Avenue
CENTRE FOR EDUCATION

Disciplinary Procedures

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Disciplinary Procedure

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1.0 Introduction

1.1 This policy is designed to help and encourage all employees to achieve and maintain appropriate standards of behaviour and conduct. Its main purpose is to encourage an employee whose conduct is unsatisfactory to improve, and to promote fairness and consistency in any disciplinary action.

2.0 Scope

2.1 This procedure applies to all employees of the school/ multi-academy trust (MAT).

2.2 Where this procedure is used within a MAT, the roles and responsibilities set out within this procedure should be read alongside the MAT's Scheme of Delegation. Template letters may need to be adapted accordingly.

2.3 The school reserves the right to invoke the formal stage of the disciplinary procedure irrespective of whether or not any previous management advice or warnings have been given.

2.4 Actions taken by employees outside working hours may also fall within the scope of this policy if there is an impact on the employee's ability and/or suitability to do his/her job, or where the actions may bring the school, employer or employee into disrepute.

2.5 Depending on the circumstances, other policies may be followed in place of, or in parallel with, the disciplinary procedure, for example in relation to absence or incapability due to ill health.

3.0 Informal process - management advice/letter of expectation

3.1 It may be appropriate for minor misconduct issues to be dealt with informally through management advice/a letter of expectation rather than invoking a formal process. In this case advice should be sought from the Luton HR Traded Services team. The employee's agreement to accept the advice must be sought in advance, as the acceptance of advice is an admission of some, though minor, failing and a record of this advice will be retained.

3.2 Any management advice/letter of expectation given to the employee will be retained on the employee's file and the employee will be provided with a copy. If as a result of a disciplinary investigation, the outcome is management advice, the employee will receive an outcome letter in relation to the investigation to confirm this, along with a record of any management advice/letter of expectation given. Any response given by the employee should be recorded in the management advice letter. Any management advice / letter of expectation will be removed from the personnel file after a 12 month period of the advice being issued, provided that the employees conduct has sufficiently improved during this period.

3.3 Management advice/letters of expectation should not be directly mentioned when providing employment references, as it does not form part of an employee's formal disciplinary record.

3.4 Examples of when an informal resolution would not be appropriate include:

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- there has been no resolution
- the issue is more serious
- there are repeated or multiple instances of misconduct
- there is suspected gross misconduct

4.0 Principles

4.1 This procedure sets out the principles and practices that the school will follow in formal disciplinary cases.

4.2 Any breach of an employee's terms and conditions of employment, any conduct which the school considers unsatisfactory or in conflict with its interests, or any intentional failure to meet the required standards of work may result in disciplinary action being taken.

4.3 A list can be found at Appendix 2 outlining examples of what conduct the school may deem (dependent upon the nature, circumstances and severity of the incident) to be misconduct or gross misconduct.

4.4 It is accepted that to differentiate between general and serious breaches of discipline is difficult, therefore each case must be treated on its own merits. Since the examples are only guidelines, discretion will have to be exercised by the school in categorising breaches of discipline, having regard to all the circumstances under which the alleged breach of discipline occurred.

4.5 In a formal disciplinary case, the following principles will apply:

- as set out in section 3, where possible minor issues will be dealt with through informal routes
- no formal disciplinary action will be taken against an employee until the case has been investigated
- the employee will be notified in writing, of the allegations against them. Where this changes, this will again be confirmed in writing to the employee
- employees will be given no less than 14 calendar days' notice of any disciplinary hearing; unless agreed by both parties
- employees and the employer may call witnesses as part of any hearing under the formal stages of this procedure
- employees will not normally be dismissed for the first breach of discipline except in the case of gross misconduct when the sanction could be dismissal without notice.
- employees will have the right to appeal the outcome at the formal stages of the procedure
- the procedure may be implemented at any stage if an employee's misconduct warrants such action. There will be occasions when a final written warning or dismissal is justified for a first offence, so it should not be assumed that the first stage is always a first written warning
- the notice of, or invitation to, the hearing will include the highest possible sanction/outcome, including where dismissal may be a possible sanction
- at any formal disciplinary investigatory interview or hearing, employees may be accompanied by a work colleague or a trade union representative only
- each step and action taken during this process will be taken without unreasonable delay

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- the timing and duration of hearings will be reasonable
- employees should take all reasonable steps to attend the disciplinary hearing. Failure to attend without a reasonable explanation could result in the hearing continuing in the employee's absence and a decision taken on the evidence available
- consideration will be given to facilitating any reasonable adjustments required in accordance with the Equality Act 2010

A flow chart setting out the disciplinary protocol can be found in Appendix 1.

5.0 Allegations about safeguarding children

5.1 Allegations about the safeguarding and protection of children must be handled in accordance with statutory guidance. The relevant statutory guidance is in 'Part four: Allegations of abuse made against teachers and other staff of Keeping Children Safe in Education'.

5.2 These procedures are no longer limited to allegations involving "significant harm/risk of significant harm". Any allegation that an employee or volunteer has:

- behaved in a way that has, or may have, harmed a child
- possibly committed a criminal offence against or related to a child
- behaved towards a child in a way that indicates that he/she is unsuitable to work with children must be dealt with in accordance with LSCB procedures
- behaved towards a child or children in a way that indicates he or she may pose a risk of harm to children

5.3 The role of the Local Authority Designated Officer (LADO) is crucial in handling all allegations of this kind. Please refer to the school's procedure for dealing with allegations of abuse against teachers and other staff for more detailed information.

5.4 Statutory requirements make it necessary for the employer to refer cases, where an employee has been dismissed or a case arose through the LADO process and resulted in dismissal or would have had the person not resigned, to, where relevant, the Teaching Regulation Agency (TRA) and/or the Disclosure and Barring Service (DBS) (see sections 28.2 and 28.7).

6.0 Short procedure for employees absent without permission

6.1 Where an employee has failed to comply with the school's absence reporting procedures, the school should first try to contact the employee by telephone. If this is unsuccessful then via a member of their immediate family such as their next of kin, to ascertain the employee's personal safety.

6.2 If the headteacher/manager is unable to make contact with the employee or a member of their immediate family for a period of 48 hours from their normal starting time then the following procedure should be followed.

6.3 The headteacher should write to the employee at their current or last known address requesting that the employee make immediate contact to explain their absence. This letter should be sent by recorded delivery or hand delivered. The letter can be found

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in Appendix 20. The letter also advises the employee that failure to make contact or attend for work could result in their pay being suspended.

6.4 Where the employee has still failed to make contact seven calendar days from the first day of absence, a second letter should be sent by recorded delivery or hand delivered. The letter can be found Appendix 21. This letter should request that the employee makes immediate contact with the headteacher to explain their absence. This letter should also advise the employee that, if they fail to do this within five calendar days of the date of the letter, a disciplinary hearing will be convened in accordance with the school's disciplinary procedure and the employee's dismissal from the school's service could be an outcome of the hearing. Prior to arranging a disciplinary hearing, the school should ensure they have taken reasonable steps to contact the employee and explore their whereabouts/welfare.

6.5 If the employee still fails to respond to the school, then a disciplinary hearing should be arranged in accordance with the disciplinary procedure.

6.6 If the employee fails to attend the disciplinary hearing, or to offer an adequate explanation for their lack of availability, the disciplinary hearing will continue in their absence. Where this is the case, the employee may submit a written statement. The headteacher will be required to make a decision on the information available and presented to them at the time.

6.7 The decision will be confirmed in writing, by recorded delivery, to the employee within seven calendar days of the disciplinary hearing. The right of appeal as outlined in the disciplinary procedure will apply.

7.0 Financial irregularity

7.1 If a case in a school maintained by the Local Authority involves alleged financial irregularity, corruption or fraud, the Local Authority's Internal Audit team **must** be contacted at the earliest possible opportunity. The school should not alert the employee of their concerns until they have been advised to do so by Internal Audit or Human Resources. Internal Audit will determine whether the matter should be referred to the Police

7.2 Similar principles apply to academies where the Education Skills Funding Agency (ESFA) must be informed.

8.0 Misuse of school computers, equipment and software

8.1 Computers, equipment and software (e.g. emails, work mobile phones or laptops) are the property of the school; therefore examination of such equipment or software can take place at any time without permission from the employee.

8.2 If there are suspicions that an employee is misusing school equipment (for example by accessing or downloading inappropriate material), the headteacher (or if the concern is in relation to the headteacher, the chair of governors) must contact the LADO without delay. The LADO will determine whether the matter should be referred to the Police.

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9.0 Criminal activity

9.1 If there are suspicions that an employee is partaking in criminal activity or there is evidence that they are undertaking criminal activity, the school should refer the matter to the LADO without undue delay. The LADO will determine if the matter should be referred to the Police.

9.2 No internal disciplinary investigation should be initiated by the school until they are advised to do so by the LADO or the police.

10.0 Disciplinary action involving a trade union representative or relating to trade union activities

10.1 The headteacher will make every effort to contact a full-time officer of the relevant recognised trade union before carrying out any suspension or investigation against a shop steward or other recognised trade union representative. Where this is not possible, suspension or investigation will only be permitted where the situation demands an immediate response e.g. potential gross misconduct or where there is a risk to health and safety. Advice should be sought from the Luton HR Traded Services team before making a decision to suspend.

