



# Staff Discipline Policy

Last Review Date: September 2025

Next review Date: September 2026

Approved by:

<u>Rob Brocklebank</u>	Headteacher
<u>Maria Taylor</u>	Chair of governors

Date:

September 2025

Last updated: 1 September 2025

## LANCASHIRE COUNTY COUNCIL

### DISCIPLINARY AND DISMISSAL PROCEDURE FOR TEACHERS EMPLOYED BY LANCASHIRE COUNTY COUNCIL IN CENTRALLY MANAGED SERVICES (2025)

#### 1. PURPOSE

- 1.1 This document sets out the procedure to be followed in situations involving disciplinary action against teachers
- 1.2 This procedure is published as part of the Authority's staffing policies and has been produced after consultation with the recognised Teacher Unions. It is designed to maintain high standards in a manner which is professional, fair and effective

#### 2. APPLICATION

- 2.1 This procedure applies to staff employed by Lancashire County Council under the School Teachers' Pay and Conditions Document in centrally managed services. Staff employed within centrally managed services who are not employed under the School Teachers' Pay and Conditions Document will be subject to the County Council's Disciplinary Procedure for staff employed under NJC terms and conditions.
- 2.2 This document sets out the formal disciplinary procedure to deal with allegations of misconduct. Counselling, reminders and other informal action, which may, on occasion, be necessary in the course of day to day operation of the service, lie outside the scope of this document. **Minor problems should be resolved without recourse to the formal procedure** and, wherever necessary, consideration should be given to providing the appropriate support and assistance.

#### 2.3 DEFINITIONS

It is necessary at this stage to illustrate the meaning attached to specific terms:-

MISCONDUCT	-	This is an act or omission by a teacher, which is considered to be unacceptable professional behaviour. It can also have very serious dimensions including those involving criminal proceedings.
INCOMPETENCE/LACK OF CAPABILITY	-	This refers to situations where, due to a lack of capability and/or application, a teacher fails consistently to perform their duties to a professionally acceptable standard.
LEVELS OF DISCIPLINARY MISCONDUCT	OF	It is not the purpose of this procedure to classify all levels of misconduct. Each incident which may give rise to the consideration of disciplinary action will be judged independently according to the particular circumstances of the case, including the previous conduct of the particular teacher. However, a general guide is attached as Annex 1. Attention is drawn specifically to the fact that any act of gross misconduct could result in dismissal with or without notice.

### **3. GENERAL PRINCIPLES**

- 3.1 All issues involving disciplinary and dismissal matters falling within this procedure will be treated in the strictest confidence. The authority processes personal data collected during the investigation stage and any subsequent stages of disciplinary action in accordance with its data protection policy. In particular, data collected as part of the investigation stage and any subsequent stages of disciplinary action is held securely and accessed by, and disclosed to, individuals only for the purposes of completing the disciplinary procedure. Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with the data protection policy. It may also constitute a disciplinary offence, which will be dealt with under this procedure.

- 3.2 If the Head of Service or relevant senior manager considers the teacher's conduct may warrant disciplinary action, they may wish to consult the HR Service for advice on the implementation and application of this procedure.

Following investigation, in cases of alleged gross misconduct, it will be necessary to refer the matter to the relevant Head of Service. Advice should be sought from the HR Service who will assist the Head of Service in conducting a Disciplinary Hearing.

- 3.3 No disciplinary action will be taken against a teacher without the teacher first being given an opportunity to answer any allegation made. In certain exceptional circumstances, in the best interests of the service, pupils and the teacher concerned, a teacher may be suspended without an opportunity to answer allegations. Whilst having serious implications for all concerned, suspension does not constitute disciplinary action. However, where suspension occurs the teacher will be informed of the reasons for the suspension. (See Section 4 and Annexes 2 and 3 for further information on suspension.)

- 3.4 There will be cases where an employee may have a disability that has a serious impact on their ability to respond to issues during the investigation meeting or disciplinary hearing. If this is the case, whatever reasonable adjustments are practicable will be made to ensure that such disadvantages are overcome.

Employees with other physical impairments will also be offered reasonable adjustments such as frequent breaks, a separate room and adjournments.

Anyone with a depressive illness, anxiety state or "stress-related" illness will be offered at least one postponement of the hearing where appropriate and where this can be accommodated within a reasonable timescale.

Other than in circumstances where the employee provides expert medical evidence that they are unable to understand what is being said and cannot give instructions to their representative, the hearing will take place. Holding the hearing at a neutral venue may be considered, if this is practicable to assist the employee, if medical advice recommends this. Other alternatives may be offered for the employee to be offered the opportunity to send in written representations or send a representative in their place.

All requests for reasonable adjustments will be sympathetically considered on a case-by-case basis, in light of medical evidence.

- 3.5 A teacher has the right to attend and be represented, by a fellow worker or representative of a recognised trade union, **at any meeting convened under this procedure**. The Head of Service should remind the teacher of their right to representation and should ensure that the teacher is provided with a copy of the procedure. The teacher may also be accompanied by a scribe whose function is to take written notes to serve as a private record for the teacher. If the representative is unavailable, the hearing can be postponed for up to 5 working days<sup>1</sup> if a reasonable alternative time within the following 5 day period is provided.
- 3.6 Senior managers when presenting a report to the Head of Service or an Appeals Panel convened under these procedures will have the right to be accompanied by a work colleague or a representative of the HR Service.
- 3.7 Where disciplinary action is being considered against a teacher who is also an accredited representative or officer of a recognised Trade Union, no disciplinary action will be taken until the circumstances of the case have been discussed by an officer nominated by the Executive Director Education and Children's Services and a senior trade union representative or full-time officer of that Union (unless the individual concerned chooses to waive that right).
- 3.8 The power to adjourn meetings convened under this procedure rests with the senior manager or Head of Service. In the event of an adjournment, the senior manager, Head of Service or Appeals Panel will remain unchanged, unless very exceptional circumstances apply and with the agreement of both parties.
- 3.9 **Position of the Head of Service and senior managers**

---

<sup>1</sup> One of the 195 days of the published school year when a teacher is required to be available for work under the School Teachers Pay and Conditions Document  
FINALVERSION\_V1.0\_200825\_SCHOOLSHRTEAM

Reference to 'Head of Service' throughout this document is defined as the head of each centrally managed service. The Head of Service will have the authority to consider cases of potential gross misconduct and to dismiss where appropriate. Reference to 'senior manager' is defined as any officer employed within a service who is nominated by the Head of Service to undertake investigations and/or consider cases of misconduct with the exception of gross misconduct. Where the Head of Service is the subject of disciplinary action such cases will be considered by the Executive Director Education and Children's Services or their representative.

#### **4. SUSPENSION**

**Note** Guidelines on suspension are set out in Annex 3.

- 4.1 Suspension should not be undertaken without good reason. A teacher may be suspended from duty in the circumstances outlined in Annex 3.
- 4.2 Suspensions will be effected by either the Head of Service, a senior manager (as approved by the relevant Head of Service) or a member of the HR Service. The teacher will have the right to attend any meeting convened for the purpose of suspension, to be represented by a fellow worker or representative of a recognised trade union, to be informed of the reasons for suspension at the time, and to be given an opportunity to respond. Reasons for suspension will be confirmed in writing within three working days. In certain, exceptional circumstances, it may be necessary to suspend a teacher immediately.
- 4.3 Suspension will be on full pay and will be the subject of a monthly review.
- 4.4 Arrangements to support a teacher during a period of suspension are set out in Annex 4.
- 4.5 **Suspension of Head of Service**

The procedures outlined in 4.1 to 4.5 above, will apply except that the power to suspend will rest with the The Executive Director Education and Children's Services.

