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Multi Academy Trust

Disciplinary Policy

September 2015 – September 2018

Disciplinary Procedure

1. Status

This procedure is relevant to teaching and support staff in the Academy.

Policy

- 1.1 The Governing Body expects employees to establish and maintain high standards of conduct and behaviour, whilst undertaking their roles and responsibilities.
- 1.2 The Governing Body will ensure that employees are made fully aware of the standards of conduct and behaviour expected, whilst undertaking their roles and responsibilities.
- 1.3 National or Academy Codes of Conduct establish the standards of conduct expected by employees. Trade Unions should be consulted about any code of conduct within the Academy.
- 1.4 The disciplinary procedure is intended to help and encourage employees to achieve and maintain these standards of conduct and behavior.
- 1.5 The disciplinary procedure will be applied fairly and consistently regardless of the status of employees on the basis of natural justice and without undue delay.
- 1.6 The disciplinary procedure is complementary to other employment policies and procedures, including the Capability Procedure, Grievance Procedure, Promoting Health at Work, and Complaints against Employees, Anti-Bullying Dignity at Work and Whistle blowing.
- 1.7 The Governing Body will ensure that managers and supervisors are trained before they undertake the management of employee conduct and the application of the disciplinary procedure.
- 1.8 The Governing Body will ensure that all employees will not be discriminated against on grounds of race, gender, nationality, national origin, marital status, disability, economic status, part time working hours, sexual orientation, trans gender, age, trade union membership, political or religious beliefs or responsibility for dependants.
- 1.9 The governing body will ensure that the Disciplinary Policy and Procedure is made available to all staff within the Academy
- 1.10 Measures will be taken to ensure employees understand and can

participate in the operation of the procedure, eg employees with speech, hearing or visual impairment, learning difficulties or whose first language is not English

2. Principles

- 2.1 Discipline should be seen as a positive, not a negative concept. It can be defined as a process of ensuring that employees act in accordance with the terms of their employment contract and employer's rules and regulations.
- 2.2 Employees should be made aware of the standards of conduct expected as they apply to Newly Qualified Teacher (NQT) induction and Support Staff induction and probation periods. This should not be limited only to these periods and employees should be made aware of expected standards on an ongoing basis particularly where standards or practices have been revised or amended.
- 2.3 The Disciplinary Procedure is intended to ensure clarity in the relationship between the Governors, the Academy Principal, the Academy employees and their trade unions, in terms of the conduct expected of the employees. To this end it is designed to:
 - 2.3.1 Assist employees whose conduct is in question by ensuring that they become aware of the expected standard of behaviour and the clear consequences if they do not reach or abide by those standards.
 - 2.3.2 Seek to protect the interests of employees as a whole by maintaining disciplinary standards.
 - 2.3.3 Provide an appropriate range of responses to cope with the various disciplinary offences which occur.
 - 2.3.4 Be a general framework which is flexible enough to deal with individual cases in the light of particular circumstances
- 2.4 Discipline relates to an employee's conduct only. Matters relating to issues of Capability (whether through lack of innate ability or as a result of illness) should **not** be considered under the Disciplinary Procedure.

See separate documents covering issues of Capability Related to Competence and Capability Related to Ill Health
- 2.5 Every effort will be made by the Academy to resolve general concerns about an employee's conduct, behaviour and performance through informal

discussion, counselling and advising of the expected standards without recourse to the formal Disciplinary Procedure.

- 2.6 The Disciplinary Procedure is intended to establish the facts surrounding allegations of misconduct and indiscipline and that these facts are given due consideration
- 2.7 Case law has established that there should be an investigation before a disciplinary decision is made. Employers are expected to have acted reasonably in particular circumstances and to make judgement based on the balance of probabilities in the light of what a 'reasonable person' would have decided
- 2.8 At every stage of the procedure employees will be notified of the allegations against them.
- 2.9 Employees will be given the opportunity to respond to allegations against them and state their case.
- 2.10 Employees will be notified of their entitlement to be represented or accompanied by a trade union representative or a representative of their choice.
- 2.11 Where a trade union official, including an Academy based representative, is subject to the Disciplinary Procedure the Governing Body will inform a Corporate Accredited Representative or the Secretary of the Teacher Union or their full-time Official before commencing formal disciplinary proceedings.
- 2.12 Employees will have the right to appeal against any formal disciplinary action taken against them.
- 2.13 Every effort will be made to observe the timescales stated within the Disciplinary Procedure. However complex investigations may not allow this and so timescales can be extended by mutual agreement.
- 2.14 Management records will be kept of all stages of disciplinary proceedings. The investigation interview or disciplinary hearing may be recorded following mutual agreement between management and the employee and their trade union representative. If the case is dismissed all written and audio records should be destroyed
- 2.15 Where employees have particular difficulties or disabilities likely to impede understanding of disciplinary proceedings all reasonable efforts will be made to ensure employees are fully informed and able to respond to allegations against them.

- 2.16 Any special needs of disabled employees or language difficulty of employees whose first language is not English will be taken into account when arranging meetings/hearings. Where necessary, appropriate support/facilities will be provided.
- 2.17 All parties involved in disciplinary matters will keep confidential any formation associated with cases dealt with through this procedure.

3. Roles and Responsibilities

3.1 Governors

- 3.1.1 The Governing Body has overall responsibility for staff discipline and dismissals within its Academy.
- 3.1.2 The most significant circumstances that may alter arrangements for delegation may include:
- where the Academy Principal has been directly involved in disciplinary procedures leading to dismissal, has had a major input into the case or is a witness of particular conduct giving grounds for the dismissal in question, and in the AP's judgement or in the opinion of the HR service provider it would not be in the best interests of the Academy Principal for the Academy to take the lead at a disciplinary hearing.
 - where the Chair of Governors has received representation from the DfE regarding serious concerns about the performance of the Academy Principal. This may refer to concerns about the Principal's discharge of staffing responsibilities including failure to take appropriate disciplinary action, or where the Principal is subject to disciplinary procedures including capability
 - or other disciplinary sanctions. *The governing body should review at least annually through the performance management cycle or otherwise where necessary, the continuation of any circumstances where the Academy Principal does not lead on initial dismissal decisions because of concerns about their conduct or performance.*
- 3.1.3 In these circumstances, and when dealing with potential disciplinary matters above Level 1 (Oral Warning), the Governing Body will have to ensure alternative arrangements are in place. Responsibility for hearing representation at a disciplinary hearing and making an initial dismissal decision can be delegated to one or more governors, but where possible it is recommended that at least three governors are involved. Governors should not be tainted by any previous knowledge or involvement in the case. This will maintain a fair approach and will assist in responding to

any unfair dismissal challenges.

3.1.4 A panel of **three** Governors, not involved in the original decision, will have to be established at the beginning of the process to hear any appeal against the disciplinary or dismissal decision.

3.1.5 Where an Academy Principal is on long term sick leave, secondment or some other long term absence, the governing body should consider whether it is appropriate to pass delegated responsibility to the person acting in the Academy Principal's place.

3.2 Academy Principal

3.2.1 Where an Academy Principal is exercising delegated responsibility for dismissal he/she can not delegate this responsibility to another member of staff within the Academy.

3.2.2 The Academy Principals will have responsibility for disciplinary matters up to and including disciplinary matters with the potential to result in a level 1 sanction (oral warning).

3.2.3 As there is a need for an Academy Principal with delegated responsibility to remain impartial it is important that each case of potentially serious misconduct is considered on a case by case basis. It will be necessary for the Academy Principal to first establish the appropriate procedure to follow and to then establish who, within the Academy, should lead on any investigation. If the Academy Principal decides to lead an investigation then governors will consider the matter at a disciplinary hearing. Alternatively the Academy Principal could select another to undertake an investigation and present the case.

