURE - APPEALS

- 10.1. An employee who feels that a formal sanction, including a decision to dismiss under the formal procedure, was wrong or unjust, has the right of appeal against the decision.
- 10.2. Appeals may be raised by employees on the following grounds:

- the disciplinary procedure not being followed correctly, or
 - essential evidence was not taken in to account in the original decision – the employee will need to show good reason why this was not presented at the formal hearing
 - the sanction was felt to be of undue severity or lack of consistent approach in other cases.
- 10.3. Employees should register their wish to appeal and confirm the grounds for their appeal in writing to the Local Academy Board Chair or Chair of the Trust Board (see DoWMAT Scheme of Delegation) using the appeal form within 5 working days of receipt of the written decision.
- 10.4. Appeals against all action or sanctions will be heard by a panel of Local Academy Board / Trust Board members appointed by the Local Academy Board Chair. No LAB/Trust Board member who has been involved in any previous stages of the case should sit on the panel.
- 10.5. An HR Consultant will attend to advise the hearing/panel on procedure and employment questions and may ask questions for clarification.
- 10.6. Hearings will be arranged without undue delay and at least 10 working days' notice of the date and arrangements will be given.
- 10.7. The nominated Appeal Panel will arrange a hearing as soon as reasonably possible which will be conducted in line with the Formal Hearing Procedure. The right to be accompanied will be confirmed.
- 10.8. The appeal hearing will be a review of one or more of the grounds above.
- 10.9. The outcome of the appeal may be to overturn or confirm the original decision or apply a different sanction but the original sanction may not be increased. Factors that should be considered include:
- the representations made by the employee/companion
 - any new evidence/facts that have emerged; depending on the facts of the new evidence, the Appeal Panel may determine to refer the matter back for further investigation where it is considered to be of such significance to warrant this.
- 10.10. The appeal outcome will be confirmed in writing within 5 working days of the formal appeal hearing.
- 10.11. A decision at this stage of the internal procedure is final.

11. SPECIAL CASES

- 11.1. **Employee reports sick after the procedure instigated:** where an employee is absent due to sickness whilst a conduct matter is pending, the Managing Attendance Policy will apply as normal. The school / Trust will refer an employee to Occupational Health as soon as possible so the employee's general health can be assessed and to determine whether or not they are fit to participate in the formal procedures. Being absent from work due to sickness will not automatically stop the procedure progressing.
- 11.2. **Employee submits grievance after the procedure is instigated:** if an employee submits a grievance during disciplinary proceedings, this will not normally stop the proceedings from progressing. Depending on the subject of the grievance, it may be appropriate for both the grievance and conduct to be dealt with simultaneously or alternatively the disciplinary process may be suspended in order to deal with the grievance.
- 11.3. **Employee charged with criminal offence:** being charged with or convicted of a criminal offence does not automatically mean the Trust should take formal action. Consideration has to be given to what effect the charge or conviction has on the employee's suitability to do their job. The Trust will determine to what extent it needs to conduct its own investigation before deciding whether to proceed to formal action under this policy and procedure. The Trust may not wish to wait for the outcome of any prosecution before deciding what action to take. Where an employee is unable or has been advised not to attend a formal hearing or say anything about a pending criminal matter, the Trust may have to take a decision based on the available evidence.
- 11.4. **Considering cases against an employee who is a trade union representative:** where the need to manage conduct is being considered for an employee who is a trade union representative the normal procedure will apply but to avoid any discussion or action being viewed as related to membership of a trade union, the matter should be discussed at an early stage with a relevant regional official employed by the union, after obtaining the employee's agreement.
- 11.5. **Losses and financial irregularity:** Educational & Skills Funding Agency (ESFA) must be notified of any instances of fraud, theft and/or irregularity exceeding £5,000 individually or cumulatively in a financial year.
- 11.6. **Physical, emotional or sexual abuse of a child or other vulnerable young person:** where there is an allegation which involves abuse or neglect of any child or young person the Local Authority Designated Officer (LADO) should be immediately notified to seek advice.