#### **5. INITIAL PROCEDURES**

- 5.1 Where a teacher's conduct gives cause for concern, a meeting will be convened at which the teacher will be given the opportunity of explaining their conduct to the Investigating Officer, who could be either a senior manager or the Head of Service. At least 10 working days notice of the meeting will be given to the teacher, in writing, together with details of the misconduct to be discussed. The teacher will also be reminded of their right to representation at the meeting (see paragraph 3.5) and will be supplied with a copy of this procedure. The Head of Service or senior manager may be accompanied by a member of the HR Service.
- 5.2 Where the conduct of a teacher, undertaking a peripatetic role, gives cause for concern, the headteacher of a school in which the teacher is working will notify the Head of Service in which the teacher is employed.
- 5.3 At any meeting convened under this procedure, either party may request an adjournment which will not unreasonably be refused.

- 5.4 At the meeting, if the teacher gives an acceptable explanation of their conduct, then no further action will be taken. If no action is taken, no record of the meeting will appear on the teacher's file.
- 5.5 Should no acceptable explanation be given of a teacher's conduct, the senior manager/Head of Service has to decide what further action is appropriate.

This may be to:

- (i) issue a written instruction (having regard to the terms of the teacher's contract and the normal duties/expectations of all teachers in the Service)

Note:

- The issuing of a written instruction, which the teacher should acknowledge, in writing, is not disciplinary action. Wherever possible, a time limit of no more than six months should be applied and records expunged at the end of the period. The teacher should be informed, in writing, at the time this takes place.
- An instruction should only be used in any disciplinary context if it is directly relevant to the matter under consideration.

- (ii) issue a disciplinary warning

- (iii) refer the matter for a disciplinary hearing with either a senior manager or Head of Service (in the case of alleged gross misconduct) and inform the teacher accordingly.

## 5.6 **Position of Head of Service**

The initial procedures will be conducted in accordance with the above, except that the relevant Director will act in the capacity ascribed to the Head of Service. An appropriate senior manager or a member of the HR Service will be assigned to undertake the necessary investigation into the alleged misconduct.

## 6. **FORMAL DISCIPLINARY SANCTIONS**

- 6.1 Depending upon the seriousness of the conduct complained of, a formal sanction (first written warning, second written warning, final written warning or dismissal), may be issued (see Sections 5 and 8). The person(s) authorised to issue these sanctions are as follows:-

First Written Warning - A senior manager or Head of Service

Second Written Warning - A senior manager or Head of Service

Final Written Warning - A senior Manager or Head of Service

Dismissal Decision (with or without notice) - Head of Service

The above sanctions are not necessarily issued in sequential order. Any sanction may be issued for a first disciplinary offence. The sanction issued is dependent upon the seriousness of the allegation/level of misconduct (See Annex 1)

- 6.2 The person(s) issuing a formal warning must clearly advise the teacher of the consequences of disregarding the warning and of the right of appeal against the warning and the procedure for making an appeal.
- 6.3 Where a teacher is given a formal warning, whether it is first, second or final, they will be advised that the warning constitutes a formal stage of the disciplinary procedure and its place in the procedure explained.
- 6.4 If the conduct continues to be unsatisfactory or further offences occur, consideration must be given to further disciplinary action under this procedure.
- 6.5 All formal warnings will be confirmed, in writing, within 5 working days.
- 6.6 A copy of the warning will be retained in the teacher's file. A first written warning will be retained for a period of 6 months, a second written warning will be retained for a period of 1 year and a final written warning will be retained for a period of 2 years.

A warning will not be disregarded if a subsequent warning is issued in relation to further misconduct whether of a similar nature or otherwise which occurs whilst a warning remains 'live' on file. The original warning will run concurrently with the most recent warning. It is the date of the further misconduct which determines whether an earlier warning remains "live" and not the date of the hearing in respect of further misconduct. Records of warnings will be expunged at the end of the stated time and any note or reference thereto should be removed from the teacher's personal file and the teacher concerned informed, in writing, at the time this takes place. Statutory guidance contained within 'Keeping Children Safe in Education' states that in respect of safeguarding concerns, a clear and comprehensive summary of the allegation and decision reached should be kept until the employee reaches normal retirement age or for a period of 10 years from the date of allegation if that is longer.

Where a warning has been expunged, neither the warning nor the material can be subsequently used in any disciplinary hearing.

#### **6.7 Position of Head of Service**

The procedures relating to warnings which may be issued to a Head of Service are the same as described in Paragraphs 5 and 6 except that any warning will be issued by the Executive Director Education and Children's Services.

### **7. DISCIPLINARY HEARINGS**

#### **7.1 Presentation of Reports at a Disciplinary Hearing**

Where a decision has been made to refer the matter of a teacher's conduct to either a Senior Manager (excluding cases of alleged gross misconduct) or the Head of Service, the following procedures will apply:-

- (a) The senior manager or other senior nominated officer will inform the teacher that a report is to be presented to a Disciplinary Hearing, and the reason(s) why this action is being taken. Thereafter, the investigating officer or other appropriate person will inform the employee, in writing, of the date, time and place of the hearing, along with details of the officer conducting the hearing. The teacher will be advised that failure to attend the hearing without an acceptable reason could lead to the hearing proceeding in their absence.
- (b) A copy of the report together with copies of any statements, will, be sent to the teacher so as to arrive no later than 10 working days before the date of the hearing.
- (c) A teacher may if they wish submit to the investigating officer or other appropriate person any documents concerning the report for circulation no later than 5 working days before the hearing.
- (d) A copy of all documentation (including any accompanying documents submitted by the teacher) will normally be forwarded to the officer conducting the hearing at least 5 working days prior to the hearing.
- (e) The introduction of reasonable relevant additional documentary evidence during the hearing will be allowed.
- (f) At any hearing held under this procedure, a witness may give evidence by reference to written statements.
- (g) Should it prove necessary to adjourn the hearing to a later date, it will be reconvened as soon as possible, and normally in not more than a further 20 working days.
- (h) At all stages of the hearing the senior manager or Head of Service will be accompanied by a member of the HR Service.

## **7.2 Procedure at a Disciplinary Hearing**

- (a) The Officer presenting the report should do so to either a senior manager or Head of Service and will be entitled to call and recall witnesses as necessary.
- (b) The teacher and/or their representative will be entitled to question the presenter of the report and any witnesses called.
- (c) Witnesses should only normally be present when they are required to give evidence directly to the hearing.
- (d) The teacher and/or their representative will be entitled to make an opening statement and present any documents and to call and recall witnesses as necessary.
- (e) The presenter of the report will be entitled to question the teacher and any witnesses who have been called by them.
- (f) The presenter of the report will be entitled to make a closing statement and, thereafter, the teacher or their representative will have the same right.



- (g) At any stage during the hearing, the senior manager or Head of Service will be entitled to question any person who has made a statement or given evidence at the hearing.
- (h) The parties will then withdraw from the hearing and the Senior Manager or Head of Service will reach a decision in private and with advice from the HR Service. The decision may be conveyed, orally, to both parties and will be confirmed in writing within 5 working days.
- (i) The options available to the senior manager or Head of Service are as follows:
  - (i) to take no further action;
  - (ii) to issue a written instruction;
  - (iii) to take disciplinary action in accordance with paragraph 6.1.
- (j) In cases of gross misconduct, where the decision is to dismiss without notice, termination of employment will take effect from the date of the decision. In the event that any subsequent appeal reverses the decision, the termination of employment will be rescinded and any arrears of salary will be reinstated accordingly. Any appeal against a decision to dismiss shall not be unduly delayed and in any event, shall be heard within 20 working days of the date of the dismissal decision.

### **7.3 Disciplinary Action Against Head of Service**

The presentation of a report at a Disciplinary Hearing and any disciplinary action will be in accordance the above. However, the report will be presented to the Executive Director Education and Children's Services or their nominated officer by the Investigating Officer.

## **8. APPEALS AGAINST A DECISION MADE AT A DISCIPLINARY HEARING**

- 8.1 A teacher or Head of Service who has been given a formal disciplinary sanction may appeal in accordance with the following procedure:-
  - warning issued by a senior manager: appeal to the Head of Service
  - warning/dismissal issued by a Head of Service: appeal to the Executive Director Education and Children's Services.

NB In the case of a warning/dismissal issued to a Head of Service the appeal will be considered by an appropriate Director of the Authority not previously involved in the case as deemed appropriate.