3.2.4 As a result of previous involvement or major input in a case or where the Academy Principal is a witness of particular conduct giving grounds for the dismissal, it will be the responsibility of a panel of governors to make the disciplinary or dismissal decision (see 3.1.5). The Academy Principal should discuss the matter with the Chair of Governors (or other delegated person) to agree a suitable process.

3.2.5 Where the Academy Principal has delegated responsibility and is leading on a disciplinary hearing and or a potential dismissal decision they may involve governors in the process. For example in hearing representation at a dismissal hearing, however the final decision should be the Academy's Principal.

3.3 Senior / Line Managers

3.3.1 All staff with a supervisory or management role will be expected to deal

with minor breaches of misconduct. It is important therefore that they are aware of their role and responsibilities in such circumstances and that appropriate training is provided..

- 3.3.2 Senior / Line Managers must be aware of the standards of conduct and behaviour expected in order to ensure equity of treatment and consistency of action.
- 3.3.3 In more serious cases of misconduct a senior manager may be required to act as Investigating Officer (see 3.6 and 6.3) to establish the facts of a case and present the findings at a disciplinary hearing chaired by the Academy Principal.

3.5 Human Resources

- 3.5.1 The HR Service provider can provide professional advice and support to the Academy necessary for dealing with disciplinary matters. The level of support will depend on the service level agreement between the Academy and the HR service.
- 3.5.2 The range of advice and support provided by HR may include advice on individual cases, assistance with investigations/procedural advice, advice on the appropriate procedure to follow and action to take, liaison with trade unions and with support agencies, support for the officer presenting the case and/or Chair of the hearing, advice/issue of appropriate letters, assistance with any consequences of disciplinary action, advice and assistance with the appeal process, representation, advice and assistance in relation to employment tribunals

3.6 Investigating Officer

- 3.6.1 The Academy should provide appropriate training to those members of senior management who act in the role of Investigating Officer before they undertake an investigation. 3.6.2 The Investigating Officer will be responsible for and will conduct the investigation with regard to the specific allegation. He/she will agree the scope of the investigation and the timescales involved with the Academy Principal. At the beginning of the investigation the full facts will not be known so the scope may need to be amended to ensure all of the relevant information is obtained. (See Appendix 3)
- 3.6.3 The Investigating Officer will assemble all of the facts and evidence relevant to the case, which may include documentary evidence and/or witness statements. He/she will determine if there is justification to make a recommendation either to proceed to a formal hearing or to follow the informal process. The Investigating Officer will compile an objective, factual report with substantiating documentation to present at

the hearing.

- 3.6.4 In the event of a disciplinary hearing the findings of the investigation will have to be presented to the panel hearing the case by the Investigating Officer. He/she may be asked questions at this hearing, by both the Academy representative and the employee and their representative.

4. Disciplinary Procedure

- 4.1 Is this a matter of potential misconduct, which can be dealt with through this procedure?
- 4.1.1 Once an allegation is made, a concern or complaint is received or there has been repetition of misconduct previously handled through the informal process, the Academy Principal must decide whether it is a matter of misconduct that can be dealt with through individual/professional advice, the informal approach or the formal procedure. Alternatively the Academy Principal may decide that the matter should be considered under a separate procedure.
- 4.1.2 In reaching this decision Academy Principals should consider the following:
- Separate arrangements will apply to Support Staff employees within their probationary period.
 - In the event of allegations of fraud or financial irregularities the Responsible Officer should be involved.
 - If a parental complaint against an employee is received, the Academy Principal or a governor must be informed immediately and his/her advice sought before any further action is taken. Reference should also be made to the Academy document entitled - Complaints against Employees
 - In the case of allegations of child abuse, reference should be made immediately to the Manager of Children's Registration and Reviewing Service before any further action is taken, advice should also be sought from the HR Assistant on this matter. In the case of an allegation of sexual or racial harassment, the current Academy procedure should be followed.
 - If an allegation involves possible misuse of alcohol reference should be made to the Addictions policy. The Academy Principal, with advice from Human Resources, will have to consider whether this is a medical condition and treat it as such under a separate procedure.
- 4.1.3 Certain cases of misconduct within employment will give rise to criminal

proceedings/ prosecutions against an employee by the police. In some cases, it is still possible to proceed with the disciplinary process on the basis of the known facts provided that the basic principles are still observed.

- 4.1.4 Employees will not be disciplined solely because of an offence committed outside work. However, offences committed outside work may bring the Academy into disrepute or impact on an employee's suitability for their post. Sometimes such action may give rise to criminal proceedings/ prosecution. Each case must be carefully considered and it is recommended that specialist advice is sought from the HR Service Provider, before any decision is taken to initiate formal disciplinary proceedings. Dependant upon the circumstances (the nature of the criminal charge and the employee's job) formal disciplinary proceedings may be initiated. The fact that an employee is subject to criminal proceedings does not automatically mean the disciplinary process should be invoked.

5. The Informal Approach

- 5.1 This moves away from the day-to-day management issues and into the informal approach of the disciplinary procedure. Many minor breaches of conduct can often be remedied using this approach without resorting to the formal procedure.
- 5.2 All employees should be made aware of the standards of conduct and behaviour expected in their place of work.
- 5.3 The Academy Principal / designated person should write to the employee to invite them to a meeting to discuss the matter of misconduct, clearly indicating in the letter the allegation against them and advising them of their right to be accompanied by a Trade Union representative or a friend. (See Appendix 5)
- 5.4 In dealing with an initial minor breach of conduct the Academy Principal or designated person should discuss the nature of the misconduct with the employee and undertake counselling in a general sense. The employee should be given the opportunity to explain the situation from his/her point of view. If the perceived misconduct is the result of ignorance or the result of domestic or personal problems then training or formal counselling or welfare will be provided. It is important to confirm the outcome of the meeting in writing.
- 5.5 The Academy Principal / designated person should maintain records of any informal disciplinary discussions as this can be of benefit in any subsequent formal proceedings or in identifying training needs if this is more appropriate. The employee should be allowed access to these

records and may add their own comments where appropriate.

- 5.6 In conducting this informal process, Academy management will have regard to the help and support that may be available from the relevant trade union representative in a case concerning a trade union member, particularly where difficulties are serious or cannot be resolved satisfactorily at an earlier stage.
- 5.7 If the request/advice on the expected standards provided by the Academy Principal /designated person are not met, then depending on the circumstances of the case another informal discussion may take place with the employee to reaffirm the standards expected, after which the employee should be made aware that failure to meet the required standards of conduct and behaviour could result in moving to a more formal approach. Or if the matter has been discussed previously and reference made to the formal process it should then be referred to the Academy Principal or designated person, to deal with under the formal procedure. A letter should be sent to the employee at this stage to confirm what was discussed at the meeting and, if appropriate, that the matter may/will move to the formal procedure.

6. Formal Procedure

- 6.1 When the Academy receives a complaint or allegation, consideration must be given to the appropriate procedure to be used, (see paras. 4.1.1, 4.1.2). The formal procedure can be initiated by non-compliance with the informal process, or by a more serious disciplinary allegation. It is important that when following this procedure, Academy Principals or designated persons apply the principles outlined in Section 2.

6.2 Suspension

- 6.2.1 After an initial assessment, an employee may be suspended while an investigation is carried out where there is evidence of one or more of the following:

- there are allegations of gross misconduct; (See Appendix 2)
- there is a risk to clients, other employees or property;
- suspension is necessary to enable further investigation.

For the latter, reasonable cause for suspension must be established.

- 6.2.2 Suspension from employment is not in itself disciplinary action and does not imply that the employee is guilty.