11.0 Overlapping disciplinary and grievance issues

11.1 An employee may raise a grievance after disciplinary proceedings have been initiated. If the grievance concerns matters that are unrelated to the disciplinary process, a separate investigation under the Grievance procedure will take place. It may be appropriate to deal with both issues concurrently. If the allegation involves matters which relate to the disciplinary process the issues raised will be considered as part of the disciplinary procedure.

11.2 A grievance will not be accepted if it is a complaint about dismissal or disciplinary action which should be submitted as an appeal against the disciplinary decision within the time period stipulated. Following the completion of the disciplinary process, the employee will not be able to pursue the matters further under the grievance procedure.

12.0 Suspension

12.1 The decision to suspend an employee may be made by the headteacher, or the governing body if the allegation relates to the headteacher. The decision to suspend an employee does not imply that any decision about the veracity of the allegations has been made. However, due to the serious impact on the employee, advice should first be sought from the Luton HR Traded Services team.

12.2 Consideration should always be given to short-term measures as an alternative to suspension. Alternatives to suspension may include:

- Working in a different location
- Working in a more closely supervised environment
- Working from home

12.3 An employee may be suspended on full pay in the following circumstances:

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- where there is an allegation, which if proven, may be deemed gross misconduct
- for the protection of pupils, colleagues, property, or the employee
- where it is believed that the continuing presence of the employee in the workplace could interfere with the conduct of the investigation, including the taking of statements
- there are concerns regarding health and safety

12.4 At the beginning of any formal disciplinary investigation where the allegation may constitute gross misconduct, the headteacher, or, where the allegation is against the headteacher, the chair of governors, should complete the suspension risk assessment at Appendix 5 to detail any alternative to suspension measures that have been considered. Where the school could not identify any measures that could be put into place, details of the reasons for suspension should be recorded.

12.5 Where the decision is made to suspend an employee, the decision must be put in writing to the employee. A template letter can be found at Appendix 7.

12.6 Where the decision is made not to suspend an employee, but alternatives to suspension are put into place, a template letter can be found in Appendix 6 to inform the employee of the alternative to suspension.

12.7 During the suspension period a named contact, usually the investigating officer, will be assigned to keep in touch with the employee.

12.8 Suspension, or any alternative to suspension, will be for as short a period as possible and will be kept under review.

12.9 Employees who fall sick during periods of suspension are advised that they are required to follow the normal sickness absence procedures and may be required to be examined by the school's occupational health adviser.

13.0 Right to be accompanied

13.1 An employee has the right to be accompanied and supported during the investigation and at each formal stage of the procedure, including at any appeal, by a work colleague or a recognised trade union representative.

13.2 The role of the trade union representative or work colleague is to support the employee may include:

- addressing the hearing on the employee's behalf and asking appropriate questions, as agreed with the employee
- asking for adjournments if necessary

13.3 The trade union representative or work colleague is not permitted to:

- answer questions on behalf of the employee
- address the hearing if the employee indicates that he/she does not wish them to
- prevent the school from explaining the case
- prevent any other person at the hearing from making his/her contribution

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13.4 The employee should provide the name of their representative in advance. If the chosen representative is unavailable at the time of the hearing or interview, the employee may request a postponement (once). The school will try to accommodate a date and time that is convenient to all parties within a reasonable timescale, not normally exceeding five working days.

13.5 An employee will not be subject to any detriment by the employer for having acted as a companion in disciplinary proceedings.

14.0 Formal process- initiating a formal investigation

14.1 The headteacher or chair of governors, if the allegation is against the headteacher, will decide whether an allegation is sufficiently serious to warrant a formal investigation under this procedure. If so, s/he will appoint an investigating officer to carry out an investigation and will advise the employee in writing that an investigation is to be carried out. The employee must be advised of the allegations and provided with a copy of the school's disciplinary procedure. A template letter can be found at Appendix 8. Before embarking on the formal procedure, it is strongly advised that advice is sought from the Luton HR Traded Services Team.

14.2 There are several distinct roles to be taken during disciplinary proceedings. It is essential that they are clearly defined and that the person carrying out each role is clearly identified as below:

14.3 The Investigating Officer

14.4 The investigating officer will normally be an appropriate member of the school's leadership team, or other manager, and will either be appropriately trained to carry out the investigation or will be supported to undertake the investigation by an HR advisor. If the headteacher conducts the investigation, any disciplinary hearing must be conducted by a panel of governors. The school may appoint an external investigating officer, where it may be deemed appropriate. If necessary, advice should be sought from the Luton HR Traded Services Team about appointing an independent investigating officer. Where this is the case, the employee will be informed that an external investigating officer will be used and provided with the reasons for this.

14.5 On receipt of the allegation, the investigating officer will carry out an investigation to establish the relevant facts, which will include interviewing any witnesses and gathering relevant information. This will be followed by an interview with the employee against whom allegations have been made, giving the employee three working days' notice of this meeting. If the employee requests that their trade union representative attend the investigatory interview, then the investigating officer will re-schedule the meeting once where the representative cannot make the scheduled date. At the investigatory interview the employee will be invited to put forward any additional witnesses that they believe can provide evidence in relation to the allegations they are facing, and who have not yet been interviewed. Notes of the investigatory interview will be taken and supplied to the employee.

14.6 At the disciplinary hearing, the investigating officer, supported by an HR Advisor, will present the case.

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14.7 A template letter to invite the employee to the investigatory interview can be found at Appendix 9.

14.8 The person or panel that conducts the disciplinary hearing

14.9 Where dismissal is a possible outcome, the case will normally be heard by the headteacher. The case will be heard by a panel of two or three governors where:

- the headteacher has been directly involved in the case, either as the investigating officer or they have been interviewed as a witness by the investigating officer.
- the governing body of a school with a religious character has agreed policies and procedures that provide for governor involvement in the interests of preserving the school's religious character.
- the scheme of delegation for the school/MAT stipulates differently.
- the headteacher is suspended, absent or subject to disciplinary or capability procedures

14.10 The letter inviting the employee to the hearing should make clear who will be present at the hearing. Amendments may need to be made to the template letter found at Appendix 13.

14.11 It may be necessary to co-opt governors from other schools where it is not possible or appropriate to form a panel from the school's own governing body. You should seek advice from your Governance Service Provider in relation to using co-opted governors.

15.0 The investigation

15.1 Witnesses

15.2 A 'witness' is someone who is not the subject of the allegation, but may be able to provide an account of the alleged incident(s) or provide relevant information.

15.3 Employees are required to co-operate with their employer during any disciplinary procedure. It is a reasonable management instruction to be asked to be a witness, where you have been identified as someone that may be able to assist an investigation. Employees are unable to refuse to participate in a disciplinary process or to appear as a witness. Witness statements will only be anonymised in exceptional circumstances.

15.3 In circumstances where the witness is a pupil their full name will not be included on their statement and they will be referred to by their initials or as Pupil A, B etc. Statements from pupils without signatures may still be presented.

15.4 In circumstances where a pupil is referred to in an adult's statement the pupil's personal information will be redacted and they will be referred to by initial or as Pupil A, B etc.

15.5 A witness should be informed that:

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- any evidence they provide may be included in their statement; he/she will be given one opportunity to review and amend their statement. If this involves changes to the facts initially provided, both versions of the statement may be provided in the disciplinary pack and may be referred to in the presentation of case.

- their statement may be presented at any subsequent disciplinary hearing and s/he may be required by the Headteacher to attend the hearing to give evidence and may be asked questions by the employee or their representative.

- they have the right to be accompanied to the hearing by a work colleague or trade union representative.

- copy of their statement will be provided to the employee once it has been signed and agreed if, following the investigation, a formal disciplinary hearing is held. A template invite letter can be found at Appendix 10.

15.6 A witness who is not a school employee may provide a witness statement (not a character testimonial) but would not usually attend the disciplinary hearing. They may be asked to attend by either party; however, they may decline the offer to attend.

15.7 It may not be necessary for witnesses to be present at a disciplinary hearing to answer questions as the disciplinary panel may take the statements provided as read. Any witness to be called at a hearing must have either been interviewed as part of the investigation or submitted a written statement in advance of the hearing. Copies of all statements will be exchanged with all parties in accordance with the normal rules for exchanging paperwork set out in section 19.6.

15.8 Employees of the school may be instructed by the headteacher or chair of governors to attend a disciplinary hearing.

15.9 If the employee wishes to call witnesses from the school, requests must be made in writing in good time through the headteacher or chair of governors. Unless the employee has already provided a statement as part of the investigation, it is a decision for the employee whether to attend.

15.10 The employee must provide the headteacher or chair of governors with the names of any witnesses they intend to call not later than seven calendar days prior to the hearing.

15.11 If a witness discloses information in their witness interview that implicates them, the witness interview should be stopped. The investigating officer should speak with the headteacher regarding the disclosure.

16.0 Statements from pupils

16.1 When an investigation requires statements from pupils, this should be conducted in such a way to avoid causing emotional harm to the pupil whose evidence is required, whilst enabling the investigating officer to establish the facts.