- 8.2 Notice of appeal, stating the grounds thereof, will be given, in writing, to the Head of Service within 10 working days of receipt of the written confirmation of the warning/dismissal.
- 8.3 An appeal against a disciplinary warning will be heard by the Head of Service or their representative. An appeal against dismissal will be heard by an Appeals Panel of the Authority comprising 3 senior officers. The Appeals Panel will include a member of the HR Service and at least one other senior manager with knowledge of school teachers' pay and conditions of service and of the relevant service area. No officer serving on a panel will have had any previous involvement in the case under consideration. Advice may also be sought from a Legal Services representative.
- 8.4 Appeals will be dealt with by way of re-hearing and the order of proceedings will be in accordance with paragraph 8.8 below
- 8.5 Written notification of the date, time and place of the hearing will be given to the teacher so as to arrive not later than 10 working days before the date of the hearing and the teacher will receive, by that time, a copy of the report(s) and any statements, together with the decision made at the Disciplinary Hearing, which are to be considered at the Appeal.
- 8.6 The teacher may submit any documents concerning the decision made at the Disciplinary Hearing no later than 5 working days before the meeting.
- 8.7 A copy of all documentation (including documents submitted by the teacher) will be forwarded to the Head of Service/members of the Appeal Panel prior to the hearing.
- 8.8 **Procedure at the Hearing of an Appeal Against a formal Disciplinary Sanction/Dismissal**
  - (a) The person who administered the warning/dismissal which is the subject of appeal will present the reasons for taking such action and will be entitled to call witnesses to support their case. Alternatively, the Investigating Officer will present the case.
  - (b) The appellant and/or their representative will be entitled to question the person referred to in (a) above and any witnesses called.
  - (c) Witnesses should only normally be present when they are required to give evidence directly to the hearing.
  - (d) The appellant and/or their representative will be entitled to make an opening statement in support of the appeal against the warning and will be entitled to call witnesses to support their case.
  - (e) The person referred to in (a) will be entitled to question the appellant and any witnesses who have been called by them.
  - (f) The person responsible for administering the warning/dismissal will be entitled to make a closing statement and thereafter the appellant and/or their representative will have a like right.

- (g) At any stage during the appeal the officer(s) hearing the appeal will be entitled to question both parties and their respective witnesses.
  - (h) On conclusion of the foregoing, both parties will withdraw from the meeting and the officer(s) hearing the appeal will reach a decision in private, which will be conveyed orally to both sides and subsequently confirmed in writing within 5 working days.
  - (i) Where a lesser sanction is substituted or a warning is rescinded as a result of an appeal, the record in the teacher's file will be expunged or amended as the case may be.
- 8.9 The Head of Service/Appeals Panel will only have the power to confirm, to substitute a lesser sanction or to set aside the decision made at the Disciplinary Hearing as the case may be. The Panel will also be able to consider the possibility of the transfer to another post, having regard to the terms of the teacher's contract.
- 8.10 The decision of the Head of Service/Appeals Panel will be final and no further rights of appeal or hearing will be allowed under this procedure.

## 9. RECORDS

- 9.1 Records of warnings (excluding those relating to safeguarding allegations – see paragraph 6.6 above) will be expunged at the end of the stated time and any note or reference thereto should be removed from the teacher's personal file and the teacher concerned informed, in writing, at the time this takes place.
- 9.2 If a teacher is dismissed or resigns before a disciplinary process is completed, they will be informed about the employer's duty to report the case to the Disclosure and Barring Service (DBS) in accordance with 'Keeping Children Safe in Education' statutory guidance (in the case of a safeguarding allegation) or the Teaching Regulation Agency, who are responsible for the regulation of Teachers in respect of serious misconduct.

## 10. THE ROLE OF OFFICERS AND THE HEAD OF SERVICE

- (a) **The Disciplinary Hearing** can be conducted by either a senior manager, Head of Service or Director as appropriate. Only the Head of Service or Director have the authority to consider allegations of gross misconduct. A member of the HR Service will be available to assist in a Disciplinary Hearing if required. No officer conducting a Disciplinary Hearing will have had any previous involvement in the case under consideration.
- (b) **The Appeal Hearing** An appeal against a warning may be heard by the Head of Service/Director. An appeal against dismissal will be heard by an Appeals Panel of the Authority comprising 3 senior officers. The Appeals Panel will include a member of the HR Service and at least one other senior manager with knowledge of school teachers' pay and conditions of service and of the relevant service area. No officer serving on a panel will have had any previous involvement in the case under consideration.

- (c) **The Role of the Presenter of a Report** - in the majority of cases the case will be presented by a Senior Manager/Investigating Officer. Any officer acting in this capacity would be party to the proceedings and the role to be played would be limited accordingly. Clearly this officer could not offer advice and would not withdraw with the Disciplinary or Appeals Panel when they make their decision. They could not subsequently act in a potentially conflicting role at any later stages (eg advising an appeals body).

## 11. CRIMINAL OFFENCES

- 11.1 If the disciplinary allegations relate to the abuse of children, the senior manager will refer the matter to the Head of Service. Serious allegations of this nature **must** be referred under Safeguarding Procedures to the Local Authority Designated Officer (LADO). The statutory guidance contained within Part 4 of 'Keeping Children Safe in Education' sets out the details of how such allegations must be handled.
- 11.2 Normally a teacher will not be the subject of any disciplinary proceedings in respect of a matter whilst it is the subject of police investigations/legal proceedings.
- 11.3 Where a teacher is convicted of a criminal offence which has a bearing upon their employment, they may, subsequently, be subject to disciplinary action in accordance with this procedure.
- 11.4 Where a teacher is not available for duty by reason of being detained in custody and is, subsequently, found not guilty, any salary withheld during that period of detention will be reimbursed to the teacher. The teacher must be informed if salary is to be withheld.
- 11.5 In addition to the matter being dealt with by the police and the local authority (via the disciplinary procedure), in some cases of serious misconduct, the matter may also be referred to the DBS or the TRA may refer matters that they become aware of to the DBS or local authority. DBS and TRA have a statutory right to remove the right of any person to work as a teacher in the UK, and this may be a course of action in cases of serious misconduct.

## **DISCIPLINARY AND DISMISSAL PROCEDURE FOR TEACHERS IN CENTRALLY MANAGED SERVICES**

### **LEVELS OF DISCIPLINARY MISCONDUCT**

The lists below are merely for general guidance and should not be taken as either definitive or comprehensive. Each situation will be dealt with according to the particular seriousness of the circumstances.

#### **Examples of minor misconduct**

Minor time wasting  
Occasional lateness  
Minor instances of insubordination

#### **Examples of serious misconduct**

Persistent or serious instances of insubordination  
Persistent bad timekeeping  
Continued repetition of previous offences

#### **Examples of gross misconduct**

Gross misconduct, which will result in the immediate referral of an adverse report to a Disciplinary Panel and may result in dismissal, is regarded as misconduct of such a nature that it fundamentally breaches the contractual relationship between the employee and the employer.

#### **Examples of gross misconduct all of which may result in dismissal include:-**

Stealing from the employer, members of staff, pupils or parents, other offences of dishonesty;  
Sexual misconduct at work;  
Harassment of other staff, pupils or parents on the grounds of sex, ethnicity, sexual orientation, disability, religion, belief or age;  
Fighting, physical assault;  
Serious violation of the authority's policies relating to conduct at work, eg anti-bullying policy, computer security policy etc;  
Falsification of a qualification which is a stated requirement of employment or which results in financial gain;  
Deliberate damage to or misuse of school/authority property;  
Drunkenness or being under the influence of drugs at work, (note – the County Council's Policy Statement in respect of Drinking/Drug Abuse needs to be considered in these cases);  
Falsification of records or claims for personal gain etc;  
Wilful disregard of health and safety regulations;  
Serious negligence which causes unacceptable loss damage or injury;  
Serious violation of catering hygiene regulations;  
Intimidation of whistleblowers or witnesses to Hearings;  
Misuse of the internet, email, mobile telephone or other facilities,  
Other similar acts of misconduct may come within the general definition of gross misconduct

It should also be noted that disciplinary action may be considered in relation to acts of misconduct which take place outside of work, for example, in instances of criminal prosecution and/or conviction/caution for such actions. In addition disciplinary action may also be considered as a result of a Teacher's personal use/misuse of electronic communications and social media, including social networking sites. The considerations should be the relevance of the offence to the teacher's duties, the effect on the contractual relationship with the employer and /or on colleagues/pupils/parents, or whether the actions of the Teacher brings the reputation of the service/employer into disrepute. Disciplinary measures will not automatically be appropriate in these instances.