- 6.2.3 Both the governing body and the Academy Principal have the power to suspend. Each must inform the other if they take such action. Only the governing body may end a suspension.
- 6.2.4 Suspension will be on full pay (where appropriate current average earnings excluding casual overtime), including contractual overtime. Employees will be suspended for as short a period of time as possible and suspensions will be reviewed to ensure that they are not unnecessarily protracted.
- 6.2.5 When an employee is to be informed that they are suspended, the employee's Trade Union representative will also be informed that the suspension is taking place and given the opportunity to attend within reasonable time, or if they are unavailable as soon as possible thereafter.
- 6.2.6 Any employee suspended will be notified in writing of the suspension, setting out the grounds on which the decision to suspend has been taken. (See draft letter Appendix 5)

6.3 Investigation

- 6.3.1 No disciplinary action will be taken until allegations have been fully investigated. (See Appendix 3 for additional advice about investigations)
- 6.3.2 The investigation will be completed by a named Investigating Officer this may be the Academy Principal or another designated member of staff within the Academy who have attended appropriate training.
- 6.3.3 The duration of the investigation will be dependant upon the complexity of the matter under investigation. It may only involve checking an individual's records or could involve interviews and statements from witnesses or others involved in the case. It should normally be completed within 20 working days; however, this timescale may be significantly increased due to Child Protection Procedures or criminal proceedings.
- 6.3.4 The employee will be notified of any investigation in writing, the name of the investigating officer, the allegations being investigated, and will be provided with a copy of the disciplinary procedure.
- 6.3.5 The employee will be notified of their right to be accompanied, at any investigation meeting by a trade union representative or a representative of their choice.
- 6.3.6 Witnesses that are interviewed as part of the investigation are also entitled to representation.

6.4 Disciplinary Hearing

- 6.4.1 Disciplinary hearings will only take place where following an investigation; there is good reason to believe that there is a case to answer. The format for disciplinary hearings is given at Appendix 4.
- 6.4.2 The existing procedures (Pre Sept. 2004) allow for the Academy Principal to hear disciplinary matters which may result in a sanction up to a formal oral warning. All Academy Principals should therefore be involved, except in exceptional circumstances up to this level.
- 6.4.3 If the governing body has delegated responsibility for discipline and dismissal to the Academy Principal, they, the governing body, will only be responsible for conducting disciplinary hearings in exceptional circumstances. Where this responsibility has not been delegated as detailed in paragraph 3.1.4 a sub committee of governors will have to be established to conduct disciplinary hearings.
- 6.4.4 Wherever possible the hearing will be arranged at a mutually convenient time. The employee will receive reasonable notice of the disciplinary hearing and will be given the details of allegations against them in writing together with a copy of the disciplinary procedure. The employee should receive any documentation being used to inform the decision and the names of witnesses being called by management at least 5 working days before the hearing.
- 6.4.5 An employee or their representative should ensure that written submissions and the names of witnesses are received by management at least three days before the hearing. The date by which written submissions should be made by the employee should be included in the letter accompanying the management documentation.
- 6.4.6 The employee will have the right to be accompanied by a trade union representative or a representative of their choice. The role of the representative will be to support and advise the employee, take notes on behalf of the employee, ask questions and address the hearing. The employee is responsible for arranging their own representation.
- 6.4.7 The employee, or their representative, may call witnesses and question any witnesses called by the management. Witnesses at hearings will normally be confined to employees, managers and associates of the Academy. It will not be normal practice to involve members of the public in internal procedures.
- 6.4.8 The employee (or their representative) or the management may request adjournments during the disciplinary hearing.

- 6.4.9 In the event of the employee being unavailable for a disciplinary hearing owing to ill-health the employee may be referred to Occupational Health prior to a rearranged hearing.
- 6.4.10 If, for a genuine and good reason, the employee or his/her representative is unable to attend the disciplinary hearing it will be adjourned to a date which will be notified to the employee and his/her representative without delay. Every reasonable effort will be made to find a mutually convenient date on which both the employee and their representative can attend, however if the employee is unable to attend the rearranged hearing, it will normally proceed in his/her absence. In the absence of the employee, the employee's representative may present the case on behalf of the employee.

6.5 Implementing Outcome of Disciplinary Hearing

6.5.1 No case to answer

If the disciplinary hearing concludes that there is no case to answer the employee will be notified accordingly and no further reference will be made to the allegations and all records will be destroyed. (See 8.3)

6.5.2 Warnings:

- (a) If the disciplinary hearing concludes that the offence(s) of the employee is/are minor the employee will normally be given a formal oral warning. This will be confirmed in writing and a copy kept on the personal file for a period of no more than six months.
- (b) If the disciplinary hearing concludes that the offence is serious in itself or where there is an accumulation of minor offences the employee will normally be given a formal written warning. A time limit should be determined for the warning to remain live, normally not more than 9 months.
- (c) If the disciplinary hearing concludes that the offence(s) is/are serious and/or the employee has previously received a written warning for which the time limit has not expired, a final written warning will normally be issued. A time limit for the warning to remain live should be determined, normally not more than one year.
- (d) If a disciplinary hearing concludes that the offence(s) is/are very serious a final written warning may be issued even if there have been no previous incidents of misconduct. A time limit for the warning to remain live should be determined, normally not more

than one year.

After the time limit for a warning has expired all records of the disciplinary issue will be destroyed, for exceptions see paragraph 8.3

6.5.3 Dismissal or alternative action

- (a) Dependent upon the nature of the offence and when all the circumstances have been taken into account it may be concluded that action short of dismissal is appropriate e.g. transfer to another post, demotion or loss of pay. This should be accompanied by a final written warning.
- (b) If a disciplinary hearing concludes that the offence is serious misconduct and/or a final written warning remains current, and/or action as an alternative to dismissal has previously been imposed, and all the circumstances have been taken into account, an employee may be dismissed with contractual notice.
- (c) If the disciplinary hearing concludes that an offence of gross misconduct has occurred, after taking into account all the circumstances, the employee may be dismissed without notice. Examples of gross misconduct are given at Appendix 2.
- (d) Dismissals and notice periods are effective from the date of the initial dismissal decision with reinstatement should an appeal be successful.
- (e) The Academy Trust as the employer must give notice of dismissal, or if the circumstances justify, terminate the contract without notice, within 14 days of the initial dismissal decision. This is actioned once a letter is received from the Academy Principal, or Governors of the Academy, requesting the issue of a termination letter and the reasons for the decision. The Chair of Governors will then formally determine whether or not notice applies even in a case of gross misconduct.
- (f) Where an Academy has dismissed a teacher or member of staff who worked with children and young people under the age of 19, or might have dismissed had they not left the employ of the Academy, for reasons of misconduct, the case should be referred to the Teachers' Misconduct Team at the DfE. The DfE will then refer cases, which do not raise issues relating to the safety and welfare of children and young people, but relate to a registered teacher, to the General Teaching Council. Referrals must be accompanied by all relevant information relating to the case.

6.5.4 Notification of Outcome of Disciplinary Hearing to the Employee The employee will normally be informed of the conclusion of the disciplinary hearing at the end of the hearing. Following the disciplinary hearing the employee will be notified of the outcome formally in writing within 10 working days. This will set out:

- the findings of the disciplinary hearing
- the disciplinary action taken
- the reason for the disciplinary action taken
- the time limit during which the disciplinary action will remain live
- (in respect of warnings)
- a reminder that any further acts of misconduct during the time period of a final written warning may result in dismissal
- the reason for dismissal where this sanction has been imposed
- details of the right of appeal

7. Appeals Against Disciplinary Action

7.1 An employee has an unconditional right to appeal against any disciplinary action.

7.2 An employee may appeal against a formal warning (oral, written or final written) to a sub committee of governors, whose decision shall be final.