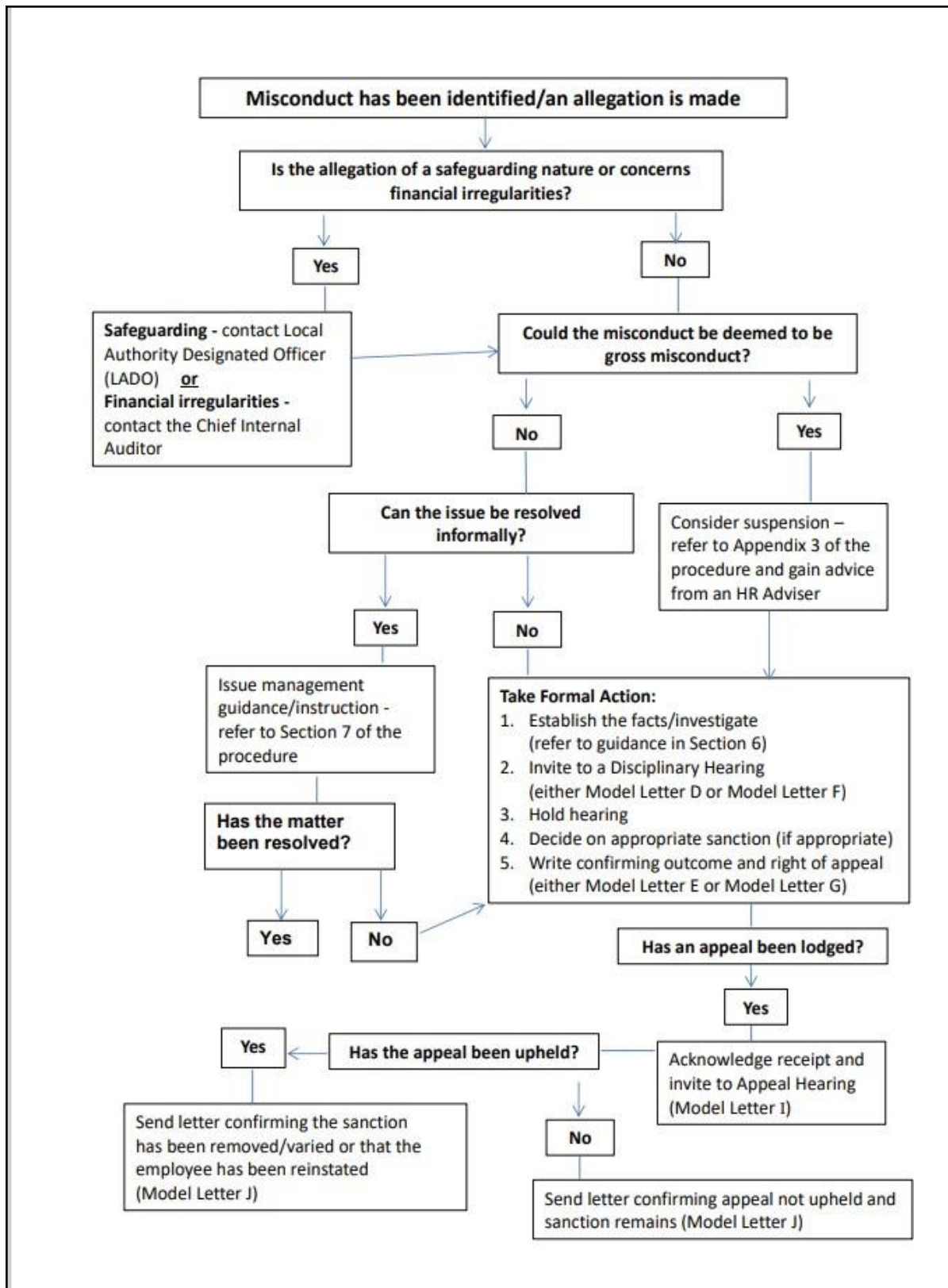
12. FURTHER ADVICE

- 12.1. For further advice, please contact HR Consultancy for Schools.

13. POLICY REVIEW

13.1. The Trust reserves the right to vary the content and provisions of this policy and related collective agreement in consultation with the relevant recognised Trade Unions.

APPENDIX 1 – Flow Chart



APPENDIX 2 – Formal Hearing Guide

1. PRINCIPLES

The Headteacher, Head of School or Executive Headteacher/ Local Academy Board/Trust Board / CEO will make the arrangements for meetings and may be supported by an HR Consultant. This includes writing to the employee, arranging the meeting venue and arrangements for a note-taker.

Employees have the right to be accompanied by a work colleague or trade union representative at a formal meeting and/or appeal. Where the employee is disabled, consideration must be given to any reasonable adjustments requested to the arrangements for the formal meeting/appeal to support that employee.

All parties must make every effort to adhere to the timescales set out and avoid undue delays. However, timescales may be varied subject to agreement of all parties.

Where the employee is not employed to work during the Trust closure periods, ‘working days’ shall mean a designated term-time or Teacher Education Day. Where the employee is part-time, meetings should be arranged to take place on his/her normal working day, unless this is impossible or an alternative day is mutually beneficial.

Wherever possible, the outcome of a formal meeting/appeal held under the policies will be verbally advised on the day of the meeting. The outcome will be confirmed in writing within 5 working days.

An appeal against decisions taken will be heard by a panel of Local Academy Board / Trust Board members, who have the authority (or delegation) to act/make decisions and have not previously been involved in the case.

2. DELEGATION OF AUTHORITY

Investigation

Careful consideration should be given at this stage to who conducts the investigation into any disciplinary matter as **the investigating officer should not normally be the person who hears the case at any future hearings.**

Investigations may be undertaken by the Headteacher, Head of School or Executive Headteacher, the Senior Leadership of the Trust or other suitable person designated by Headteacher, Head of School or Executive Headteacher. In some cases, the Headteacher, Head of School or Executive Headteacher may appoint an investigating officer external to the school / Central Team, e.g. a member of the Senior Leadership of the Trust or a suitably knowledgeable person from another academy within the Trust or they may nominate a Local Academy Board / Trust Board member.

In cases involving the Headteacher, Head of School or Executive Headteacher, the investigation would normally be carried out by an Executive Headteacher or member of the Central Team.

Action short of dismissal

By adopting these procedures, the **Local Academy Board / Trust Board delegates responsibility for matters of discipline relating to employees based in the Trust Schools to the Headteacher, Head of School, Executive Headteacher or CEO**. For those employees based Centrally the Trust Board delegates the responsibility to a Trust Board member. For further details see the DOWMAT Scheme of Delegation. For the avoidance of doubt, this includes the imposition of all disciplinary sanctions short of dismissal, but for powers of suspension and dismissal, please see DOWMAT Scheme of Delegation.

Where it would not be appropriate for Headteacher, Head of School or Executive Headteacher to impose a disciplinary sanction, e.g. where he/she is the investigating officer or is a key witness, the Local Academy Board Chair/Trust Board Chair, the CEO or nominated member of the appropriate Board may lead the hearing and issue a sanction.

By adopting these procedures the **Local Academy Board/Trust Board / Trust Board delegates responsibilities for matters of discipline relating to Headteacher, Head of School or Executive Headteacher or the CEO to the Chair or to one or more members of the LAB/Trust Board**. For the avoidance of doubt, this includes suspension and the imposition of all disciplinary sanctions short of dismissal.

Dismissal

Please see the DOWMAT Scheme of Delegation.

For ease of understanding, those who have delegated authority to dismiss will be referred to in these proceedings as Decision-Maker(s).

Appeal

For the purposes of appeal rights, the LAB/Trust Board must delegate decisions to one or more members not involved in the original determination. The Headteacher/Executive Headteacher / Head of School may not sit on an Appeal Panel.

3. RIGHT TO BE ACCOMPANIED

Employees have the right to be accompanied by a work colleague or represented by a trade union representative at a formal hearing and/or appeal. The Headteacher / Executive Headteacher or relevant Board members must be informed in advance of who will be attending.

The colleague/TU representative is allowed to address the formal hearing, to put and sum up the employee's case, respond on their behalf to any views expressed at the formal hearing and confer with them during the formal hearing. They may also request an adjournment and ask questions of anyone present. The colleague/TU representative does not have the right to answer questions on the employee's behalf, address the formal hearing if the employee does not wish it or prevent the employer from explaining their case.

A formal hearing and/or appeal should not be unreasonably delayed because their chosen companion is unavailable. If an employee's companion is not available at the time a hearing is scheduled and will

not be available for more than 5 working days afterwards, Local Academy Board/Trust Board /Trust Board may ask the employee to choose someone else to support them.