## DISCIPLINARY AND DISMISSAL PROCEDURE FOR TEACHERS IN CENTRALLY MANAGED SERVICES

### INVESTIGATIVE PROCEDURES

**Note :** The general principles within this procedure can be used for any investigation.

The investigation should be completed within 15 working days as far as is possible. Where this does not prove to be possible, the teacher should be kept informed as to progress.

1. An investigation is a fact-finding exercise with **the aim** of obtaining, as far as possible, a fair and balanced picture through a written record.
2. Whilst the investigation itself is confidential, the information collected will not be. Undertakings of confidentiality should not be given either to a person making an allegation or to those interviewed. Evidence compiled in the investigation may be made available to the parties in any subsequent hearing and those giving evidence in the investigation should be so informed.
3. Those making allegations will need to be interviewed as part of the investigation to record their allegations in the form of signed and dated statements. If the matter becomes the subject of a police investigation, they may be passed to the Police (authors of the statements should be informed before this happens). If the matter is referred to Audit, Police, LADO or other external agency the **internal service investigation must not proceed**.

#### 4. PRELIMINARY STAGES

- 4.1 The person undertaking the investigation should seek specialist advice as necessary from the HR Service and should familiarise themselves with any relevant procedures and guidelines.
- 4.2 The person investigating should:
  - define areas to be investigated;
  - draw up a provisional list of those to be interviewed and a list of topics to be discussed, extended as required during the investigation;
  - check corroborative evidence.

#### 5. THE INVESTIGATION PROCESS

- 5.1 Interviews should be carried out as soon as possible. A statement should be taken from each person, signed and dated. The person carrying out the investigation should have access to assistance as necessary to make the record. A suitable venue and time should be selected to encourage co-operation and the opportunity to be accompanied, by a fellow worker or representative of a recognised trade union, should be offered. At the beginning of an interview, a general explanation of the purpose of the investigation should be provided. If children are to be interviewed, this will need to be handled with sensitivity and care.

- 5.2 If, at any stage during the investigation, new evidence emerges which necessitates a referral to County Internal Audit, the Police or LADO **the investigation should be held in abeyance immediately following such a referral**. Consideration should also be given as to whether suspension is appropriate in such circumstances.

## 6. **INTERVIEWING THE MEMBER OF STAFF WHO IS THE SUBJECT OF AN ALLEGATION**

- 6.1 The point at which this occurs will depend upon the nature of the allegation and the investigation process. It may be necessary to interview the member of staff first and again, following interviews with other persons, to seek a formal response.
- 6.2 The member of staff should be informed of their right to take advice and be represented by a fellow worker or recognised trade union representative.
- 6.3 The member of staff should be invited to respond to the allegation and to make a statement. The member of staff has the right to respond, to decline to respond, to reserve a response whilst seeking advice or to request an adjournment to consider a response.
- 6.4 Full notes should be taken of the interview and the member of staff invited to read and sign them as a true record after the interview. A copy of the notes will be given to the member of staff.
- 6.5 The member of staff should be invited to identify any persons who may have information **relevant** to the investigation. These names should be added to the list of those to be interviewed.

## 7. **COMPILING A REPORT**

- 7.1 When all the relevant persons have been interviewed and all the relevant issues explored, the investigation is complete. The details obtained and the statements taken should then be compiled into a report.
- 7.2 Consideration should again be given as to whether there are serious matters which should be referred to Audit, the Police or LADO. If there is such a referral, **further proceedings at service level should be held in abeyance immediately**.

## 8. **SUBSEQUENT ACTION**

A decision will need to be taken at this stage on whether further action should be taken, including the possible referral of the report under the Disciplinary and Dismissal Procedure.

## DISCIPLINARY AND DISMISSAL PROCEDURE FOR TEACHERS IN CENTRALLY MANAGED SERVICES

### SUSPENSION

#### 1. INTRODUCTION

In all cases where a member of staff is to be suspended under this Disciplinary Procedure, the following process will be followed:

#### 2. REASONS FOR SUSPENSION

Circumstances in which suspension properly occurs include:

- (a) Where the allegation is so serious that dismissal for gross misconduct is possible.
- (b) Where an allegation of misconduct has been made against a member of staff and a suspension is necessary to allow the investigation to proceed unimpeded.
- (c) Where a member of staff is the subject of an allegation of misconduct, the nature of which could involve potential risks to children, or other employees or the member of staff themselves.
- (d) On completion of formal capability procedures which may result in a recommendation for the dismissal of the member of staff.
- (e) Where other exceptional circumstances arise.

Suspension should not be entered into lightly and it is not a disciplinary sanction. Automatic suspension following any allegation could be unnecessary and damaging to staff and the service. The Head of Service **must take advice from the** HR Service. They can then consider the weight and balance of the circumstances and evidence available.

In circumstances where suspension is considered, the decision should be clearly documented.

#### 3. PRIOR TO SUSPENSION

- (a) Any decision to suspend can only be made by the Head of Service or a senior manager as approved by the relevant Head of Service, or The Executive Director Education and Children's Services in cases involving the Head of Service.
- (b) In all cases where suspension is being considered, the teacher should be advised to seek assistance from their Trade Union.



- (c) In circumstances where immediate advice cannot be obtained (eg at the weekend) a reasonable course of action, as an interim measure, would be to send the member of staff home or to ask them to remain at home. Although, legally, this may be regarded as suspension, at this stage the proper process of suspension will not have been undertaken and the action is easily reversed, should the Head of Service, subsequently, decide to take alternative action. If the decision is subsequently to suspend, then the normal process should be carried out immediately.

#### 4. **MEETING TO CONSIDER SUSPENSION**

- (a) Where suspension is under consideration, a meeting should be arranged with the member of staff. For teachers this would normally be outside pupil contact time. The process must be handled sensitively. The member of staff has the right to be represented at the meeting by a fellow worker or recognised trade union representative.
- (b) In exceptional circumstances, where it may be necessary to suspend immediately, every effort should be made for representation but it may not be possible to have an opportunity to be represented. In such circumstances the member of staff must be advised by the Head of Service to consult a recognised trade union representative as soon as possible following the meeting.
- (c) Before the meeting, the member of staff should be offered the opportunity of a brief consultation with their representative.
- (d) At the outset of the meeting the member of staff should be informed that a serious complaint or allegation has been made and that, at the conclusion of the meeting, suspension might occur. It should be made clear, however, that the meeting is not a formal disciplinary hearing but is for the purpose of putting forward a serious matter which may lead to suspension and further investigation.
- (e) The member of staff should be informed of the reasons for any proposed suspension, as is appropriate in the circumstances.
- (f) In the case of an allegation involving an external agency (eg Safeguarding, Police, Audit) information shared should not interfere with the investigation. The member of staff should be informed that the agencies will undertake their own investigation and interview procedures.
- (g) The member of staff should be given an opportunity to make representations concerning the suspension. However, in view of the need for a subsequent investigation there will be no discussion of the detail of the case to avoid prejudicing the outcome of the investigation or the position of the member of staff.
- (h) The member of staff should be informed that they will be given a subsequent opportunity to put forward their side of the case at a separate meeting should the matter proceed into the Authority's Disciplinary and Dismissal Procedure.

- (i) If, as a result of the meeting, it is deemed that suspension is necessary along with a full investigation of the allegations, the member of staff should be advised that they are suspended from duty on full pay.
- (j) If it is deemed that suspension is unnecessary or that an alternative course of action (eg leave of absence) is more appropriate, no action will be taken to suspend, but other action may subsequently follow.