7.3 The grounds on which the appeal is based should be stated and fall into one (or more) of the categories listed below, although this list is not exhaustive.

- a) that the disciplinary procedure has not been properly followed;
- b) that all the evidence was not considered at the disciplinary hearing;
- c) that the employee has been unfairly treated owing to the chair of the disciplinary hearing showing unfair bias or prejudice against the employee;
- d) that the severity of the disciplinary action is too great for the offence(s);
- e) new evidence.

7.4 Alternatively, the employee may wish to appeal on grounds of clemency alone, thereby accepting the findings of the disciplinary hearing but appealing for leniency in respect of the disciplinary action taken.

- 7.5 The notice of appeal must be submitted in writing, to the Governing Body, within 10 working days of the employee receiving written confirmation of the warning. Appeals against dismissal, or alternative action short of dismissal, must be notified to the Governing Body within 20 working days of the employee receiving written confirmation of the disciplinary action taken. Notification should state clearly the grounds of appeal as set out in the paragraph above.
- 7.6 The outcome of an appeal could be that the original disciplinary action will be retained, reduced or withdrawn. Where a sanction is reduced or withdrawn, any financial detriments will be reimbursed.
- 7.7 The employee will normally be notified of the conclusion of the appeal hearing at the end of the hearing. The employee will be formally notified in writing of the outcome of the appeal and the reasons for the decision as soon as possible.
- Note:** If appeals are not registered within the time limits then they will not be heard. Only exceptional circumstances for late registration will be considered.

8. Disciplinary Records

- 8.1 On completion of a disciplinary hearing, and appeal hearing where one takes place, a complete record of the disciplinary process will be retained on the personal file until expiry of the time limit of any written or oral warning.
- 8.2 On expiry of the time limit of a warning, the complete record will be removed from the personal file and destroyed.
- 8.3 Records will be retained on issues of a Child Protection nature, further advice is provided in DfE guidance and the document 'Complaints against Named Employees'. These will be subject to national changes.
- 8.4 In the event of the conclusions of an investigation being that there is no case to answer, and there is no further action to be taken, all records of the allegations and investigation will be destroyed. Where allegations relate to Child Protection issues advice on the retention of disciplinary investigation/hearing records will be obtained from the Child Protection Officer.
- 8.5 In accordance with the Data Protection Act 1998 no decisions about an employee's training, promotion or career development will be made based on disciplinary records that have expired.

Date of Review: September 2011

APPENDICES

Appendix 1 Allegations of Gross Misconduct

Appendix 2 Conducting an investigation

Appendix 3 Procedure for Disciplinary/Appeal Hearings

Appendix 4 Sample Letters

- Confirmation of decision to suspend
- Informing the employee of the allegation(s) and that an
- investigation will take place
- Attendance at a disciplinary hearing
- Outcome of a disciplinary hearing
- Arrangements for an appeal hearing
- Outcome of an appeal hearing

Appendix 1

GROSS MISCONDUCT

Gross misconduct is generally seen as misconduct serious enough to breach the employment contract between the employer and the employee and make any further working relationship and trust impossible. As with other disciplinary allegations it is important to establish the facts before any action is taken. In accordance with paragraph 6.2 a short period of suspension on full pay may be necessary or helpful, although it should only be imposed after careful consideration and should be kept under review. Suspension from employment is not in itself disciplinary action and does not imply that the employee is guilty.

The following list gives examples that may constitute an act of gross misconduct. This is not intended to be an exhaustive list and other acts of misconduct may be interpreted as such. .

- a) a serious breach of the Code of Conduct for Employees (see 1.3)
- b) serious insubordination;
- c) using threatening or abusive behaviour of any nature during the course of an employees duties;
- d) physical, sexual or verbal assault of any nature during the course of an employee's duties;
- e) a breach of the Equal Opportunities Policy, including harassment, discrimination or victimisation on grounds of race, nationality, ethnic or national origin, gender, sexual orientation, marital status, religion, disability, or trade union membership;
- f) victimisation or harassment of an employee for reasons of public interest disclosure (whistle blowing);
- g) private use of the Academy's owned, hired, leased or loaned, vehicles, plant, equipment, machinery, property, systems or services, etc, without formal written authorisation;
- h) theft of any kind from the Academy, or another employee's or a client's, property or belongings (surplus consumable materials of any kind are regarded as the Academy's property);
- i) acts of fraud or false representation for personal gain including falsification of any documents used for the purposes of securing employment/promotion or for calculating salary payments or accrued time off in lieu. (Documents included in this category are: application forms/curriculum vitae; any system of time

- recording; over-time recording documents; bonus sheets; job cards; self-certification forms; medical certificates; etc. This is not an exhaustive list.
- j) being incapable of safely performing normal duties due to the influence of alcohol, drugs and other substances; (see Addictions Policy)
 - k) deliberate damage to the Academy or a client's premises or property;
 - l) abuse of equipment or facilities supplied for the execution of an employee's duties, including email and internet facilities;
 - m) unauthorised absence from duties during the working day;
 - n) deliberate serious dereliction of duties;
 - o) neglect of health and safety regulations, policies, practices or procedures;
 - p) offer/acceptance of bribes or inducements of any kind;
 - q) serious breach of confidence (subject to the Public Interest [Disclosure] Act 1998);
 - r) unauthorised disclosure of any manual or computerised confidential, sensitive or personal data (any breach of the Data Protection Act 1998) of any kind.
 - s) any breaches of the IT Security Policy deemed to be gross misconduct by that policy.

Appendix 2

CONDUCTING AN INVESTIGATION

1. Purpose of the Investigation

The purpose of an investigation is to collect the available facts related to the alleged disciplinary offence in order to determine whether there are adequate grounds for a disciplinary hearing.

In its simplest form an investigation could be as basic as checking someone's absence records to check if all absences have been correctly recorded. In more serious or complex cases the nominated Investigating Officer will need to consider a plan for the investigation.

At the beginning of an investigation, the full facts will not be known. This means that the initial scope of the investigation may need to be amended, if, as a consequence of the investigation, other matters come to light. If these are unrelated they should be subject to a separate investigation. The collection of evidence and information must not be selective.

2. Investigating Officer (see 3.6)

The allegation should be investigated by a named Investigating Officer. This may be the Academy Principal or another designated member of staff within the Academy who has attended appropriate training before undertaking this role. The Investigating Officer should seek procedural advice and assistance from the HR service as soon as the allegation/complaint has come to light.

3. Investigation Checklist

- Notification of allegation/investigation to the employee
- Ensure that the investigation is focused on the issues related to the specific allegation / complaint.
- Establish what action, if any, has been taken so far
- Examine documentary evidence already available
- Prepare a list of witnesses to be interviewed, a list of documentary evidence needed and questions to be asked.
- Establish a timetable for the investigation this would normally be completed within 20 working days

4. Investigation Interviews

Interviews will usually take place at the employee's normal place of work, although on occasions, it may be appropriate for it to take place at an alternative location. Investigation interviews should be arranged at a mutually convenient time. The

Investigating Officer should provide reasonable warning of any investigation interview to allow any employee taking part in the investigation to be accompanied by their trade union representative or a representative of their choice.

The arrangements for an investigation interview should include formal written notice to those that are required to attend. The notification letter should include:

- Details of the allegation(s) being investigated (this should only be given to the person against whom the allegations have been made).
- Confirmation that the investigation is being carried out in accordance with the Disciplinary Procedure.
- Information of the employees/witnesses right to be accompanied by a trade union representative or a representative of their choice.