Consistent with the fact that formal hearings and appeal hearings are internal proceedings, external representatives such as solicitors or family members will not be permitted to attend, excepting where this is accepted as a reasonable adjustment for an employee with a disability in accordance with the provisions of the Equality Act 2010 or where a potential dismissal could lead to a referral to the DBS or NCTL for consideration of barring.

4. INABILITY TO ATTEND FORMAL HEARINGS OR APPEAL HEARINGS

Non-attendance at formal hearing/appeal: where an employee or their companion are unavailable to attend a formal hearing/appeal, they may propose a new date no more than 5 working days from the date of the original hearing/appeal date.

- (i) if the employee does not attend the hearing/appeal without good reason, it should be re-arranged but the employee will be advised that if they do not attend the rearranged hearing/appeal, a decision may be made in their absence based on the evidence available ie. They may submit a written statement to be taken into consideration;
- (ii) Local Academy Board/Trust Board hearing the case may consider rescheduling when they believe it is justified to do so.

Sickness absence at hearing/appeal date: where an employee cannot attend on the scheduled hearing day due to sickness, they must provide medical certificate to certify their absence. Being absent from work due to sickness in this circumstance will not however automatically stop a formal hearing/appeal from taking place. The school / Trust may arrange for the employee to see Occupational Health as soon as possible for them to assess their health generally and whether or not they are fit to participate in these procedures. Due regard will be taken of Occupational Health advice and any information the employee may wish to provide from their GP.

Employee facing criminal charges or convictions: if an employee is unable to attend the hearing because he or she is detained in police custody, attempts should be made to find out as much as possible about the situation, including the likely length of absence. As circumstances will differ between cases, advice should be sought from an HR Consultant.

5. LETTER CONFIRMING ARRANGEMENTS FOR A FORMAL HEARING/APPEAL HEARING

A letter confirming the arrangements for the employee to attend a formal hearing/appeal must be sent in line with any timescales set by the applicable policy with no less than 5 working days' notice to give the employee time to prepare.

The letter should include:

- details of the time and venue for the hearing/appeal
- who will be present and their role

- the procedure to be followed – see agenda
- confirmation of the employee's right to be accompanied at the hearing
- sufficient information about the issue (e.g. the alleged conduct/ performance/attendance), concerns and the possible consequences of the planned hearing/appeal (including if dismissal may be an outcome), to enable the employee to prepare to answer the case
- copies of the appropriate policy, any written evidence, including the Investigation Report where undertaken, or evidence from the informal approach, as attachments
- confirmation that if disabled, the employee may request reasonable adjustments.

6. ATTENDEES AT FORMAL HEARINGS / APPEAL HEARINGS

- **Work Colleague or Trade union representative or TU official** to be confirmed in advance.
- **HR Consultant** to advise Headteacher, Head of School or Executive Headteacher/Local Academy Board/Trust Board members on procedural matters/ precedent/ask questions for the purpose of clarification.
- **Investigating Officer** may attend where required. (In some cases, the Investigation Report and written statements will be relied upon as evidence, although it may be helpful for the Investigating Officer to be available at the time of the hearing to answer questions of clarification. This would be discussed and agreed by all parties prior to the hearing).
- **The Decision-Maker/Chair of the decision-making panel** would normally attend for appeals.
- **Note-taker** the Clerk to the Local Academy Board/Trust Board or Headteacher's PA will note the proceedings. (If they are not available or it would not be appropriate, the Trust should provide an alternative note-taker).
- **Witnesses** to be confirmed in advance and attending only whilst giving evidence/answering questions.

All attendees must treat any information communicated to them in connection with any matter discussed during the hearing/appeal as confidential.

7. ORDER OF PROCEEDINGS FORMAL HEARINGS OR APPEALS

See model Procedure for a Formal Hearing. This may be amended to suit the particular circumstances.

PROCEDURE FOR A FORMAL HEARING

Note: *The arrangements for the meeting will be made by the Decision-Maker/s, with advice from an HR Consultant. The procedure to be followed will be amended to suit the particular circumstances.*

1. Pre-meeting of the Decision-Maker/s, Clerk (to take notes for the Decision-Maker/s) and HR Consultant to clarify any procedural matters.
2. Hearing: In addition to those attending the pre-meeting:
 - Employee and trade union representative/work colleague
 - Management (Presenting Officer and/or Investigating Officer; accompanied by HR Consultant, if appropriate)

(Any witnesses will be called as required and will be present only during the time in which they give their evidence and answer questions.)

- (a) The Decision-Maker/s will introduce those present, explain the order of business and confirm the reason for the meeting (i.e. allegation(s) being considered/grievance and resolution sought).

All parties will be reminded of the confidential nature of the proceedings, that the Clerk will take notes for the Decision-Maker/s and that the employee and/or their work colleague or trade union representative may take notes for their own use. Either party may request an adjournment through the Chair of the meeting.

- (b) Management will put forward the case by going through the evidence and calling their witnesses, who will either read their witness statements or they may be taken as read.
- (c) The employee and/or their work colleague or trade union representative may ask questions of management/management's witnesses.
- (d) The Decision-Maker/s and HR Consultant may ask questions of management/ management's witnesses.
- (e) The employee/their representative will state their case.
- (f) The employee/their representative will call any witnesses, who will either read their witness statements or they may be taken as read.
- (g) Management may ask the employee and their witnesses questions - these should be answered by the employee or witness not the representative.

- (h) The Decision-Maker/s and HR Consultant may ask the employee and their witnesses questions - these should be answered by the employee or witness not the representative.
- (i) Management may sum up but will introduce no new factors.
- (j) The staff member/their representative may sum up but will introduce no new factors.
- (k) The employee/their representative and management withdraw while the Decision-Maker/s consider their decision, taking advice as appropriate from the HR Consultant.
- (l) Wherever possible the employee/their representative and management will be recalled and informed of the decision, and the employee will be informed of the right of appeal. The employee will also be informed that the decision will be confirmed in writing within 5 working days of the meeting.