16.2 As a general principle, children should not be interviewed more than once. If a child has already been interviewed by the police or by a social care agency in the course of

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an investigation into the same or similar allegations, the interview statements should be requested from the other agency and used in the school's investigation.

16.3 Care needs to be taken to ensure that the pupil does not, as far as possible, feel intimidated by the process. This is particularly true for a pupil who might have been the subject of the alleged misconduct. Where a formal investigation is underway, the parent/carer of the pupil should be informed and invited to attend the interview with their child. The parent/carer should be told that an incident is being investigated and that the pupil's evidence may be used if it proves necessary to hold a formal disciplinary hearing. The pupil will not be required to attend the hearing to give evidence in person.

16.4 Statements should be taken as soon as possible after the alleged incident has occurred when recollections are likely to be clearest, and in order to minimise the opportunity for collusion and rumour.

16.5 Where the investigating officer is not well known to the pupil, for example, if they are from outside the school, consideration should be given to asking the school's Designated Senior Person (DSP) for Child Protection, or other appropriate staff member, to carry out this part of the investigation. The pupil should feel able to speak frankly and, as far as is possible, in a situation that is not intimidating.

16.6 When interviewing pupils, the investigating officer should be accompanied by a second adult, whose role is to ensure that a complete and accurate record is taken.

16.7 The investigating officer, taking into account the age and capabilities of the pupil, should ask the pupil to write down an account of what happened. Where this is not practicable, the investigating officer, or an independent note taker, must write down the pupil's account and check carefully that they have recorded accurately what the pupil has said. It will be helpful for the investigating officer to prepare questions in advance.

16.8 The investigating officer should seek clarification of what the pupil saw and experienced. Leading questions must be avoided, but it is important to record the pupil's account of what happened, where and when incidents occurred and who else might have been present during the incident under investigation. The questions asked by the investigating officer should also be noted.

16.9 The pupil's account should, like any witness statement, indicate the time, date and place at which the account was written, the questions asked, plus the names and roles of all those present at the interview.

17.0 Conclusion of the investigation

17.1 On conclusion of their investigation the investigating officer will consider whether there is a case to answer.

17.2 If s/he concludes that the allegation is without foundation or where evidence suggests formal proceedings are not required no further formal action will be taken and the employee will be informed of this in writing. Management advice may be issued, with agreement, in such circumstances, which may include advice to reduce the risk of similar allegations being made in the future. Please refer to section 3.0 for further information on management advice.

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17.3 Where the outcome of the investigation is no case to answer, a template letter can be found at Appendix 11.

17.4 Where the outcome of the investigation is management advice, a template letter can be found at Appendix 12.

17.5 If the investigating officer believes that there is a case to answer, s/he will arrange a disciplinary hearing, see section 19.0.

18.0 Ill health and absence during an investigation

18.1 Sickness absence will not necessarily prevent an employee from attending a disciplinary meeting. Clarification may be requested from the employee's doctor and/or occupational health about whether s/he is fit to attend a meeting. An employee will be given one further opportunity to attend a rescheduled investigatory interview. If they are still unable to attend, the investigating officer may send the employee a list of questions to respond to by post or email, either directly or through their trade union representative. Should this prove to be unsuccessful, the investigation will need to be concluded without the employee's input. The employee should be advised of this in their second invite to an investigatory interview. If the employee's absence results from a disability as defined in the Equality Act 2010, appropriate adjustments to the timescales in the procedure should be considered.

19.0 Arranging a disciplinary hearing

19.1 For community schools, a representative of the Director of Children, Families & Education Services may sit on the panel. Schools must notify the Luton HR Traded Services team when arranging any disciplinary hearings to ensure availability.

19.2 The hearing room should be large enough to accommodate the panel, both parties and a witness (if any will be attending). Tables are needed so that all present can write comfortably. The room should be quiet and not overlooked. Two other rooms or quiet areas should be available for the two parties during adjournments.

19.3 Hearings should normally be held during the employees contracted hours of employment unless there is agreement to undertake the meeting at a different time.

19.4 Where it is known that the employee wishes to be accompanied at the hearing, their representative should, where possible, be consulted when arranging a date in order to avoid delays.

19.5 The employee must receive a minimum of 14 calendar days' notice in writing, stating:

- the allegations and the possible outcomes of the hearing – stating clearly where dismissal may be a possible sanction
- when and where the hearing will be conducted
- who will be attending, including witnesses to be called, the right to be accompanied by a trade union representative or a work colleague, the requirement for the employee to provide at least ten calendar days before the hearing all documents that he/she intends to present at the hearing and to indicate whether he/she intends to call any witnesses.

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19.6 The investigating officer must ensure a copy of all evidence/documentation that is to be presented at the hearing in support of the allegation is exchanged with the panel and the employee at least ten calendar days before the hearing. The employee must provide to the headteacher, or chair of governors, a copy of their documents to be presented at the hearing in the same timescale. These will be shared with the investigating officer.

19.7 A disciplinary hearing template letter can be found at Appendix 13.

19.8 A template contents list for documents to be included in the disciplinary pack can be found at Appendix 22.

20.0 The note-taker at a disciplinary hearing

20.1 A written record of the proceedings must be taken. The note taker may be the Clerk to the governors, a member of staff at the school or an independent note taker. The note-taker will make a record of the hearing, but not of the confidential deliberations of the panel.

20.2 The school does not allow audio or video/virtual recording of disciplinary hearings. Covert recording is considered gross misconduct.

21.0 The disciplinary hearing

21.1 Pre-agreement

21.2 In some cases, it is an acceptable part of the disciplinary process for an agreement to be arrived at between both parties prior to a disciplinary hearing being held. Where the facts are not in dispute, and both parties agree on the sanction, it will not be necessary to hold a hearing. In such circumstances a formal meeting should be held to discuss the key findings of the investigation and issue the pre-agreed sanction. This approach will **NOT** apply to, safeguarding cases. Support from the Luton HR Traded Services team must be sought before the above approach is taken.

21.3 Procedure for the hearing

21.4 The chair of the panel will ensure that those present are introduced to one another and remind them of the purpose of the hearing and procedure to be followed. The procedure to be followed at a disciplinary hearing can be found at Appendix 3.

21.5 The chair of the panel may challenge the relevance of any evidence if it is not apparent. If no justification can be given or it is tenuous the chair may instruct the person presenting to make their point and/or move on.

21.6 Whenever possible, the panel's decision will be conveyed orally by the chair of the panel in the presence of both parties and will be confirmed in writing within -seven calendar days. The panel may not be able to provide an outcome to the employee at the hearing, due to the length of deliberations; therefore the decision will be confirmed in writing within seven calendar days of the hearing.

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22.0 Disciplinary sanctions

22.1 No disciplinary sanction may be given until the appropriate stages of the disciplinary procedure (i.e.an investigation and disciplinary hearing or meeting) have been undertaken.

22.2 The following are options/sanctions that the headteacher or panel can apply following a disciplinary hearing:

22.3 No case to answer

22.4 The panel hearing the case may decide that there is no case to answer or that no formal sanction should be applied.

22.5 Management Advice

22.6 The panel may conclude that no formal sanction should be applied, but that it is appropriate that management advice is issued to the employee. Please refer to section 3.0 for further information on this informal action/management advice. A template letter to confirm this outcome can be found at Appendix 12.

22.5 Written warning

22.6 If an employee's conduct does not meet acceptable standards and informal discussions have not led to sufficient improvement or are not considered appropriate, a formal written warning may be issued. A written warning will be placed on the employee's personal file, normally for a period of up to 12 months. The employee will be advised of their right of appeal.

22.7 The outcome letter will set out the improvement required and may recommend a meeting with the headteacher as soon as possible after the hearing to discuss the outcome and recommendations and any support that may be appropriate. The letter will make it clear that failure to improve may lead to further disciplinary action.

22.8 A template outcome letter can be found at Appendix 14.

22.9 Final written warning

22.10 If the misconduct is sufficiently serious, or amounts to gross misconduct but a lesser sanction is appropriate in the circumstances or if further misconduct occurs during the period that a first written warning is live, a final written warning may be issued. The employee will be advised of their right of appeal.

22.11 A final written warning will normally remain live for a period of up to 18 months.

22.12 The outcome letter will set out the improvement required and may recommend a meeting with the headteacher as soon as practicably possible after the hearing to discuss the outcome and recommendations and any support that may be appropriate. The letter will make it clear that failure to improve may lead to further disciplinary action.

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22.13 A template outcome letter can be found in Appendix 15.

22.14 Dismissal (including summary dismissal for gross misconduct)

22.15 Where there is further misconduct of a similar nature, following a hearing, during the life of a final written warning, the employee may be dismissed with notice or payment in lieu of notice. If an allegation of gross misconduct is upheld, the employee will be summarily dismissed without notice.

22.16 Where the decision is made to dismiss with notice a template outcome letter can be found at Appendix 16.

22.17 Where the decision is to summarily dismiss, without notice, a template letter can be found at Appendix 17.

23.0 Appeals

23.1 The right to appeal

The employee will have the right to appeal against any disciplinary action taken against them under the procedure. Any employee who wishes to appeal a sanction should do so in writing **within seven calendar days of the receipt of the decision letter, or within seven calendar days of the hearing where they were verbally informed at the hearing,** to the chair of governors. The employee's letter to lodge the appeal must confirm the grounds for appeal.