The Academy Principal or designated person will have already written to the employee, against whom the allegations have been made, and this letter will have included the points above. However in arranging the actual investigation interview it may be necessary for the Investigating Officer to write to the employee. If this is the case the letter should also include the points outlined above.

The investigation should aim to interview all witnesses and obtain a statement from them in response to questions raised by the Investigating Officer. Witnesses may include:

- the person against whom allegations have been made;
- anyone who was present when the incident occurred and witnessed the incident;
- the person who discovered the incident or to whom the incident was first reported (if this is not the Investigating Officer);
- employees who may be able to provide information in relation to accepted practice, rules, procedures, knowledge of systems or arrangements.

If there are a lot of witnesses, it is important to interview a representative cross-section. The Investigating Officer should not conduct any of the investigation interviews on their own. He/she should be accompanied by a HR Adviser, or by an independent colleague from the Academy, who will provide advice. Each witness should be interviewed in the presence of all involved in conducting the investigation.

5. The format of an Investigatory Interview

Explain the role and responsibilities of those present, e.g. the Investigating Officer, HR Adviser and or other Officer, the procedure being followed and the format of the interview.

Ensure that the employee is aware of their right to be accompanied by their trade union representative or representative of their choice and that all special circumstances have been taken into account and where necessary appropriate support / facilities provided,

(see 1.10, 2.16).

Explain the allegations being investigated and reinforce the confidentiality of the procedure.

Explain the purpose of the interview and that the information given by them may be used in a disciplinary hearing. They will therefore be asked to agree, amend if necessary, and sign and date the statement.

Establish dates, times, details of what they witnessed, whether there were other witnesses, where it occurred, etc.

Ask the employee who is the subject of the allegations or other witnesses who, in their view, are appropriate witnesses, in order to ensure all names are obtained at the outset.

If assertions are made about custom and practice or procedures used these should be investigated further.

Timescales should be agreed for the production/amendment/signature of any agreed statements. In the event of not being able to obtain statements, formal notes of investigatory interviews may have to be relied upon. It is important not to confuse notes of interviews with statements. If statements are to be used during the disciplinary procedure they should be signed and dated.

Careful notes need to be taken of all investigation interviews. Consideration may be given to a note taker attending interviews in more complex cases to free the Investigating Officer and Supporting Officer from the task of note taking.

In some cases it may be appropriate to have the interview recorded on a twin taped machine, which will allow both the Investigating Officer and the interviewee to retain a taped copy of the interview. The Investigating Officer and the interviewee should agree in advance on the intention to record the interview. This should be in writing to avoid any disagreement at a later date.

The interviewee may have a copy of the tape but in some exceptional circumstances it may be appropriate to do this after other interviews have taken place so that the contents of the tape cannot be shared. If this is applicable, the tape should be put in a sealed envelope and the interviewee should sign the seal. The envelope should remain sealed until the time the tape is released to the interviewee.

6. Pupil Witnesses

Before seeking to obtain a statement from pupil witnesses, the Investigating Officer should seek advice from the Academy Principal or Governors.

Parental permission must always be obtained prior to an interview with a pupil as they may also wish to attend.

The Investigating Officer should always be accompanied by a third party.

When obtaining statements from pupils leading questions should not be asked, statements should be obtained as soon as possible after the alleged incident, consideration is given to the age of the pupil and the reliability of his/her statement.

7. Outcome of Investigation

On concluding the investigation, the Investigation Officer should determine whether there are adequate grounds for a disciplinary hearing. The decision should be based on the evidence that has been collated during the investigation and not on his/her opinions.

Possible outcomes of an investigation are:

There is no substance to the allegation or there is insufficient evidence to proceed further.

There is only a minor breach of conduct, which the Academy Principal may determine can be resolved informally.

The alleged offence is deemed to be too serious to be dealt with informally or there has been a reoccurrence of an offence that was previously dealt with informally. In this situation it will be necessary to consider the allegation at a formal disciplinary hearing, which may be chaired by the Academy Principal or a panel of governors.

Appendix 3

PROCEDURES TO BE FOLLOWED AT A FORMAL DISCIPLINARY/ APPEAL HEARING (also see 6.4)

1. The chair conducting the disciplinary hearing will introduce all present and will seek confirmation from all parties that they understand that the status of the hearing is in accordance with the Disciplinary Procedure
2. Any documentation provided in evidence must be provided to both parties and sufficient time given for it to be considered.
3. Each party may request adjournments during the hearing. No reasonable request for an adjournment will be refused.
4. The employee will have the right to be represented by their trade union or a representative of their choice.
5. The Investigating Officer (supported by Human Resources) will first present the case supporting the allegations, in the presence of the employee and his/her representative, and will call any witnesses* and present documentation**.
6. The employee (or his representative) shall then have the opportunity to ask questions of the Investigating Officer on the evidence given by him/her and any witnesses called.
7. The members of the Hearing Committee shall then have the opportunity to ask questions of the Investigating Officer and the witnesses.
8. The employee (or his/her representative) shall put their case in defence of the allegations, in the presence of the Investigating Officer, and may call witnesses and present documentation**
9. The Investigating Officer shall then have the opportunity to ask questions of the employee and his/her witnesses.
10. The Hearing Committee shall have the opportunity to ask questions of the employee and his/her witnesses.
11. The Investigating Officer may sum up the case against the employee.
12. The employee (or his /her representatives) may sum up the case in defence of the allegations.
13. The Investigating Officer and the employee and his/her representative will withdraw.

14. The Chair should check with the employee that there are no mitigating circumstances to be taken into account.
15. The Chair of the Hearing Committee together with other members of Committee, and any adviser(s) to the Committee will deliberate in private, only recalling the Investigating Officer and the employee and his/her representative to clear points of uncertainty on evidence already given. If a recall is necessary, it is essential that both parties return, even if only one is required to assist with the point giving rise to doubt.
16. The Committee will determine, on the basis of the cases made and evidence presented whether a disciplinary offence has been committed.
17. If the decision is that a disciplinary offence has been committed the Committee will then determine the appropriate level of disciplinary action. In doing so consideration should first be given to:
 - mitigating circumstances
 - the employee's disciplinary record; ***
 - the employee's overall performance in post;
 - what effort has been made by the employee towards avoiding misconduct and making reparation;
 - how management have ensured that the appropriate standards of behaviour and conduct are known;
 - the effect of the misconduct on the operation and the reputation of the Academy.
18. The Chair of the Committee will inform both parties verbally of the decision, which will be confirmed in writing as soon as possible. Alternatively, by mutual agreement, the decision may be notified in writing only.
19. If the case is found against the employee they will be informed of their right to appeal.

* Any witnesses called will normally leave the proceedings after giving evidence and being questioned but should remain available in case further clarification is required. A witness who leaves the proceeding after completing his/her evidence should not discuss the case with any witnesses waiting to be called.

** In exceptional circumstances the Committee may allow adjournments of reasonable length to study any documents presented but not issued prior to the Hearing. The Committee may at any time call an adjournment at its discretion. Any periods of adjournment should not be unreasonably extended.

*** The employee and their representative have the right to see any 'live' warnings or any other relevant documentation referred to by the Chair.