Notes:

- HR Consultants may attend formal meetings, ask questions at any point and advise the Decision-Maker/s as appropriate.
- The note-taker will take a summary note to support the Chair/Panel's consideration. A copy of the note can be provided to the employee on request.
- The employee and their companion are welcome to make their own notes. Due consideration will be given to any reasonable adjustments requested by an employee with a disability.
- Audio recordings of meetings will not normally be permitted given the belief that recording can make participants feel uncomfortable and therefore less willing to contribute.
- All records will be retained confidentially and in accordance with the provisions of the applicable policy but also in line with the General Data Protection Regulations.

RECOMMENDED PROCEDURE FOR APPEAL HEARING

Note: *The arrangements for the hearing will be made by the Decision-Maker/s, with advice from an HR Consultant. The procedure to be followed will be amended to suit the particular circumstances.*

1. Pre-meeting of the Decision-Maker/s, Clerk (to take notes for the Decision-Maker/s) and HR Consultant to clarify any procedural matters.
2. Hearing: In addition to those attending the pre-meeting:
 - Employee and representative as Appellant
 - Headteacher and other management as Respondent (accompanied by a HR Consultant as appropriate)

(Any witnesses will be called as required and will be present only during the time in which they give their evidence and answer questions.)

Order of Business:

- (a) Chair to introduce the members of the Panel and others present and to outline the order of business.
- (b) Chair to remind those present of the confidential nature of the proceedings.
- (c) Chair to clarify that that the Clerk will take notes for the Local Academy Board/Trust Board and that the employee and/or their work colleague or trade union representative may take notes for their own use. Either party make request an adjournment through the Chair of the meeting.
- (d) The Chair will either read or circulate to all those present a copy of the decision against which the Appeal is being made.
- (e) The Appellant will state his/her case and may call witnesses.
- (f) The Respondent may ask questions of the appellant and witnesses.
- (g) The Local Academy Board/Trust Board and the HR Consultant may ask questions of the Appellant and witnesses as appropriate.
- (h) The Respondent will state his/her case and may call witnesses.
- (i) The Appellant may ask questions of the Respondent and witnesses.
- (j) The Local Academy Board/Trust Board and the HR Consultant may ask questions of the Respondent and witnesses as appropriate.

- (k) The Respondent may re-examine the witnesses.
- (l) The Appellant or representative will conclude with a summary of the case but will introduce no new factors.
- (m) The Respondent will conclude with a summary of the case but will introduce no new factors.
- (n) The Appellant and Respondent will withdraw while the Local Academy Board/Trust Board consider the case taking advice as appropriate from the HR Consultant.
- (o) The Local Academy Board/Trust Board will consider the case and the action open to them and reach a decision.
- (p) Appellant and Respondent will be recalled and informed of the decision by the Chair. Notification of the decision will be confirmed in writing within 5 working days of the meeting.
- (q) A formal minute will be made of the outcome of the hearing.
- (r) The decision must be confirmed to the Appellant in writing within 5 working days.

Notes:

- HR Consultants may attend the hearing, ask questions at any point and advise the Decision-Maker/s as appropriate.
- The note-taker will take a summary note to support the Chair/Panel's consideration. A copy of the note can be provided to the employee on request.
- The employee and their companion are welcome to make their own notes. Due consideration will be given to any reasonable adjustments requested by an employee with a disability.
- Audio recordings of meetings will not normally be permitted given the belief that recording can make participants feel uncomfortable and therefore less willing to contribute.
- All records will be retained confidentially and in accordance with the provisions of the applicable policy but also in line with the General Data Protection Regulations.

APPENDIX 3 – Suspension Guide

1. INTRODUCTION

The purpose of this guidance is to provide advice on the suspension of employees from their normal duties and workplace as provided for under the Trust Disciplinary Policy to enable an investigation into alleged conduct and/or behaviour to proceed unhindered or to protect the interests of the Trust and its employees.

The Trust reserves the right to apply the principles set out in this guidance to suspension in other situations as appropriate (e.g. medical or health and safety suspension).

2. SCOPE

This guide applies to all employees employed by the Trust (unless an employee's contractual terms and conditions provide otherwise).

3. EQUALITY AND DIVERSITY

Equality and diversity under-pins all the Trust employment policies, procedures and practices. The Trust actively promotes equality of opportunity and values diversity among its employees. The potential equality impact of this policy has been assessed.

4. PRINCIPLES

An employee may be suspended from his/her normal duties or workplace while receiving full pay, usually pending an investigation into allegations of misconduct. Suspension is intended by the Trust to be a neutral act and not to represent any finding of fault in the employee or an assumption of guilt or be seen as a prejudgment of the outcome of the matter.

The Trust accepts it has a duty to act reasonably, fairly and consistently in suspending an employee.

The decision to suspend an employee from duty will not be taken lightly.

Suspension may only be carried out by Headteacher, Head of School or Executive Headteacher or the Chair of the Local Academy Board/Trust Board or Executive HT /Senior member of Central Team (in allegations involving Headteacher, Head of School or Executive Headteacher or a member of the Central Team – see DOWMAT Scheme of Delegation).

Before deciding to suspend an employee, careful consideration will be given to all the circumstances, the nature of the complaint or allegation made against an employee, and the alternatives to suspension (such as temporary redeployment or working from home). There must be good reason to believe the employee's continued presence in the workplace could create further problems. Where possible provide evidence of this and record your decision.

In cases of where there are allegations of a safeguarding nature the following alternatives should be considered (from Keeping Children Safe in Education 2018):

- redeployment within the Trust so that the individual does not have direct contact with the child or children concerned
- providing an assistant to be present when the individual has contact with the children
- redeployment to alternative work in the Trust where the individual does not have unsupervised access to children
- moving the child or children to classes where they will not come into contact with the member of staff, making it clear that this is not a punishment and the parents have been consulted
- temporarily redeploying the member of staff to another role in a different location, for example to an alternative school / Trust or work for the Local Authority or academy Trust or working from home if appropriate.

Any suspension will be as brief as possible, kept under review (normally every 20 working days) and the employee updated on the progress of the conduct investigation and any delays that may arise, which would affect the duration of the suspension.

Employees who are suspended will receive normal pay in line with their planned working arrangements.

All employment matters relating to an individual employee remain confidential.

Due consideration should be given to the potential permanent professional reputational damage to the employees that can result from suspension where an allegation is later found to be unsubstantiated or maliciously intended.