23.2 Grounds of appeal

23.3 The employee must state the grounds upon which they seek to appeal. These may be:

- against the findings that the allegation(s) were substantiated
- against the form of disciplinary action taken
- that the disciplinary procedure has been applied defectively or unfairly
- that new evidence has come to light which was not available to the disciplinary hearing – in this case the employee should state clearly what the evidence is and why it is believed that it would alter the original decision

23.4 Failure to specify the grounds of appeal may result in a delay convening the appeal hearing, whilst the grounds of appeal are clarified.

23.5 Appeal hearing

23.6 The chair of governors should arrange for the disciplinary panel to form an appeals panel.

23.7 A template letter to invite the employee to an appeal hearing can be found in Appendix 18.

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23.8 Timescales and suggested process

23.9 The manager that conducted the original disciplinary hearing should notify the employee of the appeal date, time and place at least 14 calendar days in advance, unless otherwise agreed with the employee or their representative. The letter will include where to send papers etc.

23.10 All written evidence previously used in the case, as well as any new information including hearing notes, should be sent by the headteacher or governors that conducted the original disciplinary hearing to the appeal panel and to the employee at least seven working days in advance of the hearing.

23.11 Each side is responsible for ensuring the attendance of their own witnesses. The appeal hearing is not designed to be a re-hearing but a test of the outcome.

23.12 Appeal outcomes

23.13 If the appeal hearing panel considers that the new evidence presented is of such significance that further investigation, information and/or clarification are required, it may be appropriate to adjourn and to reconvene when this has been completed. Any additional investigation will usually be undertaken by the original investigating officer.

23.14 The appeal panel can substitute a lesser penalty or cancel the disciplinary sanction awarded at the original hearing, where there is evidence that the original decision was inconsistent with previous decisions taken or judged to be too harsh in all the circumstances, or where new evidence has been produced which has a significant bearing on the case. The appeal panel cannot substitute a more severe penalty.

23.15 If the appeal panel finds that the case against the employee is unfounded or the disciplinary action is reduced the employee should be informed of this immediately. This will then be confirmed in writing and reference to the matter will be removed from the employee's personal file or amended accordingly. In dismissal cases, reinstatement will be immediate and any resulting pay arrangements, including payment of back pay, will be implemented without delay.

23.16 Where an appeal against dismissal is not upheld, the date of termination will be the date on which the employee was originally dismissed. During the appeal stage the employee will remain dismissed from the school.

23.17 The decision of the appeal panel will be final and should be reported to the governing body.

23.18 A template outcome letter can be found in Appendix 19.

24.0 Difficulties that may arise during disciplinary hearings

24.1 Listed below are some examples of matters that may arise during disciplinary or appeal hearings, with suggestions on how they might be handled:

a) Failure to attend by the employee
If no adequate reason is given, consider whether the case can be heard in the employee's absence.

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b) New evidence presented at the hearing
On occasion one of the parties may present new or late evidence at the start of or during the hearing. The panel should accept new evidence only if there are compelling reasons that prevented the exchange of evidence in the normal timescales. If the evidence is admitted, depending on the complexity, then it might be necessary to allow an adjournment for the other party to consider and prepare a response.

Should a witness reveal a crucial piece of evidence that is not known to anyone else present, the panel may adjourn the hearing in order to consider whether to admit the new evidence. If the new evidence is so significant as to affect the likely fairness of the outcome of the hearing, then the panel may adjourn the hearing to another day in order to allow the investigating officer to extend their investigation and/or to enable the employee to prepare their response

25.0 Ill health and absence at a hearing

25.1 Employees should make every effort to attend the hearing. The headteacher or chair of governors may choose to arrange another date if the employee has given prior notice that they will be unable to attend a hearing through ill health. In this circumstance, there will only be one opportunity for the employee to request another date for the hearing. A second hearing date will be arranged through consultation with the employee and/or their trade union representative, where there is one. This will be within a reasonable timescale not resulting in any significant delay to the convening of the hearing. Advice should be sought from the Luton Traded HR Advisory team to ensure that appropriate account is taken of any disability. If the employee is still unable to attend, they may provide a written statement to be considered at the hearing or send an authorised trade union representative to deliver an agreed presentation.

26.0 Disciplinary records

26.1 While potential disciplinary action outlined in the formal warning will expire at the end of the specified period, a record will be retained on the employee's personal file but will usually be disregarded for future disciplinary purposes.

26.2 Spent disciplinary sanctions must only be declared to a prospective employer if the reason for the sanction concerns safeguarding children. Please refer to the Reference Policy for further information.

27.0 Safeguarding

27.1 All schools are required to follow the statutory guidance in "Keeping Children Safe in Education", which sets out the disclosure requirements when employment references are required and they include:

- details of any disciplinary procedures the applicant has been subject to in which the disciplinary sanction is current
- details of any disciplinary procedures the applicant has been subject to, involving issues related to the safety and welfare of children or young people, including any in which the disciplinary sanction has expired, and the outcome of those

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27.2 Spent disciplinary sanctions must only be declared to a prospective employer if the reason for the sanction concerns safeguarding children. Please refer to the Reference Policy for further information.

27.3 Records will be kept securely and only be made available to employees whose duties require access to this information.

28.0 Resignations and settlement agreements

28.1 Keeping Children Safe in Education sets out specific requirements in relation to handling allegations concerning the safety and welfare of children and young people. In summary these are:

a) allegations concerning the safety and welfare of children must be investigated and heard **even if the employee has resigned or cease to provide their services.** A former employee will be given the same opportunity to participate in the investigation as he/she would have been as an employee, but the school must reach a conclusion whether or not the former employee co-operates in the proceedings.

b) "Settlement Agreement" is a legal agreement used to terminate the employee's contract in which an employer agrees not to pursue a disciplinary process and an employee agrees not to pursue any legal claim against the employer. Where there are allegations concerning the safety and welfare of children, a settlement agreement must not be used. A settlement agreement which prevents the school from making a DBS referral when the criteria are met would likely result in a criminal offence being committed as the school would not be complying with its legal duty to make the referral.

29.0 Referrals to statutory bodies

29.1 There is a legal requirement for employers to make a referral to the DBS where they think that an individual has engaged in conduct that harmed (or is likely to harm) a child; or if a person otherwise poses a risk of harm to a child. There are statutory duties on employers to refer individual cases to national bodies in the event of a dismissal or resignation when dismissal was a likely outcome. These are:

29.2 Disclosure and Barring Service (DBS)

The Safeguarding Vulnerable Groups Act (SVGA) 2006 places a duty on employers of people working with children or vulnerable adults to make a referral to the DBS in certain circumstances. This is when an employer has **dismissed or removed** a person from working with children or vulnerable adults (or would or may have if the person had not left or resigned etc.) because the person has:

1. Been cautioned or convicted for a relevant offence; or
2. Engaged in relevant conduct in relation to children and/or vulnerable adults (i.e. an action or inaction (neglect) that has harmed a child or vulnerable adult or put them at risk of harm); or

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3. Satisfied the Harm Test in relation to children and/or vulnerable adults. (i.e. there has been no relevant conduct (i.e. no action or inaction) but a risk of harm to a child or vulnerable adult still exists).

29.3 Further guidance on DBS referrals can be found at: https://www.gov.uk/government/publications/dbs-referrals-form-and-guidance and; https://www.gov.uk/government/publications/dbs-referrals-factsheets

29.4 Once referred and having followed their process the DBS will make decisions as to whether it is appropriate for a person to be placed on a barred list preventing them from working with children, vulnerable adults or both in England, Wales and Northern Ireland.

29.5 Luton HR Traded Services team will assist and advise with this referral and in the case of a Maintained schools where Luton Council is the employer, make the referral on behalf of the LA.

29.6 Referrals for teachers to the Teaching Regulation Agency (TRA)

29.7 The Education Act 2011 gives responsibility, from 1 April 2012 to the Secretary of State to regulate the teaching profession and to hold a list of teachers who have been prohibited from teaching.

29.8 The Teachers' Disciplinary (England) Regulations 2012 provide information about the arrangements. The TRA operates the arrangements on behalf of the Secretary of State.

29.9 The regulatory arrangements cover cases of serious misconduct, where it is appropriate to make a decision about whether a teacher should be prohibited from teaching.