Additional Advice

- ☐ Notes of investigatory interview(s) with the employee should form part of the written management case so that the Hearing Committee can see that a full investigation has taken place and why a case is being brought. These do not have to be signed, as they are only notes of a meeting, however if they are not signed the panel will consider these on face value. It is recognised that the employee or their representative may challenge them, but it will be for the committee to consider any disagreement or conflict.
- ☐ Wherever possible signed statements should be obtained which can be presented without witnesses being called. Witnesses should only be called to supplement or as a substitute for a statement where their evidence is crucial. The exceptions would be where it is not reasonable or feasible for them to attend (e.g. children, members of the public).
- ☐ Statements may be in the form of notes of a meeting e.g. interview with a child. In this instance the child should be questioned with a third party present (adult) (parental consent should be obtained prior to this because the parent/guardian may also wish to be present). All present should then sign and date the notes of the meeting as an accurate record.
- ☐ Papers submitted to the hearing should include, where appropriate:
 - ☐ the suspension letter
 - ☐ letter requesting the employee to attend an investigatory interview
 - ☐ letter asking the employee to attend the disciplinary hearing
 - ☐ copies of any correspondence between the employee and the Academy received during the investigation
 - ☐ relevant documentation e.g. timesheet, letter of complaint, statements etc.
 - ☐ the Disciplinary Procedure

It is helpful if the documents are clearly numbered for ease of reference during the hearing.

Appendix 4

Sample Letters

OUTCOME OF HEARING – ALTERNATIVE TO DISMISSAL
Italics – options – delete as appropriate

Dear (* **Name**
*)

Outcome of Disciplinary Hearing

I write to confirm the outcome of the disciplinary hearing that you attended on (* **Date** *) (*was heard in your absence as you chose not to attend or put forward any evidence*). The Disciplinary Sub-Committee considered the following allegations:

[Allegations]

After considering the evidence carefully the Disciplinary Sub-Committee were satisfied that the allegation(s) against you had been substantiated. The Disciplinary Sub-Committee were also satisfied that dismissal would be an appropriate penalty. However, having considered all the circumstances, they have decided that an alternative penalty of (**detail**) coupled with a final written warning for a period of (**detail**).

I must inform you that any further acts of misconduct during the time period of a final written warning, that are proven, will result in dismissal.

You have the right to appeal to a Sub-Committee of Governors against the above decision. If you wish to exercise this right, you should advise the Chair of the Sub-Committee of Governors, in writing, within 20 working days of receipt of this letter. I enclose an extract from the Disciplinary procedure relating to Appeals.

A copy of this letter has been enclosed for your representative.

Yours sincerely

[Name]

Chair of the Committee of Governors

On behalf of the Committee

EXTRACT FROM THE DISCIPLINARY PROCEDURES

7. Appeals Against Disciplinary Action

- 7.1 An employee has an unconditional right to appeal against any disciplinary action.
- 7.2 An employee may appeal against a formal warning (oral, written or final written) to a sub committee of governors, whose decision shall be final.
- 7.3 The grounds on which the appeal is based should be stated and fall into one (or more) of the categories listed below, although this list is not exhaustive.
 - a) that the disciplinary procedure has not been properly followed;
 - b) that all the evidence was not considered at the disciplinary hearing;
 - c) that the employee has been unfairly treated owing to the chair of the disciplinary hearing showing unfair bias or prejudice against the employee;
 - d) that the severity of the disciplinary action is too great for the offence(s);
 - f) new evidence.
- 7.4 Alternatively, the employee may wish to appeal on grounds of clemency alone, thereby accepting the findings of the disciplinary hearing but appealing for leniency in respect of the disciplinary action taken.
- 7.5 The notice of appeal must be submitted in writing, to the Governing Body, within 10 working days of the employee receiving written confirmation of the warning. Appeals against dismissal, or alternative action short of dismissal, must be notified to the Governing Body within 20 working days of the employee receiving written confirmation of the disciplinary action taken. Notification should state clearly the grounds of appeal as set out in the paragraph above.
- 7.6 The outcome of an appeal could be that the original disciplinary action will be retained, reduced or withdrawn. Where a sanction is reduced or withdrawn, any financial detriments will be reimbursed.
- 7.7 The employee will normally be notified of the conclusion of the appeal hearing at the end of the hearing. The employee will be formally notified

in writing of the outcome of the appeal and the reasons for the decision as soon as possible.

Note: If appeals are not registered within the time limits then they will not be heard. Only exceptional circumstances for late registration will be considered.

OUTCOME – DISMISSAL

Italics – options – delete as appropriate

Dear(*Name*)

Outcome of Disciplinary Hearing

I write to confirm the outcome of the disciplinary hearing that you attended on (*** Date ***) (*was heard in your absence as you chose not to attend or put forward any evidence*). The Disciplinary Sub-Committee considered the following allegations:

[Allegations]

After considering the evidence carefully the Disciplinary Sub-Committee were satisfied that the allegation(s) against you had been substantiated. *The Sub-Committee took the mitigating circumstances of your case fully into account (if there were any)*. Nevertheless, they decided that the offences amounted to gross misconduct and that you should be dismissed with immediate effect.

You will receive a letter from the Academy Trust Board terminating your contract with effect from **date**.

You have the right to appeal to a Sub-Committee of Governors against the above decision. If you wish to exercise this right, you should advise the Chair of the Sub- Committee of Governors, in writing, within 10 working days of receipt of this letter. I enclose an extract from the Disciplinary procedure relating to Appeals.

A copy of this letter has been enclosed for your representative.

Yours sincerely

[Name]

Chair of the Committee of Governors

On behalf of the Committee

EXTRACT FROM THE DISCIPLINARY PROCEDURES

7. Appeals against Disciplinary Action

- 7.1 An employee has an unconditional right to appeal against any disciplinary action.
- 7.2 An employee may appeal against a formal warning (oral, written or final written) to a sub committee of governors, whose decision shall be final.
- 7.3 The grounds on which the appeal is based should be stated and fall into one (or more) of the categories listed below, although this list is not exhaustive.
- a) that the disciplinary procedure has not been properly followed;
 - b) that all the evidence was not considered at the disciplinary hearing;
 - c) that the employee has been unfairly treated owing to the chair of the disciplinary hearing showing unfair bias or prejudice against the employee;
 - d) that the severity of the disciplinary action is too great for the offence(s);
 - g) new evidence.
- 7.4 Alternatively, the employee may wish to appeal on grounds of clemency alone, thereby accepting the findings of the disciplinary hearing but appealing for leniency in respect of the disciplinary action taken.
- 7.5 The notice of appeal must be submitted in writing, to the Governing Body, within 10 working days of the employee receiving written confirmation of the warning. Appeals against dismissal, or alternative action short of dismissal, must be notified to the Governing Body within 20 working days of the employee receiving written confirmation of the disciplinary action taken. Notification should state clearly the grounds of appeal as set out in the paragraph above.
- 7.6 The outcome of an appeal could be that the original disciplinary action will be retained, reduced or withdrawn. Where a sanction is reduced or withdrawn, any financial detriments will be reimbursed.
- 7.7 The employee will normally be notified of the conclusion of the appeal hearing at the end of the hearing. The employee will be formally notified in writing of the outcome of the appeal and the reasons for the decision

as soon as possible.

Note: If appeals are not registered within the time limits then they will not be heard. Only exceptional circumstances for late registration will be considered.

OUTCOME – NO CASE TO ANSWER
Italics – options – delete as
appropriate

Dear **(NAME)**

Following the investigation into the following allegations (Detail)

I am writing to inform you that I have now completed my investigation into the following allegations detailed below:

[Allegations]

I have concluded that there is insufficient evidence to substantiate the allegations and therefore no further action will be taken.

(Alternative paragraph) I have concluded that whilst there is some evidence to support the allegation, it was identified that this matter should be addressed through other management action. Therefore, no formal disciplinary action will be taken against you in this respect.

However, the following recommendations need to be addressed.

(list recommendations with timescales)

A copy of this letter has been enclosed for your representative.

Yours Sincerely

Invite to informal meeting Italics –
options, delete as appropriate

Dear (**name**)

Informal Meeting

As discussed, I am writing to inform you that an informal meeting has been arranged on:

Date:

Time:

Venue

(If any other parties involved, indicate whom e.g. Audit)

The meeting is to discuss the following allegations against you:

-

If you have specific needs due to a disability or language difficulty, support/facilities will be provided. Please contact me on *****

At the meeting you will be given the opportunity to fully respond to the allegations made against you.