NOTE: There may be circumstances where it is considered inappropriate to convene a meeting.

## 5. AT THE CONCLUSION OF THE MEETING

- (a) The member of staff should be advised of the following:-
  - (i) the need to seek advice from a recognised trade union if not accompanied.
  - (ii) arrangements for support and contact from within the Service and a Contact Officer from the Authority, normally a nominated senior manager within the Service, who can offer help and guidance during the disciplinary process. (See Annex 4 - Support for staff during a period of suspension).

Note: where there is a need to suspend on a Friday or immediately before a holiday period, special consideration should be given to the support arrangements.
  - (iii) The member of staff will be required to be available for contact by management during working hours in the period of suspension.
  - (iv) In order not to prejudice the objectivity of the investigation, they are not permitted to attend the workplace or make professional contact with, or discuss the case with colleagues or other staff without permission.

If there is a need to contact other members of staff to gather evidence on behalf of the member of staff this should be done by their representative where applicable.
  - (v) What their colleagues will be told concerning the reason for their absence and about the nature of any contact. This is particularly important in cases of a sensitive nature and will allay continued suspicions or doubts if they return to work on the conclusion of any investigation/disciplinary action.
- (b) The member of staff should be informed that their suspension will be confirmed in writing, that the period of suspension will be kept under review on a monthly basis and that they will be informed by the Authority Contact Officer of progress relating to the investigation. Wherever possible the member of staff should be given an outline of the steps to be taken to investigate the matter and the timescales involved.
- (c) The member of staff should be asked to return any school/pupil books or keys, as appropriate, and, under supervision, collect any personal belongings which

they might need during the period of suspension. Access to the IT network may also be suspended.

## **6. REVIEW OF SUSPENSION**

All suspensions must be kept under review on a monthly basis by the Head of Service or a senior manager as approved by the relevant Head of Service. The aim should be to ensure that suspensions are kept as short as possible. It is unfair on a member of staff to delay the process of investigation and resolution of any disciplinary issues. Any internal investigation following an external investigation should normally commence no later than 20 working days following the conclusion of the external case.

## **7. ACTION AFTER A DECISION TO SUSPEND**

- (a) Where it is deemed appropriate, relevant staff in the Service should be informed of the fact of the suspension and the conditions applicable.
- (b) The Head of Service should consider carefully, and keep under review, decisions as to who is informed of the suspension and investigation and to what extent confidentiality can or should be maintained, according to the circumstances of a particular case. In a situation where a matter becomes common knowledge or the subject of general gossip, it may be desirable to provide an accurate statement for public information. The Head of Service and other staff should not speak to the media about the suspension or the allegations, without first seeking advice from the HR Service and the Corporate Communications Team on this matter as necessary.
- (c) The following paragraphs are applicable in safeguarding cases and guidance should be sought from the HR Service:
- (d) The Authority should consider the extent to which it is necessary to make a statement to parents of children, having considered the need to avoid unwelcome publicity.
- (e) In certain circumstances, it may be necessary for the Head of Service to provide immediate reassurance to parents and children and there may be a need for information to continue to be provided during the course of an investigation to parents, children and other colleagues.

## **8. OUTCOME OF INVESTIGATION**

- 8.1 At the end of the investigation, the member of staff should be informed of the outcome and any further action to be taken.
- 8.2 Where it is decided not to proceed with any form of disciplinary action, a suspension should be lifted immediately. The Head of Service should meet the member of staff, accompanied by their representative or fellow worker, to discuss their return to work.

In the case of the Head of Service, this will be undertaken by the Executive Director Education and Children's Services, who may be accompanied by a member of the HR Service.

- 8.3 The opportunity should be provided for informal counselling. This could be used to give appropriate, support and reassurance and where necessary to

help rebuild the confidence of the member of staff. There may also be a need for specific guidance and sympathetic consideration may need to be given to other employment options, in consultation with the HR Service.

8.4 On the conclusion of any investigation and any related disciplinary proceedings, in the case of safeguarding cases, the parents of the child/children who made the allegations and the child/children themselves should be informed of whether any action has been taken. This should be prior to the return of the member of staff to duty if they have been suspended.

8.5 In some circumstances, consideration should be given to the broader disclosure of details of the outcome. This consideration should give reasons, for example where the issues:

- are of general importance;
- have become common knowledge;
- have been the subject of general gossip;
- there is a need to provide accurate details for public information

The Corporate Communications Team will be able to offer appropriate advice.

## **ANNEX 4**

### **DISCIPLINARY AND DISMISSAL PROCEDURE - FOR TEACHERS IN CENTRALLY MANAGED SERVICES**

#### **SUPPORT FOR STAFF DURING A PERIOD OF SUSPENSION**

##### **1. INTRODUCTION**

The support described in this Annex is applicable to staff during a period of suspension or during a period of leave of absence/medical absence when these are alternatives to suspension.

It is recognised that there is a need for management, both at Service level and Authority level, to provide some means of support to staff who are the subject of allegations of misconduct at work, or who have been suspended for alleged misconduct under the Authority's Disciplinary Procedure. In such circumstances, the member of staff involved may experience feelings of worry and depression; they may also feel isolated from their workplace and colleagues.

It is important that staff are made aware of what is happening in relation to the disciplinary investigation, as lack of information may also lead to further stress and ill health. In addition, it must be understood that the allegations may have placed the member of staff in a difficult situation in relation to their family.

##### **2. CONTACT OFFICER**

- (a) A nominated senior manager within the Service will act as the Contact Officer. The main role of the Contact Officer is to provide information to the member of staff as to the progress of the investigation.
- (b) Although it is the aim that all investigations should be conducted as speedily as possible consistent with establishing the full facts, the Contact Officer will make arrangements for the member of staff, or their recognised Trade Union representative, to be contacted regularly with information on progress and developments on the case. These arrangements should not preclude the member of staff, or their representative contacting those conducting the investigation at any time.
- (c) The Contact Officer will also make arrangements for the Service to maintain contact and communication with the suspended member of staff.
- (d) In some cases, it may be appropriate to ask the member of staff whether the Employment Assistance Programme or the support of the Occupational Health Unit would be helpful, or to respond to a request for such further support. The Contact Officer will supply the relevant telephone numbers and arrange for access to such services at the request of the member of staff or their Trade Union representative.

##### **3. MAINTAINING LINKS WITH THE SERVICE**

With the agreement of the member of staff, the Contact Officer will act as a link providing them with information about developments at the Service in general, if they so wish.

4. **ROLE OF TRADE UNION REPRESENTATIVE**

The Trade Union representative may act as a liaison between the Contact Officer and the member of staff and, as necessary, between the Service and the member of staff.

Trade Unions usually have access to their own or other independent welfare counselling services, and the representative can arrange for access to such services at the request of the member of staff.

## **LANCASHIRE CHILDREN'S SERVICES AUTHORITY**

### **SCHOOL SUPPORT STAFF**

#### **MODEL DISCIPLINARY AND DISMISSAL PROCEDURE** **(REVISED AUGUST 2025)**

#### **1. PURPOSE**

- 1.1 This procedure is intended to clarify the rights and responsibilities of management, trade unions and employees. It sets out the course of action that will be followed in the event of disciplinary action being considered necessary.
- 1.2 This procedure is published as part of the staffing policies for the Governing Board of .....School.
- 1.3 **In this school, the decision to dismiss an employee under the Disciplinary and Dismissal Procedure has\*/has not\* been delegated to the Headteacher. (\*delete as appropriate).**

#### **2. SCOPE**

- 2.1 This procedure applies to all permanent and temporary, full and part-time employees, excluding those under School Teachers Pay and Conditions, who are employed by the Governing Board or otherwise subject to the disciplinary powers of the Governing Board.

#### **3. CONTEXT**

- (i) This procedure does not apply where notice is given during probationary service and dismissal arises from unsuitability for confirmation of appointment (or during any period of extension of any probationary period).
- (ii) This procedure does not apply on the termination of a fixed term or temporary contract of employment where the term of that contract expires without being renewed, or where the contract specifies an event which terminates the contract and the event has occurred.
- (iii) This procedure does not apply in relation to competency issues due to a lack of capability where the Governing Board has adopted a separate Capability Procedure.