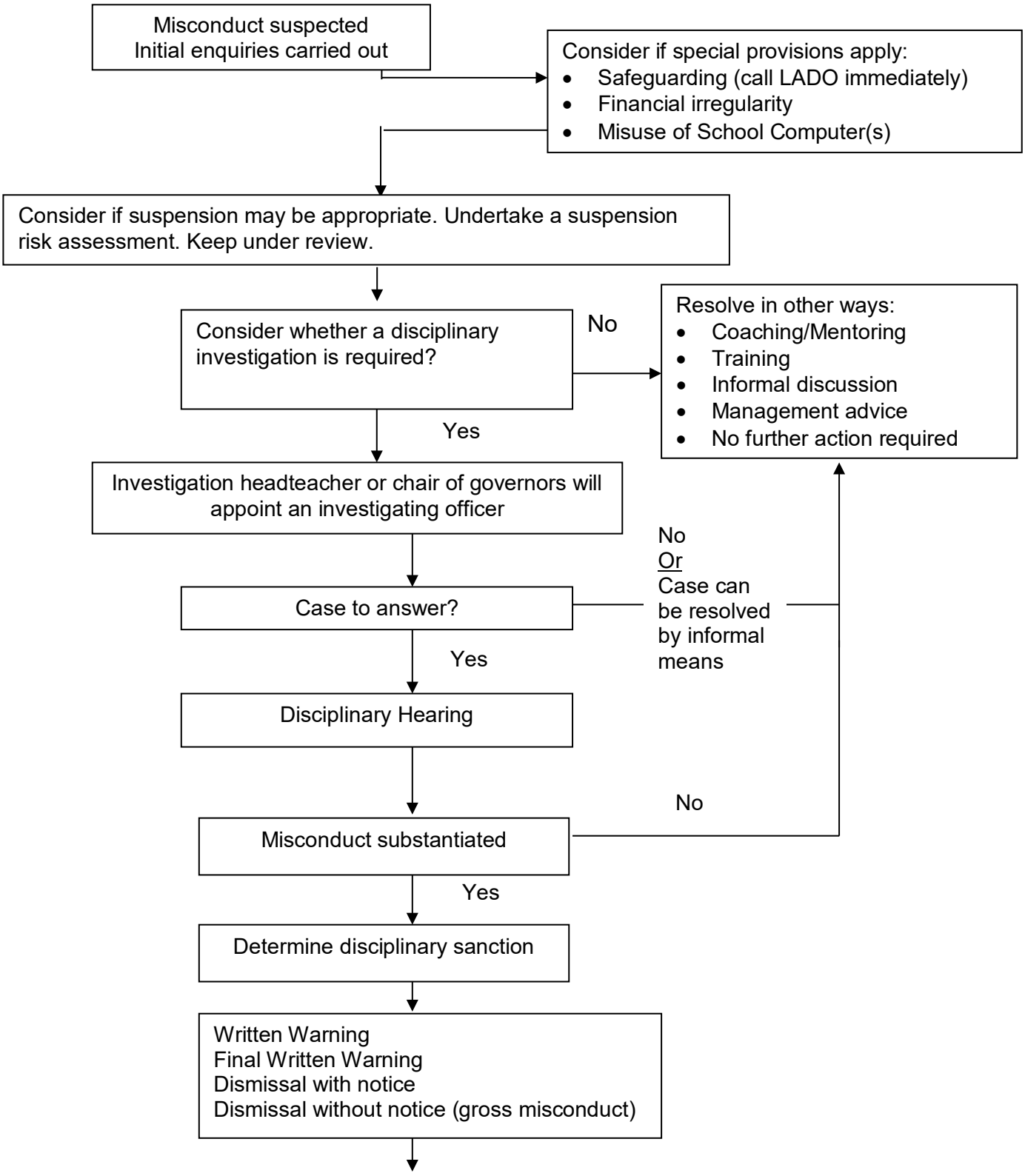
29.10 If a teacher has been dismissed for serious misconduct or would have been dismissed for that reason if they had not resigned, the employer must consider whether to refer the case to the Secretary of State. Referrals may also be made by the Police, the Disclosure and Barring Service (DBS), other regulators or members of the public. Before a referral is made by a member of the public, all local procedures for complaint resolution should have been exhausted. More information about making a referral can be found at: https://www.gov.uk/teacher-misconduct-referring-a-case.

29.11 The regulatory arrangements apply to anyone undertaking teaching work in all schools, including independent schools and sixth form colleges, youth custody settings and children's homes, in England.

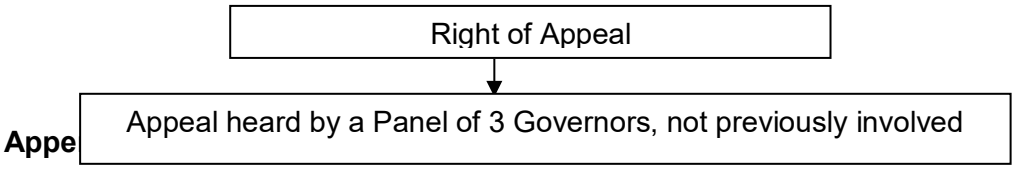
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Appendix 1

Disciplinary procedure flowchart



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Misconduct and Gross Misconduct

Examples of misconduct
Poor timekeeping (i.e. lateness / leaving early) and attendance standards
Work not of the required standard (where capability is not in question)
Disruptive behaviour
Disobedience to orders, i.e. when an employee without sufficient cause fails to obey a reasonable instruction whether in writing or not.
Insubordination, i.e. when an employee is insubordinate by word, act or demeanour.
Conduct likely to injure the image and standing of the Council, MAT or school.
Absence from duty, i.e. when an employee: without sufficient cause, is absent from duty (on an occasional basis) or is late for duty or other attendance; or without permission or sufficient cause takes excessive refreshment breaks.
Neglect of duty • when an employee: without sufficient cause, fails to carry out the duties for which they are employed; or without sufficient cause, fails to discharge duties under the Health and Safety Work Act 1974 in accordance with the school's Health and Safety Policy. This includes the failure to take reasonable care of their own and other persons' health and safety and/or failure to co-operate with the School in fulfilling its obligations under health and safety • behaves carelessly or neglectfully, causes any loss, damage or injury to occur to any person or property • fails to report any matter which it is their duty to report • fails to formally record something whether electronically or in writing which is their duty to make or • fails properly to account for, or to make a prompt and true return of, any money or property, which comes into their possession in the course of duties. • fails to follow or adopt proper professional standards appropriate to their trade or profession including failure to register with appropriate professional body.
Engaging in unauthorised employment during hours when contracted to work for the school; or engaging in employment during off-duty hours which is detrimental to the interests of the school
Falsification of information, i.e. when an employee: • knowingly or through neglect, makes any false misleading or inaccurate oral or written statement or entry in any record or document made, kept or required for the purposes of the school or LA • knowingly or through neglect, falsified any information used in support of an application for any post in the employment of the school or LA.
Damage to the school's or LA's Property, i.e. when an employee: • wilfully or without due care, causes any waste, loss of damage to any property of the school or LA or fails to take proper care thereof; or • fails to report any loss of, or damage, to any such property issued to, or used by, them or entrusted to their care
Indecency and behaviour including the display of obscene or offensive materials.

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Alleged criminal conduct: the school may decide to hold a disciplinary hearing before any Court proceedings and reach a decision on the facts available. When an employee has been found guilty of a criminal offence by a Court of Law, the nature of the offence may require the school to take disciplinary action.
Using unauthorised software or equipment on the school's computers/iPads etc.
Being an accessory to a disciplinary offence, i.e. when an employee conspires or is knowingly an accessory to any disciplinary offence.
Neglect of health, i.e. when an employee fails to comply with medical instructions without a valid reason or, whilst absent from duty because of sickness, wilfully commits any act or wilfully adopts any conduct calculated to delay their return to duty.
Use of power or position and/or persuasion and/or manipulation over a colleague or colleagues. For example, the borrowing and/or lending of money.

Examples of Gross Misconduct
Unauthorised and unreasonable absence from the place of work
Wilful refusal to carry out a reasonable instruction or series of reasonable instructions
Breach of confidentiality
Breach of trust and confidence
Theft, misuse or abuse of the property of the school or any other employee
Assault upon another employee or person
Being under the influence of or appearing to be under the influence of excessive (in the employer's opinion) alcohol on the school's premises, in working time or at a school event
Fraudulent practices
Falsification of any school records
Violent or threatening behaviour towards people or property on the school's premises or at a school related event
Mistreatment through intent or neglect of a client/pupil in the school's care
Gross negligence or serious neglect of duty
Insubordination
Covertly recording hearings, meetings or colleagues
Smoking on the school's premises
Serious breach of health and safety procedures or regulations
Making any sexual or other inappropriate contact with any pupil.
Using, handling or possessing illegal drugs or substances irrespective of whether it is on the school's premises, in working or non-working time.
Discriminatory behaviour including discrimination, harassment, sexual harassment or victimisation on the grounds of protected characteristics as defined in the Equality Act of 2010
Bullying, harassment, sexual harassment or victimisation, whether verbal, written, photographic, pictorial or physical, whether inside or outside of the workplace.
Inappropriate use of the school's Information Technology systems and passwords including email or internet abuse or misuse
Using social media whether inside or outside of working time (e.g. blogs, Facebook, Twitter etc.) to post, or engage with, derogatory, offensive or inappropriate comments about the school, work colleagues, or third parties with which the school has an operational relationship.
Any misappropriation of files or documents belonging to the school of any kind or making copies, duplicates or excerpts of these for private or any other purposes unrelated to an employee's employment and without consent
Material breach of contract or of the school's policies and procedures, Code of Conduct or the Teachers' Standards

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Criminal offences, including those committed outside the workplace, which impact on the employee's ability or suitability to do his or her job
Failing to declare immediately any conviction, caution or any other matter of public record or otherwise that could have an impact on the delivery of a service or the school's reputation.
Making vexatious, malicious and/or frivolous complaints.
Committing an act outside working hours, which is incompatible or inconsistent with the employee's job or behaviour, in or outside of work, which is likely to bring discredit to or lead to lack of confidence in the service/school/council.
Breach of Health and Safety legislation and/or Health and Safety instructions as laid down by the school/council/MAT, including compliance with health and safety measures or guidance in place due to COVID-19 or other contagious disease.