5. PRIOR TO DECISION TO SUSPEND AN EMPLOYEE

As soon as possible after an alleged misconduct or gross misconduct is identified, the employee should be spoken to and given the opportunity to comment/give their initial response on the alleged misconduct before the decision to suspend is taken. However, in the case of safeguarding allegations discussions must take place with the LADO prior to any decisions or actions being taken. (Also note: Internal Audit must be informed of any potential or actual loss or financial irregularity or suspected irregularity before discussing with the employee. This should be done by the officer discovering the loss or financial irregularity.)

Children's Social Care Services or the Police cannot require the Trust to suspend a member of staff or volunteer (taken from Keeping Children Safe in Education 2018), although the Trust should give appropriate weight to their advice. The power to suspend is vested in the Trust. However, where there is a POT meeting or initial evaluation concludes that there should be enquiries by Children's Social Care

Services and/or investigation by the Police, designated officers should canvass Police and Social Care Services for views about whether the accused member of staff needs to be suspended from contact with children, this will form part of the consideration for suspension. Police involvement does not make it mandatory to suspend a member of staff, this decision should be taken on a case-by-case basis having undertaken a risk assessment.

The suspension meeting must be held in private and Headteacher, Head of School or Executive Headteacher may be accompanied by an HR representative.

Whilst the employee has no statutory right to be accompanied to a suspension meeting, it is recognised that there is a need to be sensitive to reactions from the employee including shock, stress or distress and it may be appropriate therefore to offer the employee the opportunity to be accompanied at the meeting by a work colleague or their trade union representative if available ie. However, the unavailability of a representative will not delay convening the suspension interview or the suspension itself.

The employee should be advised that they will be invited to an investigation meeting in due course. However, any comments made by the employee should be noted for the record and the employee should be advised at the start of the meeting that this may form part of any subsequent investigation.

In all cases the rationale and justification for such a course of action should be recorded including what alternatives have been considered and why they were rejected.

6. DECISION AND PROCESS OF SUSPENDING AN EMPLOYEE FROM WORK

There must be a good reason for suspension. Consideration should be given to alternatives to suspension such as redeployment or working from home. The following list is not exhaustive but provides an indication of the types of situation when suspension may be appropriate:

- where it would not be possible to carry out a thorough or impartial investigation with the employee still at work, e.g. where there are reasonable grounds for concern that evidence has been/could be tampered with, destroyed or witnesses pressurised before a formal meeting
- where gross misconduct is suspected or alleged, although this does not of itself justify suspension pending investigation. There should be a reasonable suspicion of gross misconduct and the Headteacher, Head of School or Executive Headteacher, CEO or member of the Trust Board (see DoWMAT scheme of delegation) should undertake an initial investigation before making the decision to suspend
- where there is cause to suspect there is a risk of harm to a child or children at the Trust
- cases where the Trust is made aware of that the Secretary of State has made an interim prohibition order in respect of an individual who works at the Trust (taken from Keeping Children in Safe in Education 2018)

- where there is a perceived risk of harm to the employee or others
- where there are risks to Trust property.

The Headteacher, Head of School or Executive Headteacher, CEO or member of the Trust Board (see DoWMAT scheme of delegation) will inform the employee verbally of the decision to suspend them as soon as reasonably practicable. This will be confirmed in writing without unreasonable delay. Where the employee is not available or cannot be contacted the decision to suspend will be communicated in writing.

The advice to the employee who is suspended will be as follows:

- why they are being suspended from duty, and that this will be confirmed in writing
- that their suspension from duty is a neutral act to allow the investigation to be undertaken and does not represent any finding of fault at this stage and is not a form of disciplinary action
- that the employee will continue to receive pay for planned work during the period of suspension. An employee's pension will not be affected by suspension
- to remain contactable and available during normal working hours so that they can attend meetings, as required
- to inform The Headteacher, Head of School or Executive Headteacher, CEO or member of the Trust Board (see DoWMAT scheme of delegation) of any change in their contact details immediately while they are suspended
- booked leave or requests for annual leave during a period of suspension should be made to The Headteacher, Head of School or Executive Headteacher, CEO or member of the Trust Board (see DoWMAT scheme of delegation) before such leave is taken in view of potential impact on availability for the investigation
- that the matter should be kept confidential and only discussed with those involved in the disciplinary process such as their representative, the investigator, HR representative involved in the case or the Headteacher, Head of School, Executive Headteacher or CEO.
- they should not attempt to influence any colleagues or potential witnesses involved in the disciplinary proceedings or discuss the matter with them. It may be necessary in some circumstances for a suspended employee to be prohibited from contact with named employees or witnesses. They should be advised that a failure to comply may result in further action being taken against them in accordance with the Trust Disciplinary Policy
- that the suspension will be reviewed regularly (normally every 20 working days) by the Headteacher, Head of School, Executive Headteacher or CEO, in consultation with the

appropriate HR representative (if necessary) and that they will be kept updated/informed in writing

- to return any school / Trust property or equipment (keys, laptop, ID badge, etc.) and limiting IT access if/as necessary
- a named contact will be provided to the employee under suspension.

Normal sickness reporting rules apply during the period of suspension. If, at any stage during the suspension, it appears that there is a significant medical factor involved, the employee will be referred to Occupational Health.

It may be advisable to discuss with the employee how the employee's absence from work will be communicated to internal and external colleagues and parents/careers.

7. ENDING OF SUSPENSION / ACTION FOLLOWING SUSPENSION

An employee's suspension will end when one of the following occurs:

- The Headteacher, Head of School or Executive Headteacher, CEO or member of the Trust Board (see DoWMAT scheme of delegation) decides that there is no case for the employee to answer and that they do not need to attend a disciplinary hearing
- the investigation can continue without the employee being suspended and the employee can return to work in their substantive post, or, possibly after full discussion and agreement with the employee, in a different location or capacity
- the investigation has been concluded and the allegations are considered less serious than originally outlined
- the disciplinary procedure has been completed.

The suspension can only be ended by the Local Academy Board/Trust Board /Trust Board. However, in certain circumstances the Local Academy Board/Trust Board /Trust Board may decide that it is in agreement for the Headteacher, Head of School or Executive Headteacher to undertake these functions on behalf of the Local Academy Board/Trust Board /Trust Board.