#### **4. GENERAL PRINCIPLES**

- 4.1 Part 3 of the Education Act 2002 and its associated School Staffing (England) Regulations 2003 contains provisions relating to disciplinary and dismissal procedures. These are incorporated in these procedures.

- 4.2 In many cases the right word at the right time and in the right way may be all that is needed and will often be a more satisfactory method of dealing with a breach of discipline or unsatisfactory conduct than taking action via a formal investigation and a formal hearing and this procedure should not be used in these circumstances.
- 4.3 No disciplinary action will be taken against an employee until the matter has been investigated. Details will be gathered promptly and will include any comments the employee concerned wishes to make at this stage. During the course of the investigation the right to be accompanied applies to the employee concerned whenever they are interviewed or is involved in any meetings arising therefrom. The employee concerned must be kept informed of progress with the investigation in all instances. Where the employee is suspended from duty the arrangements set out in Paragraph 6 must be followed.
- 4.4 This procedure has been written on the understanding that the disciplinary investigation is undertaken by the Headteacher, and dismissal decisions are taken by the Disciplinary and Dismissal Committee of the Governing Board. However, in accordance with the provisions of the Education Act 2002 and its associated School Staffing (England) Regulations 2003, the Governing Board may elect to delegate the power to make dismissal decisions to the Headteacher. If this is the case, there will be no Disciplinary and Dismissal Committee. Instead the dismissal decision will be taken by the Headteacher, and the appeal referred to the Appeals Committee of the Governing Board. For further details, see Annex 4.
- 4.5 In these circumstances, to preserve the integrity of the process, the Governing Board should delegate the responsibility for the disciplinary investigation to another member of the School Management Team, thereby leaving the Headteacher available to consider what action should be taken at the end of the formal procedure, including dismissal.
- 4.6 In such cases, any reference to the role of the Headteacher within this procedure should be taken to mean the member of the school management team responsible for the disciplinary investigation.
- 4.7 The Education (School Government) (England) Regulations 1999 contain provisions relating to withdrawal from the governing board or committee meetings of persons normally entitled to attend these meetings. The general principle is that where there is a conflict between the interests of such a person and the interests of the governing board, or where the principles of natural justice require a fair hearing and there is reasonable doubt about the person's ability to act impartially, they should withdraw from the meeting and not vote.
- 4.8 The Employment Relations Act 1999 and the Employment Act 2008 provide the right for employees to be accompanied by a chosen companion who may be a fellow worker, a trade union representative, or an official employed by a trade union. A trade union representative who is not an employed official must have been certified by their union as being competent to accompany a worker. The 'companion' can address the meeting/hearing. If the fellow worker or trade



union representative is not available on the initial date set for a hearing, the employee has a right for the hearing to be postponed for up to five working days to allow a reasonable alternative time within this five day period to be identified.

- 4.9 There will be cases where an employee may have a disability that has a serious impact on their ability to respond during the investigation meeting or disciplinary hearing. If this is the case, whatever reasonable adjustments are practicable will be made to ensure that such disadvantages are overcome.
- 4.10 Employees with other physical impairments will also be offered reasonable adjustments such as frequent breaks, a separate room and adjournments.
- 4.11 Anyone with a depressive illness, anxiety state or "stress-related" illness will be offered at least one postponement of the hearing where appropriate and where this can be accommodated within a reasonable timescale.
- 4.12 Other than in circumstances where the employee provides expert medical evidence that they are unable to understand what is being said and cannot give instructions to their representative, the hearing will take place. Headteachers/Governors may consider holding the hearing at a neutral venue if this is practicable to assist the employee, if medical advice recommends this. Other alternatives may be offered for the employee to be offered the opportunity to send in written representations or send a representative in their place.
- 4.13 All requests for reasonable adjustments will be sympathetically considered on a case-by-case basis, in light of medical evidence.

## **5. SHOP STEWARDS/TRADES UNION REPRESENTATIVES**

- 5.1 No formal disciplinary proceedings will be taken against a shop steward/trade union representative until the circumstances of the case have been discussed with a full time official of the Union concerned (unless the individual concerned chooses to waive that right).

## **6. SUSPENSION**

- 6.1 Where a Headteacher or, where appropriate another senior member of staff, considers that suspension may be appropriate in circumstances of alleged, suspected or known misconduct (including where considered appropriate to facilitate investigation), s/he may suspend an employee with pay (ie. pay inclusive of all those payments which would have been made in respect of normal working arrangements).
- 6.2 Suspension with pay is not a disciplinary measure and must not be viewed as a judgement upon alleged, suspected or known misconduct. If practicable, provision will be made for the employee to choose to be accompanied. An employee shall be informed of the reason for suspension at the time and will be given confirmation of the suspension in writing.

- 6.3 The employee will not return to the school premises without invitation or permission of the Headteacher during a period of suspension
- 6.4 A school 'Contact Officer' will be nominated to keep the employee informed of progress on a regular basis and to act as a liaison between the employee and the school. For further details see Annex 3.
- 6.5 The need to continue with the suspension of an employee will be kept under review by the Headteacher and the employee will be informed of progress.

## **7 DISCIPLINARY MISCONDUCT**

### **7.1 CONSIDERATION OF DISCIPLINARY ACTION**

On completion of the investigation, the Headteacher will determine whether, on the basis of the evidence, arrangements should be made for a formal Disciplinary hearing to proceed. Where the alleged misconduct is gross misconduct following a "live" final written warning, or where the circumstances of the case otherwise justify it, a Disciplinary Hearing will be arranged before the Headteacher (if the responsibility for dismissal decisions has been delegated to them by the Governing Board) or Disciplinary and Dismissal Committee. In other cases of misconduct the Hearing will be arranged before the Headteacher.

The Headteacher may, with the agreement of the employee and/or their representative issue a disciplinary warning at the conclusion of an investigative meeting without convening a separate formal hearing.

### **7.2 LEVELS OF DISCIPLINARY MISCONDUCT**

It is not the purpose of this procedure to classify all levels of misconduct. Each incident which may give rise to the consideration of disciplinary action will be judged independently according to the particular circumstances of the case including the previous conduct of the particular employee. However, a general guide is attached as Annex 1. Attention is specifically drawn to the fact that any act of gross misconduct, as listed, could result in dismissal with or without notice.

## **8 THE PROCEDURE**

### **8.1 NOTICE OF THE HEARING/RIGHTS TO REPRESENTATION**

The employee will be given written advance notice of the Hearing, the purpose of it (with the nature of their alleged misconduct being outlined), any relevant documentation, including a copy of the Disciplinary Procedure and be invited to attend together with their fellow worker or Trade Union representative. A mutually convenient date should be agreed with the employee and their representative if possible, and the Hearing can be postponed for up to five working days if the Trade Union representative or fellow worker is not available

(Please refer to Section 4 for further information on the right to be accompanied).

Where the employee fails to attend or to be represented at a disciplinary hearing involving the Headteacher, Disciplinary and Dismissal Committee, or at the Appeals Committee, the matter may be considered in their absence if it is considered appropriate in all the circumstances.

## 8.2 THE HEARING

The procedure to be followed at any Disciplinary Hearing (or any Disciplinary Appeals Hearing) is as set out in Annex 2.