The above list gives an indication of the matters which are likely to be dealt with using the disciplinary procedure. The list is neither exclusive nor exhaustive and in addition, there may be other offences or a similar nature which would constitute misconduct / gross misconduct.

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Appendix 3

Procedure to be followed at the disciplinary hearing

Presentation of the case against the employee
the investigating officer makes an opening address outlining the case.
the investigating officer calls witnesses, if any, so that taking each one in turn: he/she questions each witness,
the employee or his/her 'companion' has the opportunity to put questions to each witness
the investigating officer may clarify any issues by further questions to the witness
the headteacher has the opportunity to question each witness
each witness withdraws after giving evidence
the employee or his/her 'companion' has the opportunity to put questions to the presenter of the case
the headteacher has the opportunity to question the investigating officer
Presentation of the employee's case
the employee or his/her 'companion' makes an opening address outlining his/her case.
the employee or his/her 'companion' calls his/her witnesses, if any, so that taking each one in turn: he/she questions each witness
the investigating officer has the opportunity to put questions to each witness
the employee or his/her 'companion' has the opportunity to clarify any issues by further questions to the witness
the headteacher has the opportunity to question each witness
each witness withdraws after giving evidence
the investigating officer has the opportunity to put questions to the employee
the headteacher has the opportunity to question the employee
Summing up and withdrawal

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The investigating officer and the employee, or his/her 'companion', have the opportunity to sum up their case if they so wish, the member of staff to have the last word). Both parties then withdraw.
The decision
Whenever possible, the panel's decision will be conveyed orally by the chair of the panel in the presence of both parties and will be confirmed in writing within seven calendar days. The panel may not be able to provide an outcome to the employee on the day of the hearing, due to the length of deliberations in which case the decision will be confirmed in writing within seven calendar days of the hearing.

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Appendix 4

Procedure to be followed at the appeal hearing

Presentation of the employee's case
the employee or his/her 'companion' makes an opening address outlining his/her case
the employee or his/her 'companion' calls his/her witnesses, if any, so that taking each one in turn: he/she questions each witness
the headteacher has the opportunity to put questions to each witness
the members of the appeal panel have the opportunity to question each witness
each witness withdraws after giving evidence
the headteacher has the opportunity to put questions to the employee
the members of the appeal panel have the opportunity to question the employee
Presentation of the case against the employee
the headteacher makes an opening address outlining the case to explain their decision
the headteacher calls witnesses, if any, in support of their presentation: he/she questions each witness
the employee or his/her 'companion' has the opportunity to put questions to each witness
the members of the appeal panel have the opportunity to question each witness
each witness withdraws after giving evidence
the employee or his/her 'companion' has the opportunity to put questions to the headteacher of the case
the members of the appeal panel have the opportunity to question the headteacher
Summing up and withdrawal
The headteacher and the employee or his/her 'companion', have the opportunity to sum up their case if they so wish, the member of staff to have the last word. Both parties then withdraw.
The decision

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The appeals panel with a representative of Director of Children, Families & Education Services, will deliberate in private, only recalling the parties to clear points of uncertainty on evidence already given. If recall is necessary, both parties are to return even if only one is concerned with the point giving rise to doubt. The decision will be announced at the close of the hearing, where possible. The appeal panel will confirm the decision in writing within seven calendar days of the decision.

Appendix 5

Suspension Risk Assessment

The following risk assessment should be completed whenever the suspension of an employee is being considered.

Details of the case under consideration	
Name of employee	
Date of alleged incident	

Nature of the allegation against the employee

Risk	**Likelihood**				**Detail**
	High	**Medium**	**Low**	**N/A**	
Is there a significant safeguarding risk to children?					
Is there a risk that the investigation may be compromised if the employee stays on site?					

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Could the allegation amount to Gross Misconduct?					
Is there a risk to other staff?					
Is there a risk to school property?					
Is there a Health and Safety risk?					

What measures, short of suspension, can be put into place to enable the employee to continue to remain in the workplace? (If any) Short term/Medium term/Long term

Document decision made regarding suspension, providing details of why the decision has been made

If no suspension, why?

Suspension review dates, where appropriate:

1st suspension review date and decision:

2nd suspension review date and decision:

3rd suspension review date and decision:

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4th suspension review date and decision:

Occupational Health Is there a requirement to refer to Occupational Health? **YES/NO**

Completed by: _____ Date: _____

Appendix 6
Letter – Notification of Alternative to Suspension

Private & Confidential
NAME
ADDRESS

Dear **NAME**

Precautionary alternative to suspension regarding alleged gross misconduct

I am writing to confirm details of our meeting*** (amend as needed)** on **DATE** at which you were informed that with effect from **DATE** you will **(list details here)** as an alternative to suspension. This action is precautionary and is not a disciplinary measure and is in place pending the investigation of the following allegations:

Insert allegations:

During the process of the investigation, you will be given full opportunity to offer any explanation about the above allegations and you are advised that any information which is gained during the process of the investigation may be presented at any subsequent disciplinary hearing.

The alternative to suspension measures that have been put in place will be for as short a period as possible but will be sufficient to allow thorough investigation.

The following measures have also been put in place as an alternative to suspension**: List any control measures e.g. suspension of internet access, working in an alternative area**

Please be advised that the school reserves the right to suspend you at any stage during the course of the investigation if necessary or upon conclusion of the investigation.

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Please note that these allegations may constitute gross misconduct.

Should you fall ill during the period of investigation, you should comply with the sickness absence reporting procedures in full and should continue to seek approval for annual leave, where relevant, in accordance with procedures.

Delete or add the details of your school's EAP provider as appropriate
We appreciate the difficulty that employees may encounter during an investigation process, and we recognise that the matter can cause some anxiety and worry. May I take this opportunity to remind you that you do have free access to the ******* Employee Assistance Programme helpline and counselling service, which the school subscribes to on your behalf. This may be accessed by phone on ******* or you can visit the online platform ******** . The school code is *******. (The service may prove beneficial to you where you can discuss matters in confidence. I enclose the leaflet on the service for your information.)

The above is in accordance with the school's' disciplinary procedure, a copy of which is enclosed.

I must remind you of the confidentiality of this matter and ask you not to discuss this with other employee, other than your representative, without my, or the investigating officer's, prior agreement.

You will be contacted shortly by the person I appoint to investigate these (this) allegation(s).

Throughout this procedure you have the right to be accompanied by a trade union representative or work colleague.

Yours sincerely

Headteacher/Investigating Officer

Enc: **The school's disciplinary procedure**
Employee assistance programme leaflet

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Appendix 7

Letter – Notification of Suspension

Private & Confidential
NAME
ADDRESS

Dear **NAME**

Precautionary suspension from duty

I am writing following our meeting on **DATE** to confirm that you are suspended from your duties as **JOB TITLE** with effect from the above date. The suspension is precautionary and is not a disciplinary measure and is in place pending the investigation of the following allegations:

INSERT ALLEGATION:

These allegations could change during the course of the investigation. If that happens you will be informed in writing either by the investigating officer or myself.

Please note that these allegations may constitute gross misconduct.

During the process of the investigation, you will be given full opportunity to offer any explanation about the above allegations. You will continue to receive full pay during the period of your suspension, which will be based on your normal weekly pay applicable during the 13 weeks prior to suspension. The suspension will be for as short a period as possible but will be sufficient to allow thorough investigation.

You should refrain from coming onto the school premises during this period. I must remind you of the confidentiality of this matter and ask you not to discuss this with other employees without my prior agreement.

Should you fall ill during the period of your suspension, you should comply with the school's sickness absence reporting procedures in full. Where relevant, you should continue to seek approval for annual leave in accordance with procedures and you must not go on holiday without requesting permission from the headteacher. Failure to comply may be treated as misconduct.

You should remain available to the school's leadership team and/or the investigating officer during your normal working hours over the period of your suspension and should comply with the disciplinary procedure, co-operating fully with its process.

The above is in accordance with the school's disciplinary procedure, a copy of which is enclosed.

Delete or add the details of your school's EAP provider as appropriate
We appreciate the difficulty that employees may encounter during an investigation process and we recognise that the matter can cause some anxiety and worry. May I take this opportunity to remind you that you do have free access to the ******* Employee Assistance Programme helpline and counselling service, which the school subscribes to on your behalf.

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This may be accessed by phone on ******* or you can visit the online platform ******** . The school code is *******. (The service may prove beneficial to you where you can discuss matters in confidence. I enclose the leaflet on the service for your information.)

You will be contacted shortly by the person I appoint to investigate these (this) allegation(s).

Throughout this procedure you have the right to be accompanied by a trade union representative or work colleague.