The Headteacher, Head of School or Executive Headteacher/ CEO must advise the Local Academy Board/Trust Board /Trust Board as soon as reasonably practicable of any suspension and the ending of a suspension.

Where an employee returns to work following suspension, arrangements must be discussed with the employee concerning:

- whether any additional support is needed in the short-term such as coaching, training or counselling
- the process for catching up with workload and the workplace in general such as important notices, decisions and events etc. that you may have missed, especially if there is a change in role/Year Group

- what message about the employee's return is given to colleagues, etc.

8. FURTHER ADVICE

For further advice, please contact HR Consultancy for Trusts.

APPENDIX 4 – Model Letters

MODEL LETTER A – Informing Employee of Suspension from Duty

Letter informing an employee of his / her suspension from duty under Appendix 3 of the Disciplinary Procedure

Dear

I am writing to confirm that you have been suspended from work until further notice pending an investigation into allegations made against you of / that you have [*** insert brief description of the alleged misconduct].

The investigation is intended to establish facts about the allegations, and you should be aware that it could result in action being taken against you under the Disciplinary Procedure. (I must also advise you that misconduct of this nature, if substantiated, could be considered as gross misconduct for which dismissal without notice is a possible consequence.)

The reason for your suspension is:

[** a reason must be provided, a list of suggestions is given below, please contact HR Consultancy for further advice].

- until the investigation is completed, to protect [you and / or other employees within the school / Trust and/or pupils] for reasons of safety

and / or

- if found to be true, the allegations could amount to potential gross misconduct

and / or

- the matter must be investigated in as demonstrably fair way as possible, and the Trust needs to minimise any risk that your presence in Trust could hamper the investigation either by interference or inhibiting colleagues from speaking openly.

Your suspension does not constitute disciplinary action in itself. Nor does it not imply any assumption that you are guilty of any misconduct. No conclusions have been made at this point in time and will not be made until the outcome of the investigation is determined.

This matter should be kept confidential and only discussed with those involved in the disciplinary process, such as your representative, the investigating officer or HR. During the period of suspension you must not enter the school / Trust site, undertake work activities or discuss this matter with Trust staff, Local Academy Board/Trust Board, pupils or parents. If you require access to the school/office to collect personal possessions or to prepare your case you must seek my permission. You will continue to receive your full salary and contributions to your pension will continue during the period of suspension. You must remain available for interview during normal working hours unless you have permission to be absent.

The suspension will be regularly reviewed, as a minimum every 20 working days, taking into account any external influences on the process [e.g. police investigations], Trust holiday periods and the length of the suspension, if no other action has been taken. It will not be necessary for you to attend although you, or your representative, may make written representations and may, if appropriate, be asked to discuss these at the review.

You will be contacted shortly by the investigating officer [insert name of investigating officer], to arrange a suitable time to undertake an investigation meeting.

* You have been given a copy of the Disciplinary Procedure / * A copy of the Disciplinary Procedure is enclosed (** delete as appropriate*) and are advised to familiarise yourself with it. You may wish to seek advice or support from an independent source such as a trade union representative or work colleague who is unconnected with the situation.

If there is anything you do not understand about the content of this letter, please speak to [insert name and contact details of manager through whom any contact should be made] or the Human Resources Adviser [insert name and contact details].

I recognise that this will be a stressful time for you. Counselling support may be available through the Trust. Please speak to your Headteacher to arrange this. Alternatively, you can contact the Education Support Partnership (previously Teacher Support Network) which offers practical and emotional support services to teachers and other staff in education. Its services can be accessed through its website: www.educationsupportpartnership.org.uk or by calling the support line on 0800 0562 561 (which provides confidential telephone counselling and coaching).

Yours sincerely,

**** In safeguarding cases, the following wording is recommended: "In the light of an allegation which is being investigated under locally agreed child protection procedures ..."*

MODEL LETTER A (i) – Advising Employee of Outcome of Suspension Review

Example of a letter to an employee advising the outcome of a suspension review

Dear

Review of Suspension

I write further to my letter dated [insert date] notifying you of your suspension from duty. The circumstances leading to your suspension on [date] and subsequent actions taken were reviewed on [date]. The purpose of the review is to ensure that matters are moving forward and to advise you of progress. (I have also taken account of [written] representations made by [* you / your colleague / your trade union representative] on [date].)

[Insert brief outline of how the investigation is progressing, e.g. It is expected that all witness statements will have been taken by [insert date] after which the investigating officer, [name], will contact you to arrange an investigation meeting.] I must remind you that you are to be available for interview during normal working hours and are expected to co-operate fully with the investigation.

Therefore, your suspension will remain in place for the time being. The situation will be reviewed again within a further period of 20 working days (i.e. by [date] at the latest).

I will keep you advised of further progress but if you wish to discuss the procedure, please contact me or the Human Resources Adviser, [insert contact details].

Yours sincerely,

(delete as appropriate)*

MODEL LETTER A (ii) – Sickness Absence During Suspension

Letter issued to an employee who, after being suspended due to allegations of misconduct, states that they are ill

Dear

Further to [our recent discussion and / or receipt of medical certification], you are now required to follow the Trust Sickness Absence Reporting Procedures.

Please note that the formal investigation into allegations of [misconduct] will continue and that advice will be obtained from the Occupational Health provider / your medical practitioner, following an Occupational Health referral / receipt of further medical information, about whether you are fit to attend an interview as part of the investigation, or any subsequent disciplinary hearing although not fit for work.

You should also note that this episode of absence will be recorded as sickness absence and that you will be paid as per your contractual sick pay entitlement, information on which is also attached (*Appendix F of Managing Sickness Absence in Trusts*).

If during this period of sickness absence your contractual sick pay entitlement ends, and you remain unfit to return to work, then normal pay under suspension arrangements will not resume until you are declared fit to return to work.

Once you are declared fit to return to work you are required to inform me immediately in order that we can consider whether to resume your suspension in order to allow the investigation to be completed or whether you should be allowed to return to work. You will be informed of this decision under separate cover and you should not return to work in the meantime.

If you have any queries relating to this letter or the actions taken to date please contact me on [insert details]. You will be contacted as soon as possible about your appointment with Occupational Health / about next steps.