## 8.3 DISCIPLINARY ACTION

### 8.3.1 Headteacher Level Hearings

- (a) Where following investigation it is considered that a hearing should be convened at Headteacher (or other appropriate person) level, the arrangements set out at 8.1 and 8.2 will be followed.
- (b) The Headteacher or other appropriate person may be accompanied by a senior member of staff of the school or an officer of the Authority.
- (c) Should no acceptable explanation be given of an employee's conduct, the Headteacher may, depending on the seriousness of the conduct,
  - (i) issue a written instruction (this does not constitute a formal disciplinary penalty)
  - (ii) issue a disciplinary warning e.g. first, second or final written warning (see below)
  - (iii) refer the matter to the Disciplinary and Dismissal Committee (In cases where responsibility for dismissal decisions has not been delegated to the Headteacher)
  - (iv) Impose a transfer or demotion within the school, accompanied by a final written warning
  - (v) dismiss the employee with or without notice depending upon the circumstances of the misconduct (in circumstances where responsibility for dismissal has been delegated to the Headteacher)

### 8.3.2 Disciplinary Sanctions

Depending upon the seriousness of the conduct complained of, a formal disciplinary sanction (first, second, final written warning or dismissal decision), may be issued following a hearing. The person(s) authorised to issue these sanctions are set out below. Governing Bodies should have regard to the

statutory guidance which accompanies the 2003 School Staffing (England) Regulations, should they wish to delegate the power to make dismissal decisions to the Headteacher.

- Written Warnings (first, second or final) – Headteacher or Disciplinary and Dismissal Committee
- Transfer/demotion - Headteacher or Disciplinary and Dismissal Committee
- Dismissal Decision - Headteacher (where the Governing Board has delegated to the Headteacher the power to issue such a sanction) or Disciplinary and Dismissal Committee

Where the Headteacher issues a sanction, they should be accompanied by a witness at any meeting convened under this procedure. The employee has the right to be represented at any such meeting.

*(i) First Written Warning*

If conduct does not meet acceptable standards, the employee may be given a FIRST WRITTEN WARNING. S/he will be advised of the reason for the warning, that it is the first stage of the disciplinary procedure, of the areas in which improvement is required and of their right of appeal. A first written warning will be retained on the employee's file for a period of 6 months.

*(ii) Second Written Warning*

If the misconduct is more serious than would warrant a first written warning or if further misconduct occurs, whether of a similar nature to the previous misconduct or otherwise, a SECOND WRITTEN WARNING may be given to the employee. This will give details of the concerns, and the improvement required and the timescale within which it is to be achieved/reviewed. It will warn that further action will be considered if there is no satisfactory improvement and will advise of the right of appeal. A second written warning will be retained on the employee's file for a period of 1 year.

**(iii) Final Written Warning**

If there is still a failure to improve conduct or if conduct is still unsatisfactory, or if the misconduct is sufficiently serious to warrant only one written warning but insufficiently serious to justify dismissal (in effect both first and final warning) a FINAL WRITTEN WARNING will normally be given to the employee. This will give details of the concerns, will warn that dismissal may result if there is no satisfactory improvement and will advise of the right of appeal. A final written warning will be retained on the employee's file for a period of 2 years.

*(iv) Dismissal or other sanction as an alternative to Dismissal*

Where an employee:

- 1) is found to have committed an act which is considered to amount to gross misconduct, or
- 2) has failed to improve their performance as required during the period of a Final Written Warning, or
- 3) Has committed a further act of misconduct during the period of either a Written Warning or Final Written Warning (whether or not the misconduct is of a similar type or different to the original misconduct)

then s/he may be dismissed with or without notice.

As an alternative to dismissal where action beyond a Final Written Warning is considered to be justified then a transfer or demotion may be imposed, accompanied by a Final Written Warning.

#### Notes

- (a) All formal warnings will be confirmed in writing.
- (b) A warning will not be disregarded if a subsequent warning is issued in relation to further misconduct whether of a similar nature or otherwise which occurs whilst a warning remains 'live' on file. The original warning will run concurrently with the most recent warning. It is the date of the further misconduct which determines whether an earlier warning remains "live" and not the date of the hearing in respect of further misconduct.
- (c) Records of warnings will be expunged at the end of the stated time and any note or reference should be removed from the personal file. "Keeping Children Safe in Education," however, allows for certain types of misconduct relating to the protection of children and associated warnings to remain on file for longer than the period specified. In such an event, the member of staff will be informed, in writing, and the longer period will be specified. Relevant warnings, so retained, shall be taken into account in any further disciplinary proceedings in relation to safeguarding issues.
- (d) The School processes personal data collected during the investigation stage and any subsequent stages of disciplinary action in accordance with its data protection policy. In particular, data collected as part of the investigation stage and any subsequent stages of disciplinary action is held securely and accessed by, and disclosed to, individuals only for the purposes of completing the disciplinary procedure. Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with the school's data protection policy. It may also constitute a disciplinary offence, which will be dealt with under this procedure.

### 8.3.3 The Disciplinary and Dismissal Committee

- (a) Presentation of Report to the Disciplinary and Dismissal Committee

- (i) Where a decision has been made under Part 3 of the Education Act 2002 or section 7.1 or 8.3.1c of this procedure to refer the matter of an employee's conduct to the Disciplinary and Dismissal Committee, the arrangements set out in 8.1 and 8.2 will apply.
- (ii) The Headteacher or other appropriate person will inform the employee that a report is to be presented to a meeting of the Disciplinary and Dismissal Committee, for their consideration, and the reasons why this action is being taken. Thereafter the Clerk to the Governors or other appropriate person will send a notification, in writing, to the employee informing them of the date time and place of such a meeting.
- (iii) A copy of the report and papers to be submitted to the Committee by the Headteacher together with any statements will be supplied at a minimum of 10 working days prior to the hearing date. Any documentation that the employee wishes to submit directly relating to the case must be received by the Headteacher or Clerk to Governors 5 working days prior to the hearing. If the employee fails to attend the meeting without an acceptable reason, this could result in the meeting proceeding in their absence.

(b) Procedure at the Disciplinary and Dismissal Committee

The procedure to be followed at a hearing by the Disciplinary and Dismissal Committee is set out at Annex 2

Having considered the evidence the Committee will determine any appropriate action.

The options available to the Disciplinary and Dismissal Committee are as follows:

- (i) to take no further action,
- (ii) to issue a written instruction (this does not constitute a formal disciplinary penalty)
- (iii) to take disciplinary action (i.e. to issue a disciplinary sanction - first, second, final written warning; transfer/demotion; or dismissal with or without notice)

**Note**

In cases where it is determined that an employee shall be dismissed, the Governing Board/Headteacher (where the decision to dismiss has been delegated) must notify the Children's Services Authority (CSA) , setting out the determination together with the reasons. The responsibility for the termination of the employee's service rests with the CSA who must serve notice within fourteen days of notification being given by the Governing Board or otherwise

terminate the contract without notice, where the Disciplinary and Dismissal Committee/Headteacher where authorised have so determined.

## **9. APPEALS AGAINST DISCIPLINARY ACTION**

- 9.1 An employee will have the right of appeal against any disciplinary penalty imposed. There is no further right of appeal following an appeal hearing (this does not remove any statutory rights to appeal to an Employment Tribunal).
- 9.2 All notices of appeal must be in writing, stating the grounds of appeal, and must be submitted to the Clerk to the Governors or other appropriate person within five working days of the receipt by the employee of notification in writing of the disciplinary action. Any appeal against a decision of the Headteacher or Disciplinary and Dismissal Committee will be considered by an Appeals Committee of the Governing Board. No member of the Disciplinary and Dismissal Committee will be a member of the Appeals Committee of the Governing Board. In the exceptional event that there are insufficient numbers of Governors available to participate in a Governors' Disciplinary or Appeal Committee, the Governing Board may appoint associate members to solely participate in the appropriate Committee.
- 9.3 Where an employee lodges an appeal against the decision of the Headteacher or Disciplinary and Dismissal Committee, short of dismissal then that decision will not take effect pending the outcome of the appeal hearing.
- 9.4 Where the Headteacher or Disciplinary and Dismissal Committee decide to dismiss an employee without notice then the dismissal will take immediate effect. However, if an appeal is then lodged, and is successful, the employee will be reinstated, with full pay, retrospectively to the date of dismissal with no break in continuity of employment.
- 9.5 Where the Headteacher or Disciplinary and Dismissal Committee decide that an employee should be dismissed with notice then the date of dismissal will be the date of expiry of the notice period. If an appeal is lodged the notice period will continue to run. If the appeal hearing is after the date of dismissal and is successful, the employee will be reinstated, with full pay, retrospectively to the date of dismissal.
- 9.6 An appeal meeting will be convened, wherever practicable, within twenty working days of the receipt of the notice of appeal.
- 9.8 The appellant shall be given, in writing, not less than five working days notice of the date, time and place of the meeting.
- 9.9 The appellant will have the right to attend and be accompanied by a fellow worker or trade union representative (See Section 4 in relation to postponement rights and attendance matters).
- 9.10 All appeals shall be by way of a re-hearing.