You are entitled to be accompanied by a trade union representative or representative of your choice.

I enclose a copy of the disciplinary procedure for your reference (Section 5 of the Disciplinary Procedure refers).

Please contact me on the above telephone number to confirm your attendance at this Informal Meeting.

A copy of this letter has been enclosed for your representative.

Yours sincerely

Dear (name)

Disciplinary Investigation

Further to my letter dated **XXX** I am now writing to inform you that an investigation interview has been arranged to investigate the following allegations against you:

These allegations, if proved, could constitute *Gross/Serious Misconduct* (**delete as appropriate**) and could therefore lead to your dismissal or other disciplinary sanction.

Name, has been nominated as Investigating Officer in order to investigate the circumstances leading to these allegations and to decide if there is a case to answer. (**Name of HR rep**) will support the Investigating Officer in this investigation.

As part of this investigation, I would like you to attend an investigatory meeting, the details are below:

Date
Time
Venue

(If any other parties involved, indicate whom e.g. Audit)

If you have specific needs due to a disability or language difficulty, support/facilities will be provided. Please contact me on *****

At the interview you will be given the opportunity to fully respond to the allegations made against you.

You are entitled to be accompanied by a trade union representative or representative of your choice.

I enclose a copy of the disciplinary procedure for your reference.

Please contact the Investigating Officer on the above telephone number to confirm your attendance at this Investigatory Meeting.

A copy of this letter has been enclosed for your representative.

Yours sincerely

Dear (name)

Disciplinary Investigation

Further to my letter dated X I am now writing to inform you that an investigation interview has been arranged to investigate the following allegations against you:

These allegations, if proved, could constitute *Gross/Serious Misconduct* (delete as appropriate) and could therefore lead to your dismissal or other disciplinary sanction.

xx, has been nominated as Investigating Officer in order to investigate the circumstances leading to these allegations and to decide if there is a case to answer. XX will support the Investigating Officer in this investigation.

As part of this investigation, I would like you to attend an investigatory meeting, the details are below:

Date
Time
Venue

(If any other parties involved, indicate whom e.g. Audit)

If you have specific needs due to a disability or language difficulty, support/facilities will be provided. Please contact me on *****

At the interview you will be given the opportunity to fully respond to the allegations made against you.

You are entitled to be accompanied by a trade union representative or representative of your choice.

I enclose a copy of the disciplinary procedure for your reference.

Please contact the Investigating Officer on the above telephone number to confirm your attendance at this Investigatory Meeting.

A copy of this letter has been enclosed for your representative.

Yours sincerely

Governors invite to hearing

Dear **name**

Disciplinary Hearing, (*insert name of accused)

I am writing to confirm the details of the above hearing are as

follows: Date

Time

Venue

The hearing has been arranged to consider an allegation that (insert allegations).

A pre-meeting has been arranged for you and your colleague Governors on the sub-committee with (insert name of HR rep) at (insert time/venue). Please report to the Reception Desk on your arrival.

Please find enclosed a number of documents which will be referred to by the Academy's representative and which I should be grateful if you would bring with you to the hearing. The procedure to be followed at the hearing is detailed in Appendix 4 of the disciplinary procedure which is enclosed.

Circulation of documents is restricted to members of the Committee and those presenting the case for and against the allegation. This level of confidentiality ensures that, if further disciplinary procedures need to be followed, the Governors involved at that stage would have no prior knowledge of this information. It is therefore important that the details of the case are kept confidential.

The Academy's case will be presented by (name of investigating officer) supported by (name of HR rep). The following witnesses will be called (names). (name of employee) or his/her representative will have the opportunity to reply to the case made against him/her and in doing so may call witnesses or present documents.

If you have any further queries about the arrangements, please contact myself on the above telephone number.

Yours sincerely

INVITE TO HEARING (ACCUSED)
Italics = options – delete as appropriate

Dear *Name*

Disciplinary Hearing

I am writing to inform you that I have now completed the investigation into the following allegations:

(Allegations)

I have concluded that there is a case to answer and I am therefore advising you that you are required to attend a Disciplinary Hearing being arranged in accordance with the Disciplinary procedure. *(IF GROSS MISCONDUCT IS ALLEGED) I must advise you that if the Disciplinary Panel is satisfied that the above allegations have been substantiated, they could be regarded as gross misconduct and you could be dismissed without notice.*

The details of the hearing are as follows:

Date:

Time:

Venue:

If you have specific needs due to a disability or language difficulty, support/facilities will be provided. Please contact me on *****

The case will be heard by a panel of 3 governors *(if appropriate)* and will comprise (names)

The Panel will be supported by **(name of HR Advisor)**

The case against you will be presented by **(name)** supported by **(name of HR support)**:

The following witnesses will be called: ****

The investigating officer will also refer to documents which will be *forwarded to you at least 5 working days before the hearing (or - a copy of each is enclosed with this letter).*

In accordance with the disciplinary procedure you are entitled to be accompanied by a trade union representative or a representative of your choice. If you intend to submit any written evidence, a copy of this together with the names of any witnesses you intend to call should be sent to me by **(date (5 working days before hearing))** in order for it to be

circulated to the panel.

A copy of this letter and documents, *including a copy of the Disciplinary Procedure (if included)* is also enclosed for your representative.

Please confirm your attendance by **(date)**.

Yours sincerely

Dear **(name)**

Disciplinary Hearing

Further to our investigation meeting held on x, and subsequent discussion I am now writing to confirm arrangements for the disciplinary hearing on:

Date:

Time:

Venue

If you have specific needs due to a disability or language difficulty, support/facilities will be provided. Please contact me on *****

Please report to the Reception Desk on your arrival at the Academy and then you will be required to wait in the **<insert room>** until you are called to give your evidence.

As discussed you are entitled to be accompanied by a trade union representative or a representative of your choice.

I enclose a copy of the Disciplinary procedure which outlines the procedure for the hearing in Appendix 4. I also enclose a copy of your statement for your reference. This is a confidential document which should not be discussed with anybody except your representative outside of the hearing.

If you find you are unable to attend for any reason, please contact me as soon as you are aware.

Yours sincerely

Investigating Officer

Investigation Meeting

Dear *Name*

Investigation Meeting

Further to our discussion in respect of an ongoing investigation, I am now writing to confirm arrangements for the meeting on:

Date

Time

Venue

If you have specific needs due to a disability or language difficulty, support/facilities will be provided. Please contact me on *****

As discussed you are entitled to be accompanied by a trade union representative or a representative of your choice.

If the outcome of the investigation is that there is a case to answer you may be required to attend, as a witness, a Disciplinary Hearing at a later date.

Please confirm if you are unable to attend.

Yours sincerely

Investigating Officer

LETTER NOTIFYING OF INVESTIGATION

Dear (***Name**)

I am writing to confirm that I have received information concerning alleged incidents on (***Date**).

The allegations made against you concern (*** Insert allegation**).

An investigation will be undertaken on behalf of the Academy to determine whether there is a need to refer the matter for consideration under the formal disciplinary procedure.

A nominated Investigating Officer will be appointed to undertake a full investigation supported by Human Resources. During the investigation you will be formally interviewed and you will be required to give your full cooperation. You will have an opportunity to respond to the allegations and to provide any relevant information.

You will be notified of any amendments to these allegations arising from the investigation.

You are entitled to be accompanied to any meetings in relation to this by your Union representative or nominated friend or colleague. It is your responsibility to arrange this and a copy of this correspondence is enclosed for you to give to them.

If there is a disciplinary case to answer as a result of this investigation, a disciplinary hearing will be arranged in accordance with the disciplinary procedure. Should at any time during the investigation further allegations are made then consideration may be given as to whether it would merit an allegation of gross misconduct. A copy of this procedure is enclosed for your information.

I must advise you that if the investigation concludes that formal disciplinary proceedings are required, and if a formal disciplinary hearing under the disciplinary procedure finds an allegation of serious misconduct is substantiated this could lead to a formal oral warning, written warning or final written warning.

Please note that all investigations are dealt with in the strictest confidence and the matter should not be discussed with anyone else except your trade union representative or the friend/colleague who is supporting you. However, if you would like to discuss the matter with someone who will have no connection with the investigation of these complaints you can contact the Occupational Health Counselling on xxxx

The nominated investigating officer will be contacting you shortly to invite you to an investigation meeting to discuss the allegations.

If you have any queries please contact me or (**HR Representative Name**) on ****.

Yours sincerely

(Investigation Officer's name (can be the Academy Principal)**)**

Investigation Officer/Academy Principal

SUSPENSION FROM DUTY Italics – amend as necessary

Dear (*Name)

Suspension from duty

I am writing to confirm your suspension from duty from your post of (***post title**). As the matter may constitute gross misconduct, you will be suspended on full pay with effect from (**date and time**). .

The allegations of (** allegations**) are:

*
*

You were informed of your suspension from duty at a meeting on (***Date**) in the presence of myself and *Human Resources Adviser*

Your suspension is without any presumption of guilt and will continue until the matter is fully investigated. The investigation will be undertaken on behalf of the Academy to determine whether there is a need to refer the matter for consideration under the formal disciplinary procedure.

(Option – The timing of the Academy’s investigation would need to have regard to any requirements of the child protection procedure if that is invoked.)

A nominated Investigating Officer will be appointed to undertake a full investigation supported by Human Resources. During the investigation you will be formally interviewed and you will be required to give your full cooperation. You will have an opportunity to respond to the allegations and to provide any relevant information.

You are entitled to be accompanied to any meetings in relation to this by your Union representative or nominated friend or colleague. It is your responsibility to arrange this and copies of correspondence will be given for you to give to them.

If there is a disciplinary case to answer as a result of this investigation, a disciplinary hearing will be arranged in accordance with the disciplinary procedure. A copy of this procedure is enclosed for your information.

I must advise you that if the investigation concludes that formal disciplinary proceedings are required, and if a formal disciplinary hearing under the disciplinary procedure finds an allegation of gross misconduct is substantiated this could lead to your summary dismissal (dismissal without notice).

You must not communicate with fellow employees or service users about any matters relating to your suspension during the course of the investigation unless specifically

agreed by the Investigating Officer, as any attempt to do so may result in further allegations. The investigation should be treated as strictly confidential.

Should you wish to speak to any possible witnesses or require any documents or information, which may assist you in answering the allegations against you, please contact the Investigating Officer so that the appropriate arrangements can be made. Whilst suspended from duty you are required to be available to attend any meetings arranged and you should inform the Academy Principal if you require leave of absence.

I appreciate this may be a difficult time for you. Occupational Health Counselling and Support Unit are available to provide confidential advice and support. If you wish to use their services you can contact them on xxxxx and I would recommend you do so.

If you have any queries concerning this letter please contact me on xxx or the HR Advisor on xxx

Yours sincerely

Interviewing child – letter to parent

PRIVATE AND CONFIDENTIAL

Dear **(Parents name)**

I am writing regarding an incident, which occurred on **(date)** which, **(Childsname)** may have witnessed. I would like to stress that **(childsname)** is not in any trouble but may have some useful information.

We would like to interview **(childsname)** on **(date, time and place - if not Academy)** and would like to invite you to be present if you wish. **(Name of HR rep)** and myself will conduct the interview.

Please do not hesitate to contact me if you have any further concerns regarding this matter or would like to attend but would prefer a different time.

Yours sincerely

(Investigating Officer)

**Disciplinary outcome – serious
misconduct**

Italics = option = delete as appropriate

Dear (*** Name ***)

Outcome of Disciplinary Hearing

I write to confirm the outcome of the disciplinary hearing that you attended on (* Date *) (was heard in your absence as you chose not to attend or put forward any evidence). The Disciplinary Sub-Committee considered the following allegations:

[Allegations]

After considering the evidence carefully the Disciplinary Sub-Committee were satisfied that the allegation(s) against you had been substantiated. The Sub-Committee took the mitigating circumstances of your case fully into account (if there were any). Nevertheless, they decided that the offences amounted to serious misconduct and that you would be issued with a formal (*oral warning, not more than 6 months; written warning, not more than 9 months; or final written warning, not more than 12 months; * delete as appropriate*) from (date decision is made) which will be kept on your personal file for a period of

You have the right to appeal to a Sub-Committee of Governors against the above decision. If you wish to exercise this right, you should advise the Chair of the Sub-Committee of Governors, in writing, within 10 working days of receipt of this letter. I enclose an extract from the Disciplinary procedure relating to Appeals.

A copy of this letter has been enclosed for your representative.

Yours sincerely

[Name]

Chair of the Committee of Governors
On behalf of the Committee

EXTRACT FROM THE DISCIPLINARY PROCEDURES

7. Appeals against Disciplinary Action

- 7.1 An employee has an unconditional right to appeal against any disciplinary action.
- 7.2 An employee may appeal against a formal warning (oral, written or final written) to a sub committee of governors, whose decision shall be final.
- 7.3 The grounds on which the appeal is based should be stated and fall into one (or more) of the categories listed below, although this list is not exhaustive.
 - a) that the disciplinary procedure has not been properly followed;
 - b) that all the evidence was not considered at the disciplinary hearing;
 - c) that the employee has been unfairly treated owing to the chair of the disciplinary hearing showing unfair bias or prejudice against the employee;
 - d) that the severity of the disciplinary action is too great for the offence(s);
 - h) new evidence.
- 7.4 Alternatively, the employee may wish to appeal on grounds of clemency alone, thereby accepting the findings of the disciplinary hearing but appealing for leniency in respect of the disciplinary action taken.
- 7.5 The notice of appeal must be submitted in writing, to the Governing Body, within 10 working days of the employee receiving written confirmation of the warning. Appeals against dismissal, or alternative action short of dismissal, must be notified to the Governing Body within 20 working days of the employee receiving written confirmation of the disciplinary action taken. Notification should state clearly the grounds of appeal as set out in the paragraph above.
- 7.6 The outcome of an appeal could be that the original disciplinary action will be retained, reduced or withdrawn. Where a sanction is reduced or withdrawn, any financial detriments will be reimbursed.
- 7.7 The employee will normally be notified of the conclusion of the appeal hearing at the end of the hearing. The employee will be formally notified in writing of the outcome of the appeal and the reasons for the decision

as soon as possible.

Note: If appeals are not registered within the time limits then they will not be heard. Only exceptional circumstances for late registration will be considered.

INVESTIGATION MATRIX

Date

<u>Allegation/incident:</u>			
<u>Issues to be addressed</u>			
<u>Who should be interviewed?</u>	<u>Why?</u>	<u>What order?</u>	<u>Statement Attached?</u>
<u>Additional Actions? Reason?</u>			
<u>Examine document</u>	<u>Why?</u>	<u>Issue to employee</u>	

INTERVIEW PLAN

Name of Interviewee:

Date:

<u>Allegation/incident:</u>
<u>Purpose of Interview:</u>
<u>Proposed question areas:</u>
<u>Written statement obtained</u> Yes/No/Attached (if no summary of interview overleaf)
<u>Summary/conclusion:</u>