Yours sincerely,

MODEL LETTER B – Inviting Employee to Investigation Meeting

Letter inviting employee to an investigation meeting under Section 6 of the Disciplinary Procedure

Dear

I am writing to invite you to a meeting to investigate a complaint received relating to an incident at school/office base on [date] /concerns I have about your conduct. It is alleged that you [insert details of the allegation].

The meeting will be held at [name] School/office on [date] at [time]. [Name], Human Resources Consultant will also be present. This meeting is to be held under the provisions of the Disciplinary Procedure, a copy of which is enclosed.

The purpose of this meeting is to discuss the allegation with you, to establish your version of events and to ask and answer related questions. You should be aware that the outcome of this meeting may be that we determine:

- (a) there is no case to answer;
- (b) that the incident, though serious, does not merit the use of the formal disciplinary procedure, but it may be appropriate to give management guidance;
- (c) that the issue is sufficiently serious that it must be dealt with as a disciplinary matter and you will be invited to a formal disciplinary meeting at a later date.

Although this is not a formal meeting, we would be happy to consider a request for you to be accompanied to the investigative meeting by a colleague or trade union representative.

Please confirm your attendance at this meeting, and whether or not you will be accompanied. If you have any questions in the meantime please contact me or the HR Consultant on [telephone number].

Yours sincerely,

Headteacher

MODEL LETTER C – Issuing Management Guidance/Instruction

Letter to an employee issuing management guidance / instruction Section 7 Informal Stage

Dear

I am writing to follow up our conversation on [date] regarding concerns raised about [insert details].

I have conducted an initial investigation and having now spoken to you about the concerns, I consider that this conduct is not acceptable.

* This is the first time such concerns have been raised / * I have previously spoken to you about this (* *delete as applicable*) and I have made it clear that you are expected to [insert details of expectations and / or conduct which must not occur]. [I have agreed to provide you with guidance as follows... / detail any training or mentoring etc. / whether there will be a review.]

Having considered the matter I have decided not to take any formal action on this occasion in relation to any of the issues above. However, please be advised that although this letter does not form part of the formal disciplinary process at this stage, should any further instances of misconduct or inappropriate conduct of any kind occur, then formal action may be pursued through the Disciplinary Procedure.

I expect to have no further concerns, but if you are unclear about what is expected of you please ask me.

Yours sincerely,

Headteacher / Line Manager
(*as appropriate*)

MODEL LETTER D – Invitation to Disciplinary Hearing (Action Short of Dismissal)

Letter inviting an employee to a hearing under Section 8 of the Disciplinary Procedure (for action short of dismissal)

Dear

Further to my letter dated [date] I can now confirm that [name] has / have concluded his / her / my investigation into the alleged misconduct. It is alleged that you [insert details].

I feel that the issues raised are sufficiently serious to warrant consideration at a formal hearing under the Disciplinary Procedure. You are therefore required to attend a disciplinary hearing with me* under Section 8 of the Procedure at [place] at [time] on [date] when you will be asked to offer your explanations for the matters raised by the report. If there is any reason why you cannot attend, please inform me as soon as possible. A room will be made available le from [time] for you to meet with your representative if you wish.

The following documents, which will be referred to at the hearing, are included with this letter:

[examples include]

1. Investigation report
2. Witness statement from
3. Witness statement from
4. Copy of the school staff handbook
5. Copy of previous Management Guidance
6. Disciplinary Procedure
7. Trust Code of Conduct

I must advise you that the allegations, if substantiated, are sufficiently serious to warrant the issue of a written or final written warning. Please note that if you do not attend, the hearing may take place in your absence.

The investigating officer [name] will attend the hearing to present the management case and answer any questions arising from his / her report and will call the following individuals as witnesses: [list any other witnesses who will be called]. A Human Resources Adviser will also be present to advise me on procedural issues.

You have the right to be accompanied or represented at the hearing by a work colleague or trade union representative. You will also have the right to appeal if any formal disciplinary sanction is issued against you.

Any written evidence you wish to be considered must be submitted to me no later than 2 working days before the hearing, together with the names of any witnesses and/or representative. No new written evidence may be introduced during the hearing.

You should also let me know if anyone attending on your behalf has any special requirements, e.g. because of a disability. It is your responsibility to ensure the availability of anyone attending on your behalf.

If you have any queries about the hearing please contact me as soon as possible.

Yours sincerely,

Headteacher

** N.B: If the Headteacher, Head of School or Executive Headteacher is the Investigating Officer, the case should be heard by the Chair of the Local Academy Board see the DOWMAT Scheme of Delegation for further details., and the wording of this letter amended accordingly.*

MODEL LETTER E – Disciplinary Warning

Letter issued under Section 8 of the Disciplinary Procedure (Disciplinary Warning)

Dear

Following the hearing held at [location] on [date], having given the matter very careful consideration and having taken appropriate advice, I have decided to issue you with [type of warning] under the terms of the Disciplinary Procedure. This is a very serious matter and you should take note of the following points.

This warning is issued in relation to [details of case/allegation referring to any current warning].

As a consequence of this you are expected to [brief description of conduct required and specific instructions: example - you must not leave the school / Trust site without prior permission from your Line Manager / you must follow the Trust's procedure for recording your working time and signing in and out]. If you believe that you require any support, assistance or training to achieve this you must discuss this with me.

[Insert, if applicable, details of any monitoring and/or support arrangements, e.g. weekly meetings with Line Manager.]

You must note that further unsatisfactory conduct may lead to further and more serious disciplinary action being taken against you including possible dismissal.

This warning will be placed on your personal file and will remain active for disciplinary purposes for [insert number] months after the date of the hearing [insert date]*, after which time I expect to have no further cause for concern.

(*N.B: If the decision is not given at the hearing, the warning will be effective from the date of this letter.)

You have a right to appeal against the issue of this warning and I draw your attention to Section 10 of the Disciplinary Procedure. You have a right to be accompanied by a colleague or trade union representative at any appeal. If you wish to appeal you must inform me, in writing to me, the Headteacher, Head of School or Executive Headteacher, within 5 working days of receipt of this letter. If you decide not to lodge an appeal, you may submit a statement of mitigation to be held on your file with this warning.

A copy of this letter has been sent to [name of person] who represented/accompanied you at the hearing.

The issue of this warning is a serious matter and I require you to take careful note of the points made in this letter.