Yours sincerely

Headteacher

Enc: The school's disciplinary procedure
Employee assistance programme leaflet

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Appendix 8

Letter - Notification of Investigation

Private & Confidential
NAME
ADDRESS
(to be delivered by hand, or by recorded delivery post)

Dear **NAME**

RE: Disciplinary investigation

I write to advise that we will be conducting a disciplinary investigation into the following allegation.

It is alleged that:

INSERT ALLEGATION:

This allegation could change during the course of the investigation. If that happens, you will be informed in writing either by the investigating officer or myself.

Please note that the allegation/allegations may constitute misconduct/gross misconduct (please ensure that you edit those words in red)

I can confirm that **INSERT NAME OF INVESTIGATING OFFICER** will be the investigating officer and will contact you in due course to conduct an investigatory interview.

For your information, I enclose a copy of the school's disciplinary procedure.

I must remind you of the confidentiality of this matter and ask that you refrain from discussing the matter with colleagues and/or within the school community without prior permission from me or the investigating officer.

Yours sincerely

Headteacher

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Appendix 9

Letter - Notification of Investigatory Interview

Private & Confidential
NAME
ADDRESS
(to be delivered by hand, or by recorded delivery post)

Dear **NAME**

Re: Disciplinary investigation

I have been asked by the headteacher to investigate allegation(s) that you:

INSERT ALLEGATION:

This allegation could change during the course of the investigation. If that happens, you will be informed in writing either by the headteacher or myself.

Please note that the allegation/allegations may constitute misconduct/gross misconduct (please ensure that you edit those words in red)

You have already received a copy of the school's disciplinary procedure.

(HUMAN RESOURCES ADVISOR NAME) has been appointed as my advisor.

You are required to attend an Investigatory Interview on **DATE** at **TIME** at **VENUE**

You are entitled to be represented at this interview by a trade union representative or work colleague. However, it is your responsibility to arrange this.

The purpose of the interview is to gather further information from you in relation to allegations and to give you opportunity to respond and offer any explanation. You are reminded that the information gained during the interview may be presented at any subsequent disciplinary hearing.

I must remind you of the confidentiality of this matter and ask that you refrain from discussing the matter with colleagues and/or within the school community without prior permission from the investigating officer.

If you have any requirements in accordance with the Equality Act 2010, for example, adjustments required in relation to a disability, please advise me as soon as possible.

In the meantime, if I can be of any assistance, or should you have any queries with regards to the process that will be applied, please do not hesitate to contact me on the above number.

Please confirm by telephone on receipt of this letter that you are able to attend this disciplinary investigation.

Yours sincerely

Investigating officer

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Appendix 10

Letter - Notification of witness Interview

Private & Confidential
NAME
ADDRESS
(to be delivered by hand, or by recorded delivery post)

Dear **NAME**

RE: Investigation - witness interview

I have been asked by the headteacher to undertake an investigation and would like to invite you to an investigatory interview.

I would like to conduct an investigatory interview with you at **TIME** on **DATE** at **VENUE**.

You have the right to be accompanied by a trade union representative or work colleague at this meeting.

Please note that this matter is to remain confidential.

Please confirm by telephone on receipt of this letter that you are able to attend this meeting.

Yours sincerely

Investigating officer

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Appendix 11

Letter - Outcome of Investigation - No Case to answer

Private & Confidential
NAME
(to be delivered by hand, or by recorded delivery post)

Dear

Outcome of Investigation

I write further to my letter dated (**Insert date of previous letter**) in order to advise you formally that the disciplinary investigation is now complete. The outcome of the investigation is that your explanation has been accepted and/or there is no evidence to support the allegations and there will, therefore, be no further action on the matter.

Yours sincerely

Name
Title
School

Appendix 12
Letter - Outcome of investigation – management advice

Private & Confidential

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NAME
ADDRESS

Dear **NAME**

RE: Outcome of Investigation

The disciplinary investigation into the following allegation(s) against you has now been completed.

INSERT ALLEGATION:

The evidence gathered does not substantiate the need for further formal proceedings. As discussed with you, the issues will be addressed by means of management advice. A record of this informal advice will be kept on your personal file.

Yours sincerely

Investigating officer

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Appendix 13

Letter - Notification of Disciplinary Hearing

Private & Confidential
NAME
ADDRESS
(to be delivered by hand, or by recorded delivery post)

Dear NAME

Disciplinary procedure - notification of disciplinary hearing

Further to the recent investigation, I am writing to inform you that you are required to attend a disciplinary hearing at **TIME** on **DATE** at **VENUE**. The panel will consist of **INSERT NAME OF HEADTEACHER OR PANEL OF GOVERNORS** who will be advised by **INSERT NAMES OF DESIGNATIONS OF ANY OTHERS WHO WILL BE PRESENT**.

I, **NAME OF INVESTIGATING OFFICER** will be presenting the management case supported by **NAME OF HUMAN RESOURCES ADVISOR**. A note taker will also be in attendance to take notes for management purposes.

The disciplinary hearing is being held to hear allegations of gross misconduct / misconduct* (amend as appropriate) in that:

INSERT ALLEGATION:

I must advise that due to the serious nature of the allegations, one of the possible sanctions available to the panel is a first written warning / a final written warning / the termination of your employment (amend red text as necessary, please ensure HR advice is sought).

You are entitled to be accompanied at the disciplinary hearing by a trade union representative or a work colleague, however it is your responsibility to ensure that he/she is available. It is recommended that you contact your representative as soon as possible and advise them of the date and time of the hearing.

The disciplinary hearing will be conducted in accordance with the school's disciplinary procedure, a copy of which you have previously been supplied.

The following witnesses will be called:

INSERT NAMES OF WITNESSES

If you wish to call any witnesses you must inform me and the headteacher of their details no less than four working days before the hearing. If any of your witnesses are school employees, it will be necessary to ensure arrangements are made for their release from work. Please discuss this with the investigating officer.

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If you or your representative wishes to submit any written documentation to be referred to at the hearing this should be given to the Hearing Panel by **(DATE: 10 calendar days before the hearing)**.

I would remind you that the hearing may proceed in your absence should you or your representative fail to attend without prior notice to me and good reason for your unavailability. In these circumstances the headteacher will make a decision on the information available at the time.

If you have any requirements in accordance with the Equality Act 2010, for example, adjustments required in relation to a disability, please advise me as soon as possible.

Please confirm by telephone on receipt of this letter that you are able to attend this hearing.

Yours sincerely

Investigating officer

cc. Headteacher

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Appendix 14

Letter – Written Warning

Private & Confidential
NAME
ADDRESS
(To be delivered by hand or by recorded delivery post)

Dear **NAME**

Disciplinary hearing on DATE - written warning

I write to confirm the outcome of the disciplinary hearing held on **DATE**. The case was heard by **INSERT RELEVANT NAMES,** advised by **INSERT NAME OF HR AND OTHER ADVISERS PRESENT**.

The following witnesses were called **INSERT NAMES OF WITNESSES** and the hearing was informed by full documentation. You were accompanied by **INSERT NAME OF COMPANION AND STATUS**.

You called the following witnesses **INSERT NAME OF EMPLOYEE'S WITNESSES.** At the hearing the following allegation(s) were considered:

Insert allegation:

I found as follows **(address each allegation in turn and in full, alongside any mitigation presented):**

INSERT DETAIL:

I considered that the case against you was founded and that the most appropriate sanction was a first written warning. This will remain live on file from the date of the hearing for one year. A formal review will be held by this time to assess whether satisfactory standards of conduct have been maintained during the period.

Please note that any further incidences of misconduct during this period could result in further action being taken under the disciplinary procedure.

You have the right to appeal against this decision. If you wish to do so you should write to **INSERT THE NAME OF THE C.OF G,** the Chair of the Governing Body, at **INSERT ADDRESS FOR C OF G within seven calendar days of the date you received this letter.** Your letter must comply with section 23.3 of the school's disciplinary procedure, a copy of which you have already received.

Yours sincerely
Headteacher

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Appendix 15

Letter – Final Written Warning

Private & Confidential
NAME
ADDRESS
(To be delivered by hand or by recorded delivery post)

FINAL WRITTEN WARNING

Dear **NAME**

Disciplinary hearing on DATE

I write to confirm the outcome of the disciplinary hearing held on **DATE**. The case was heard by **INSERT RELEVANT NAMES**, advised by **INSERT NAME OF HR OR OTHER ADVISERS PRESENT.**

The following witnesses were called **INSERT NAMES OF WITNESSES** and the hearing was informed by full documentation. You were accompanied by **INSERT NAME OF COMPANION AND STATUS.** You called the following witnesses **INSERT NAME OF EMPLOYEE'S WITNESSES**.

At the hearing, the following allegation(s) were considered:

INSERT ALLEGATION:

I found as follows **(address each allegation in turn and in full, alongside any mitigation presented):**

Insert detail:

I considered that the case against you was founded and that the most appropriate sanction was a final written warning. This will remain live on file from the date of the hearing for eighteen months. A formal review will be held by this time to assess whether satisfactory standards of conduct have been maintained during the period.

Please note that any further incidences of misconduct during this period could result in your dismissal from your post.

You have the right to appeal against this decision. If you wish to do so you should write to **INSERT THE NAME OF THE C.OF G,** the Chair of the Governing Body, at **INSERT ADDRESS FOR C OF G** within seven calendar days of the date you received this letter. Your letter must comply with section 23.3 of the school's disciplinary procedure, a copy of which you have already received.

Yours sincerely

Headteacher

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Appendix 16

Letter – Dismissal (with notice) outcome

Private & Confidential
NAME
ADDRESS
(To be delivered by hand or by recorded delivery post)

Dismissal (with notice) outcome

Dear **NAME**

Disciplinary hearing on DATE

I write to confirm the outcome of the disciplinary hearing held on **INSERT DATE**. The case was heard by **INSERT RELEVANT NAMES**, advised by **INSERT NAME OF HR OR OTHER ADVISERS PRESENT.**

The following witnesses were called **INSERT NAMES OF WITNESSES** and the hearing was informed by full documentation. You were accompanied by **INSERT NAME OF COMPANION AND STATUS.**

You called the following witnesses **INSERT NAME OF EMPLOYEE'S WITNESSES.** At the hearing the following allegation(s) were considered:

INSERT ALLEGATION:

I found as follows (address each allegation in turn and in full, alongside any mitigation presented):

INSERT DETAIL

I considered that the case against you was founded and that the most appropriate sanction was a dismissal with notice from your post of **JOB TITLE.** Your final date in service will be **INSERT FINAL DATE IN SERVICE.**

[For all schools with the exception of academies, VA and Foundation schools]
I have notified the LEA of this decision and, in accordance with the School Staffing (England) Regulations 2009 they will advise you formally of this decision, in their role as employer.

If applicable You are required to immediately return any keys or property of the school with immediate effect. Please contact **INSERT NAME AND CONTACT PHONE NUMBER OF APPROPRIATE PERSON** to make arrangements for a convenient time.

You have the right to appeal against this decision. If you wish to do so you should write to **INSERT THE NAME OF THE C.OF G**, the Chair of the Governing Body, at **INSERT ADDRESS FOR C OF G** within seven calendar days of the date you received this letter. Your letter must comply with section 23.3 of the school's disciplinary procedure, a copy of which you have already received.

Yours sincerely

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Headteacher

Appendix 17

Letter – Summary Dismissal Outcome

Private & Confidential
NAME
ADDRESS
(To be delivered by hand or by recorded delivery post)

Dear **NAME**

Disciplinary hearing on DATE

I write to confirm the outcome of the disciplinary hearing held on **DATE**. The case was heard by **INSERT RELEVANT NAMES,** advised by **INSERT NAME OF HR ADVISER.** The following witnesses were called **INSERT NAMES OF WITNESSES** and the hearing was informed by full documentation.

You were accompanied by **INSERT NAME OF COMPANION AND STATUS.** You called the following witnesses **INSERT NAME OF EMPLOYEE'S WITNESSES.** At the hearing the following allegation(s) were considered:

INSERT ALLEGATION:

I found as follows (address each allegation in turn and in full, alongside any mitigation presented):

INSERT DETAIL:

I considered that the case against you was founded and that the most appropriate sanction was a summary dismissal from your post of **JOB TITLE**.

[For all schools with the exception of academies, VA and Foundation schools]
I have notified the LA of this decision and, in accordance with the School Staffing (England) Regulations 2003 they will advise you formally of this decision, in their role as employer.

If applicable You are required to immediately return any keys or property of the school with immediate effect. Please contact **INSERT NAME AND CONTACT PHONE NUMBER OF APPROPRIATE PERSON** to make arrangements for a convenient time.

You have the right to appeal against this decision. If you wish to do so you should write to **INSERT THE NAME OF THE C.OF G,** the Chair of the Governing Body, at **insert address for C of G** within 7 calendar days of the date you received this letter. Your letter must comply with section 23.3 of the school's disciplinary procedure, a copy of which you have already received.

Yours sincerely

Headteacher

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Appendix 18

Letter - Notification of an appeal hearing

Private & Confidential
NAME
ADDRESS
(To be delivered by hand or by recorded delivery post)

Dear **NAME**

Notification of an appeal hearing

I write to advise there will be an appeal hearing to consider your appeal against disciplinary action as set out in your letter of **DATE.**

This hearing will be held at **TIME** on **DATE** at **VENUE.**

You have previously received a copy of the school's disciplinary procedure. You are entitled to be accompanied at the appeal hearing by a trade union representative or work colleague; however it is your responsibility to ensure that he/she is available. It is recommended that you contact your representative as soon as possible and advise them of the date and time of the hearing.

You can produce witnesses and/or written witness statements and relevant supporting documents at this Hearing. This is subject to the requirement to exchange this information with **INSERT NAME OF ORIGINAL HEARING PANEL CHAIR** at least 7 calendar days before the Hearing. Management documentation for the appeal will be forwarded to yourself 7 calendar days prior to the hearing. It is your responsibility to ensure a copy goes to your companion if you have chosen to be accompanied.

The appeal hearing panel will comprise **INSERT NAMES OF THE APPEAL PANEL** and they will be accompanied by **INSERT THE NAMES AND DESIGNATIONS OF ANY OTHERS WHO WILL BE PRESENT)** for the purpose of giving advice.

The case will be presented by **INSERT NAME** The following witnesses will be called: **INSERT NAME OF WITNESSES.**

Please confirm to the school office by telephone on receipt of this letter that you are able to attend this Hearing.

Yours sincerely

(insert the name of the governor who will chair the appeal hearing)

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Appendix 19

Letter – outcome of an appeal

Private & Confidential
NAME
ADDRESS

(To be delivered by hand or by recorded delivery post)

Dear **NAME**

Appeal hearing on DATE

I write to confirm the outcome of the Appeal Hearing held on **DATE**. The case was heard by **INSERT RELEVANT NAMES,** advised by **INSERT NAME OF HR ADVISER.**

The following witnesses were called **INSERT NAMES OF WITNESSES** and the hearing was informed by full documentation. You were accompanied by **INSERT NAME OF COMPANION AND STATUS**. You called the following witnesses **INSERT NAME OF EMPLOYEE'S WITNESSES.**

The Appeal Panel considered your appeal against **INSERT SANCTION**.

The panel found as follows **(address each allegation in turn and in full, alongside any mitigation presented)**:

INSERT DETAIL:

We **dismissed/upheld** your appeal. As a consequence of this decision **INSERT DETAIL** This matter is now concluded.

Yours sincerely

(insert the name of the governor who chaired the appeal hearing)

*delete as appropriate

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Appendix 20

Letter – Unauthorised absence

Private & Confidential
NAME
ADDRESS
(to be sent recorded delivery and first class)

Dear **NAME**

Unauthorised absence from work

I am writing to you as I have tried to contact you on several occasions over the last 24/48 hours via your **home/mobile phone/ /next of kin** and have left several messages for you to contact me, which have been unsuccessful.

Due to our concern for your welfare I would ask that you contact me **immediately** on receipt of this letter to explain the reason for your absence and so that we can discuss how best we can support you if needed. I would be grateful if you could also confirm a possible return to work date. If your absence is due to sickness please submit a doctors certificate. If you have personal issues, which have led to this unauthorised absence, when you contact me I may be able to assist you with this matter where possible.

I must advise you I am initiating point 6.0 of the school's disciplinary procedure; employees absent without permission **(copy enclosed)** and due to your unauthorised absence your pay has been suspended from **DATE**. Consideration will only be given to reinstating your pay when you have made contact with me and explain the reason for your absence. If I do not deem your reason to be satisfactory the period of absence will be considered as unpaid leave and disciplinary action may be taken against you.

Trusting that you will give this matter your urgent attention.

Yours faithfully

Headteacher

Enc. School's disciplinary procedure

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Appendix 21

Letter – Unauthorised absence letter 2

Private & Confidential
NAME
ADDRESS
(to be sent recorded delivery and first class)

Dear **NAME**

Unauthorised absence from work

Following my letter of **DATE** requesting you make contact with me regarding your unauthorised absence from work since **DATE**, I have still not received any contact from you. I request again that you contact me immediately so that we can discuss the reason for your absence.

If you fail to contact me **within 5 calendar days** of the date of this letter, in accordance with point 6.0 of the disciplinary procedure, a disciplinary hearing will be convened. This matter will be considered as gross misconduct.

I must advise you that one of the possible outcomes of any disciplinary hearing is dismissal from post.

Yours sincerely

Headteacher

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Appendix 22

Contents for disciplinary or appeal hearing packs

***include/delete as relevant**

First section	**Page number**
Contracts of employment	
Job description & person specification	
Disciplinary procedure	
Teachers Standards (if applicable)	
Second Section	
Notification of investigation letter	
Suspension letter	
Invite to investigatory interview letter	
Change of allegations letter	
Invite to disciplinary hearing	
Any other correspondence or emails pertaining to any of the above	
Third Section	
School notes from all investigatory interviews	
Employee notes from all investigatory interviews	
Fourth Section	
List of witnesses	
All witness statements and/or notes of witness interviews in date order	
Fifth Section	

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Any other documents relevant to the investigation	
Any other school policies or procedures relevant to the investigation	

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