- 9.11 The Appeals Committee will have the power to uphold the original decision, impose a lesser penalty, or reject the appeal.
- 9.12 The Procedure to be followed at a meeting of the Appeals Committee is set out at Annex 2



## **LEVELS OF DISCIPLINARY MISCONDUCT**

### Examples of minor misconduct

Minor time wasting  
Occasional lateness  
Minor instances of insubordination.

### Examples of serious misconduct

Persistent or serious instances of insubordination  
Persistent bad timekeeping  
Continued repetition of previous offences

### Examples of gross misconduct

Gross misconduct, which will result in the immediate referral of an adverse report to a Disciplinary and Dismissal Committee and may result in dismissal, is regarded as misconduct of such a nature that it fundamentally breaches the contractual relationship between the employee and the employer. **Examples of gross misconduct all of which may result in dismissal include:-**

Stealing from the employer, members of staff, children or the public, other offences of dishonesty;  
Sexual misconduct at work;  
Wilful neglect of duty;  
Misuse of the internet, email, mobile telephone or other school facilities;  
Harassment of other employees, children or parents on the grounds of sex, ethnicity, sexual orientation, disability, religion or belief or age  
Fighting, physical assault;  
Falsification of a qualification which is a stated requirement of employment or which results in financial gain;  
Deliberate damage to or misuse of the employer's property;  
Drunkenness or being under the influence of drugs at work, (note - the County Council's Misuse of Drugs and Alcohol Policy needs to be considered in these cases);  
Falsification of records or claims for personal gain e.g. work records, time sheets, travel expenses etc;  
Wilful disregard of health and safety regulations;  
Serious negligence which causes unacceptable loss, damage or injury;  
Serious violation of catering hygiene regulations;  
Intimidation of whistleblowers or witnesses to Hearings;  
Other similar acts of misconduct may come within the general definition of gross misconduct.

It should also be noted that disciplinary action may be considered in relation to acts of misconduct which take place outside of work hours, for example, in instances of criminal prosecution and/or conviction/caution for such actions. The main considerations should be the relevance of the offence to the employee's duties and/or the effect on the contractual relationship with the employer and on clients/colleagues. Disciplinary measures will not automatically be appropriate in these instances.

ANNEX 2

**DISCIPLINARY HEARING/APEALS PROCEDURE**

1. The following procedure is appropriate for any level of hearing including appeal.

NOTE: The Executive Director Education and Children's Services or nominee must be advised of any action which may result in dismissal and will be entitled to attend any Hearing/Appeal for the purpose of giving advice. The Headteacher or Disciplinary and Dismissal Committee have a duty to consider the advice of the Executive Director Education and Children's Services or nominee before reaching a decision to dismiss.

2. **PROCEDURE AT THE HEARING**

- (a) The case against the employee will be presented by the Headteacher or other appropriate person (the presenter of the report) who will be entitled to call witnesses to support the case.

Witnesses will only normally be present for the period during which they are required to give evidence directly to the Hearing

- (b) The employee and/or their representative and the person/Committee hearing the case will be entitled to question the presenter of the report and any witnesses called.
    - (c) The employee and/or their representative will be entitled to present a statement of case and will be entitled to call witnesses to support the case.
    - (d) The presenter of the report and the person/Committee hearing the case will be entitled to question the employee and any witnesses called.
    - (f) The presenter of the report will have the opportunity to make a closing statement (No new evidence may be introduced at this stage)
    - (g) The employee and/or their representative shall then also have the opportunity to make a closing statement (No new evidence may be introduced at this stage)
    - (h) At the conclusion, all parties will withdraw except the person/Committee conducting the hearing, and if present, the Executive Director Education and Children's Services representative and Clerk to the meeting who will deliberate in private. Should any parties need to be recalled to clarify any points of uncertainty, both sides should return notwithstanding that the point giving cause for concern relates to one party.
    - (i) The parties will be informed of the decision and the employee will be given written confirmation of the decision, within 5 working days, which will also indicate any right of appeal.

### ANNEX 3

## **SUPPORT FOR STAFF DURING A PERIOD OF SUSPENSION – ROLE OF THE CONTACT OFFICER**

The support outlined below is applicable to staff during a period of suspension or during a period of leave of absence/medical absence when these are alternatives to suspension.

It is recognised that there is a need for the school to provide some means of support to staff who are the subject of allegations of misconduct at work, or who have been suspended for alleged misconduct under the School's Disciplinary Procedure. In such circumstances, the member of staff involved may experience feelings of worry and depression; they may also feel isolated from their workplace and colleagues.

It is important that staff are made aware of what is happening in relation to the disciplinary investigation, as lack of information may also lead to further stress and ill health. In addition, it must be understood that the allegations may have placed the member of staff in a difficult situation in relation to their family.

### **Role of the Contact Officer**

A Contact Officer should be allocated to the suspended member of staff. The Contact Officer will act as a link between the suspended member of staff and the School.

It is recommended that the Contact Officer makes regular contact with the suspended member of staff, and that the frequency of contact is outlined to the suspended member of staff at the outset.

The role of the Contact Officer is to:

- (i) Enquire as to the health and wellbeing of the suspended member of staff and where appropriate, remind the member of staff of the support available from the Employee Assistance Programme and/or Occupational Health Unit;
- (ii) Provide updates on relevant school matters;
- (iii) Seek clarity on any job-related queries that have arisen during their absence;
- (iv) Respond to any questions that the member of staff may have;
- (v) Remind the member of staff that support is also available from their Trade Union representative.

The investigation should be conducted without unnecessary delay, although it is accepted that sometimes the process can become protracted. The Contact Officer will make arrangements for the member of staff to be provided with updates on the progress of the investigation.

Nothing in this annex should preclude the member of staff, or their trade union representative contacting the Contact Officer or those conducting the investigation at any time.

#### ANNEX 4

### **ADDENDUM TO DISCIPLINARY PROCEDURE**

#### **School Staffing (England) Regulations 2003 – Delegation to Headteacher of authority to make initial dismissal decisions.**

These Regulations allow for Governing Bodies to delegate authority to make dismissal decisions to Headteachers. Therefore, the Headteacher becomes responsible for all disciplinary action up to and including dismissal.

Governing Bodies will need to take a decision as to whether they wish to delegate this responsibility. They need to bear in mind that the statutory guidance accompanying the Regulations specifies a series of circumstances where such an arrangement may not be appropriate. These are as follows

- A Headteacher who is unwilling to accept this function and who has hitherto not been required to do so. The position could be reviewed on the appointment of a successor Head.
- Where the Headteacher has been directly involved in the disciplinary process leading up to the consideration of dismissal – for example, through investigating the alleged misconduct. Experience shows that this is invariably the case and therefore, referral for consideration by the Discipline and Dismissal Committee preserves the integrity of the disciplinary process. However, in large Schools, it may be possible to delegate the responsibility for investigation to another member of the management team, thereby leaving the Headteacher available to consider, what disciplinary action, up and including dismissal, should be taken. Appeals against disciplinary action should still be considered by the Appeals Committee.
- Where the Governing Board of a school with a religious character (i.e. Voluntary Aided, Foundation and Voluntary Controlled Schools) has agreed that Governor involvement will serve to preserve this character. Therefore, advice should be sought from the relevant Diocesan Authority.
- Where the Headteacher is themselves subject to disciplinary or capability procedures.
- Where the CSA may have made representations to the Chair of Governors on grounds of serious concerns about the performance of the Headteacher.

Where a Governing Board does decide to delegate the authority to make dismissal decisions, they are strongly advised to consult with staff and their professional associations before finally confirming their decision.