Yours sincerely,

Headteacher /Head of School/Executive Headteacher/Chair of LAB/Trust Board
(as appropriate)

MODEL LETTER F – Invitation to a Potential Dismissal Hearing

Letter inviting an employee to a hearing under Section 8 of the Disciplinary Procedure (Potential Dismissal)

Dear

Further to my letter dated [date] I can now confirm that [name] has / have concluded his / her / my investigation into the alleged misconduct. It is alleged that you [insert details].

I feel that the issues raised are sufficiently serious to warrant consideration at a formal hearing under the Disciplinary Procedure. You are therefore required to attend a disciplinary hearing with me / the Dismissal Panel** under Section 8 of the Procedure at [place] at [time] on [date] when you will be asked to offer your explanations for the matters raised by the report. If there is any reason why you cannot attend, please inform me as soon as possible. A room will be made available le from [time] for you to meet with your representative if you wish.

The following documents, which will be referred to at the hearing, are included with this letter:

[examples include]

1. Investigation report
2. Witness statement from
3. Witness statement from
4. Copy of the school staff handbook
5. Copy of previous Management Guidance
6. Disciplinary Procedure
7. Trust Code of Conduct

You should be aware that if the allegation is substantiated it will constitute gross misconduct and you may be dismissed from your employment without the benefit of a notice period or payment in lieu of notice (OR You should be aware that the consequences of this hearing could be very serious and may include your dismissal). It is therefore very important that you make every attempt to attend and I must advise you that, if you do not attend, the hearing may take place in your absence.

The investigating officer [name] will attend the hearing to present the management case and answer any questions arising from his / her report and will call the following individuals as witnesses: [list any other witnesses who will be called]. A Human Resources Adviser will also be present to advise me on procedural issues.

You have the right to be accompanied or represented at the hearing by a work colleague or trade union representative. You will also have the right to appeal if any formal disciplinary sanction is issued against you.

Any written evidence you wish to be considered must be submitted to me no later than 2 working days before the hearing, together with the names of any witnesses and/or representative. No new written evidence may be introduced during the hearing.

You should also let me know if anyone attending on your behalf has any special requirements, e.g. because of a disability. It is your responsibility to ensure the availability of anyone attending on your behalf.

If you have any queries about the hearing please contact me as soon as possible.

Yours sincerely,

Headteacher

*** This will depend upon who has the delegated power to dismiss. Please see DOWMAT Scheme of Delegation.*

MODEL LETTER G – Advising Under Section 8 of the Disciplinary Procedure: Dismissal

Letter issued to an employee under Section 8 of the Disciplinary Procedure: Dismissal

Dear

Following the hearing held before [*** insert details] at [location] on [date] at [time], I have to inform you that having regard to all the circumstances, [*** insert details] has decided that you should be dismissed from your post at [name of Academy] with effect from [date of termination] / with immediate effect.

The reason for this decision is [details of unsatisfactory conduct].

You have the right to appeal against this decision and I draw your attention to Section 10 of the Disciplinary Procedure. If you wish to appeal, you should lodge the appeal in writing to me, the Headteacher, Head of School or Executive Headteacher, within 5 working days of receipt of this letter. You have the right to representation, by a colleague or trade union representative at such an appeal and I enclose a copy of the relevant procedures. (If you choose to appeal and your appeal is successful, you would be reinstated with effect from the date of dismissal.)

Yours sincerely,

Headteacher or Chair of Panel
(as appropriate)

**** Those with the delegated power to dismiss.*

This may be:

- (a) *Headteacher, Head of School or Executive Headteacher*
- (b) *the Dismissal Panel*

MODEL LETTER H – Notification of Dismissal to Payroll

School Employee Services
LIBERATA UK

via email to: WCCSES@liberata.com

Dear Sir / Madam,

Re: [name of employee]

A hearing was held on [date] before the [* Headteacher / Dismissal Panel] acting on behalf of the Local Academy Board/Trust Board of [name of Academy].

I write to inform you that following representations, the [* Headteacher / Dismissal Panel] has / have determined that the above-named employee ceased to be employed at this Academy by reason of misconduct / gross misconduct (delete as applicable) with effect from [date].

I enclose a copy of the letter which has been sent to [name of employee] and which advises of the right of appeal against this decision. Should such an appeal overturn this decision, the Local Academy Board/Trust Board will notify the LA without delay.

Yours sincerely,

* Headteacher / Dismissal Panel

(delete as appropriate)*

MODEL LETTER I – Informing Employee of Arrangements for the Hearing of an Appeal Against the Issue of a Disciplinary Sanction

Letter informing an employee of arrangements for the hearing of an Appeal against the issue of a disciplinary sanction

Dear

Appeal Against Disciplinary Action

Following your letter of [date] lodging your appeal against [sanction] I have arranged for your appeal to be heard by the (Dismissal) Appeal Panel at [location] on [date] at [time].

You have the right to be represented by a colleague or trade union representative at this hearing and I enclose a copy of the procedure which will be followed at the meeting.

The Appeal Panel will be provided with the documentation which was available to me at the initial hearing. If you have any supplementary documentation which you wish to be submitted to the Appeal Panel it must be provided to Headteacher, Head of School or Executive Headteacher, along with details of witnesses, not less than 5 working days before the hearing.

I understand that you will be represented by [name] at the Appeal hearing.

Yours sincerely,

Headteacher / Clerk to LAB/Trust Board
(as appropriate)

MODEL LETTER J – Informing Employee of Outcome of a Disciplinary Appeal Hearing

Letter informing an employee of the outcome of a Disciplinary Appeal Hearing

Dear

Appeal Against Disciplinary Action

Following your appeal against [sanction] on [date] at [time] I have to inform you that having regard to all the circumstances the Appeal Panel has decided to:

- (i) allow your appeal. The action taken against you at the [hearing] held on [date] is therefore revoked and will cease to be effective.
- (ii) allow your appeal in part. The action taken against you at the [hearing] held on [date] is therefore revoked and replaced by [sanction] which is a lesser sanction under the terms of the disciplinary arrangements.
- (iii) dismiss your appeal. The action taken against you at the [hearing] held on [date] therefore stands and [details of sanction].

In reaching their decision the Appeal Panel were particularly mindful of the following points [details].

Yours sincerely,

Chair of Dismissal Appeal Panel

Copy to: