Blackpool Multi Academy Trust

DISCIPLINARY PROCEDURE

September 2014

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1. INTRODUCTION

1.1 The School and the Trade Unions attach great importance to the establishment and continuance of good working relationships at all levels within the School and as a result this Policy applies to all school staff.

1.2 This procedure is designed to help and encourage all employees to achieve and maintain acceptable standards of conduct, attendance and job performance, and provide a fair and effective mechanism for dealing with disciplinary matters.

1.3 Managers are responsible for ensuring employees receive supervision in order to support them to meet required standards of work and conduct. However where it is considered that action beyond this is required the Disciplinary matter would be dealt with under this formal policy.

1.4 It is recognised that discipline is necessary for the efficient and effective operation of the organisation and for the health and safety at work of all employees.

1.5 **Any disciplinary matter must be treated with confidentiality at all stages by all parties. Any breach of confidentiality will be treated seriously and may be dealt with under the Disciplinary Procedure.**

1.6 This procedure applies to all permanent, temporary and casual employees who have satisfied their probationary period.

2. EXCLUSIONS TO THE PROCEDURE

2.1 This Procedure will **not** apply in the following circumstances.

- Where appropriate termination of employment during or at the end of a probationary period of service (whether or not extended beyond its originally specified duration).
- To agency staff, contractors or external consultants.
- All the employees of a description or in a category to which the employee belongs are dismissed, provided that the employer offers to re-engage all the employees so dismissed either before or upon the termination of their contracts.
- The dismissal is one of a number of dismissals in respect of which the duty in Section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992 and Collective Redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 1995 & 1999 (imposes a duty of an employer to consult representatives when proposing to dismiss as redundant a certain number of employees) applies.
- The reason (or, if more than one principal reason) for the dismissal is that the employee could not continue to work in the position which he held without contravention (either on his part or on that of his employer) of a duty or restriction imposed by or under any enactment.

3. GUIDING PRINCIPLES

3.1 This procedure was drawn up having regard to the following guiding principles:

- Minor problems should be resolved informally and without recourse to formal procedures. However persistent misconduct may result in an employee being dealt with under formal procedures. Where this is the case evidence should be made available of the attempts made to resolve the matter informally (e.g. the issue of a written instruction having due regard to the terms of the employee's contract and the need to place a copy on the employee's personal file.) and what the outcome of these were.

- No disciplinary proceedings will be taken against an employee until a case has been investigated inline with this procedure by the Headteacher or nominated person.

- At every stage in the procedure an employee, and if requested by the employee their representative, will be advised of the nature of the complaint against him/her and will be given the opportunity to state his/her case before any decision is made.

- At all **formal** stages of the Disciplinary Procedure, an employee will have the right to be accompanied by a Trade Union representative or work colleague of their choice, but not by a family member. The Trade Union representative or work colleague would be present to observe the proceedings and advise an employee, **but cannot answer questions on an employee's behalf. However, they can put the case, sum up and confer with the worker during the meeting.**

- At any meeting convened under these procedures there is the right for each side to have a scribe in attendance whose function it is to take written notes to serve as a record for the purposes of this procedure. Meetings will only be electronically recorded when a request is made and agreed by all parties.

- To ensure disciplinary issues are dealt with fairly and effectively and with clear outcomes at all stages.

- To ensure required standards of conduct at work are explained so that employees are clear as to what is expected of them.

- No disciplinary action ***or suspension*** will be taken against a Trade Union Representative without prior consultation with the appropriate Branch Secretary and Regional Officer. A Trade Union representative also has the right to have his/her Regional Officer present at any Disciplinary Hearing.

- Absences due to sickness may not prevent the use of the Dismissal and Disciplinary Procedures. Where sickness is given as a reason for non-attendance at a meeting a medical certificate should be provided and a referral may be made to Occupational Health to advise whether the disciplinary

process should continue or be delayed. Where Occupational Health believes it should be delayed the situation must be reviewed at regular intervals.

- A suspended employee will receive full pay. Full pay is normal salary, including contractual allowances where appropriate. Should a suspended employee submit a sickness absence certificate they shall still be deemed as suspended, although pay will be in accordance with the Sick Pay Scheme

- **Where allegations are made against the Headteacher the Chair of Governors will be accountable for the application of this Policy and any associated action.**

- Human Resources are responsible for providing advice and guidance on applying the procedures to all parties. It is the role of the Headteacher or nominated person to undertake an investigation in accordance with this procedure.

4. INFORMAL PROCEDURE

4.1 Minor lapses in conduct should be dealt with promptly through daily management and 1:1 informal discussion. The purpose of an informal discussion is to;

- Ask for an explanation of what has happened
- Explain why the behaviour was unacceptable
- Outline the required standards and the required improvements
- Consider taking action to support the employee such as training or coaching
- Consideration for taking formal disciplinary action.

4.2 Notes of the issue(s) discussed should be signed and dated by the individuals as being a true reflection and will be kept on the employee's file. (Headteachers / Line Manager/ Chair of Governors in the case of Head teacher) Managers and employees should agree review dates to check progress. An informal discussion is not part of the formal disciplinary procedure and formal warnings cannot be given **however** a written management instruction could be issued and retained on the employee's file.

4.3 Where informal discussion does not result in the required improvement the formal procedures should be followed.

5. ACTS OF GROSS MISCONDUCT

5.1 Gross misconduct is behaviour of such a nature that the School is unable to tolerate the continued employment of the employee. Acts that constitute such misconduct are serious breaches of the terms of employment. If proved an employee will usually be dismissed for acts of gross misconduct, unless there are sufficient mitigating circumstances.

5.2 It is impossible to provide a comprehensive and exhaustive list of all the issues that might give rise to a disciplinary investigation and formal disciplinary action resulting

in possible dismissal but some of the more common examples are attached at **Appendix 1.**

6. FORMAL DISCIPLINARY INVESTIGATION

The Investigatory Process

6.1 The key purpose of the investigatory process is to ascertain the facts. The Investigating officer, who will be appointed by the Headteacher/Chair of Governors, may do this either through interviewing witnesses, the scrutiny of files/records/documents etc., or a combination of both. Detailed records must be kept of any interviews held and witnesses interviewed should sign and date any statements given and be clearly informed that their statements could be used at any subsequent hearings. The individual should also be notified that they may be asked to attend any subsequent hearings in person as a witness. Any employee who is interviewed as part of the investigatory process will have the opportunity to be accompanied either by a colleague of their choice, who must be an employee of the School or a Professional Association/ Trade Union Representative. The colleague or Professional Association/ Trade Union Representative would be present to observe the proceedings and advise the employee but cannot answer questions on the employee's behalf. However, they can put the case, sum up and confer with the worker during the meeting. There is no entitlement to external legal representation. If the investigation does not include an HR specialist then HR advice can be sought from the school's HR provider. **Appendix 2 provides a sample letter for a witness invite and Appendix 3 Notes for witnesses to include with the letter. Appendix 4 provides a sample letter to send to witnesses after the meeting.**

6.2 At any stage during the investigatory process, the Investigating Officer can, after discussion with the School's Human Resources Team (HR) and the Local Authority Designated Officer (LADO) recommend that the Police should be involved e.g. if the possession of illegal drugs is involved or in the event of claims of abuse, child protection issues, theft or fraud. Where the alleged offence is connected with employment the involvement of the Police should not be viewed as a reason to suspend the internal process of the investigation unless the internal investigation would prejudice the police investigation or be considered by Occupational Health to be detrimental to the health of the employee. Usually, the Police investigation will run parallel to the local investigation but often, the results of any Police investigation may take some considerable time to be made known. In view of this, the local investigation should continue in the normal manner with the emphasis on fairness, equality, and the provision of evidence. Any recommendation made as a consequence of the internal investigation may be made without waiting for the results of the Police investigation.

In line with the Safeguarding Children and Safer Recruitment in Education and Adults Safeguarding Procedure the following must be considered by the Headteacher/Chair of Governors. (Advice and guidance should be sought from HR and/or the LADO)

If the matter relates to allegations that a person has;

- Behaved in a way that has harmed or may have harmed a child or
- Possibly committed a criminal offence against or related to a child or

- Behaved towards a child in a way that indicates he/she is unsuitable to work with children.

The Local Authority Designated Officer (LADO), Quality Assurance Team should be contacted immediately **before an investigation begins.**

If the matter relates to the protection of a vulnerable adult the Safeguarding Adults Coordinator should be contacted immediately **before an investigation begins.**

Further details are available from School's Human Resources Team.

6.3 Where an employee is charged with, but not convicted of a criminal offence, not related to work, this will not necessarily be treated as a reason for disciplinary action. In these cases there may be no other information available except that a prosecution is possible or taking place. Therefore apart from the possible suspension of the employee the only appropriate action may be to await the outcome of the court case. Once the facts of the case are clarified through a formal investigation consideration would be given as to whether the matter warrants formal disciplinary proceedings, having taken into account whether the alleged incident, act, or behaviour affects an employee's suitability for his/her job.

6.4 During the process of the investigation, an employee will be notified in writing, of the alleged allegations that may result in disciplinary action being taken. It will be necessary to interview the employee(s) in question. This should be done as soon as reasonably practicable but in any event should normally take place within ***10 working days*** of the investigation commencing. A request to extend this time limit by the employee will only be considered on written application from the employee or his/her representative stating the reasons for the request and must be accompanied by a medical certificate where sickness is the reason for the request. Prolonged absence of the employee will be referred to the Schools Attendance Management Policy. However, it is not expected that any extension will exceed a further ***20 working days***. Employees should be made aware of the interview at least ***5 working days*** in advance of the meeting and be advised of the allegations to be covered and given the right to be accompanied.

Any witnesses interviewed should be advised of the background to the investigation and that they may be requested to appear at any subsequent disciplinary hearing. If an employee witness refuses to be interviewed, this **may** result in disciplinary action being taken. A record of the interview will be taken. Anyone interviewed will be reminded to keep the matter and their statement confidential. A breach of confidentiality will result in disciplinary action being taken.

Notes from an investigatory meeting will be sent out to the individual who is asked to sign to confirm that minutes are a true record of the meeting or provide any highlighted amendments ***within 10 working days*** **(See Appendices 2, 3 and 4).**

If there is no communication from the employee/witness and the minutes are not returned ***within 10 working days***, confirmation in writing will be sent to the individual to indicate to the employee that it will be assumed that the notes are

satisfactory and will form part of the investigation. **See Appendix 4 for sample letter.**

6.5 Where an employee raises a grievance during a disciplinary process the disciplinary process may be temporarily suspended in order to deal with the grievance. Where the grievance and disciplinary cases are related it may be appropriate to deal with both issues concurrently.

6.6 At the end of the investigation, the recommendations will be given to the Headteacher/Chair of Governors who will decide on the appropriate action. The possible outcomes are that no further action is necessary or referral to a disciplinary Hearing.

6.7 If it is determined that no further action is necessary then the employee must be notified in writing of this decision within ***5 working days*** of the conclusion of the investigation. If they are currently under suspension appropriate arrangements will be made for the employee to return to the workplace. **See Appendix 6 for sample letter.**

6.8 If it is determined that there is a requirement to hold a disciplinary hearing then the employee must be notified in writing of this decision within ***5 working days*** of the conclusion of the investigation. The notification will set out the reasons why an employee's alleged conduct, or other circumstances, has led to the requirement for a disciplinary hearing. **See Appendix 7 for sample letter.**

6.9 If it is determined that a Disciplinary Hearing should be held, then the Disciplinary Panel will be convened where possible within ***10 working days*** of the recommendation having been made and a copy of the Investigating Officers report will be sent out to all parties. In preparing a case for a Disciplinary Hearing the employee must be in a position to exchange their witness statements and other appropriate documentation at least ***5 working days*** prior to the hearing. ***10 working days*** notice of the meeting will be given for administrative purposes to allow this exchange of information to take place. **Please note that due to complexities which occur when arranging a hearing e.g. organising the availability of the relevant individuals and rooms it is recommended that Governor Services are provided with three possible hearing dates from the school at the earliest possible opportunity. Both Parties must respect the need for confidentiality, at all times, in relation to any information exchanged.**

6.10 At all stages of the investigation advice can be sought from the Schools Human Resources Team, Professional Association, Trade Union or Link Officer.

6.11 Any individuals involved in the Disciplinary Investigation must not sit on any subsequent Disciplinary Panel, **this directive must not be departed from under any circumstances.** They may, however, be involved in any suspension and it may be appropriate for them to either be present or assist in the presentation of Management's case at any future Disciplinary Hearing.

6.12 Normally the individual leading an investigation will present the case to the Discipline Panel and would then be present at any subsequent Appeal Hearing when the Chair of the Disciplinary Panel would, if appropriate, become a management witness. The Panel should comprise of at least three Governors unless circumstances dictate that the Headteacher/Chair of Governors issues a

sanction up to first written warning, accompanied by a witness or representative unless the Governors have delegated the Headteacher power to dismiss. Schools can, if they so wish, use staff from the HR department to support the Headteacher/Chair of Governors/Nominated representative with support and guidance relating to the correct procedures to follow to present the management's case. N.B. If the Headteacher/Chair of Governors has nominated someone else to lead the investigation and present the case s/he does not have the right to attend the hearing or the appeal unless called as a witness or, in the case of the Hearing, to Chair the meeting and make the decision.

7. SUSPENSION

7.1 Suspension is not a disciplinary action and will not be viewed as a judgement upon alleged, suspected or known misconduct

You are still employed by the School who can request you to attend work and meetings with minimum notice. So if you wish to go on holiday, you will need to agree leave. Also, if you are going to spend any time away from your normal home you should leave a contact address/number. Therefore, you will need to inform the Investigating Officer(s), or other "link" officer. **Please see appendix 11 for further details.**

. Following consultation with a Human Resources Representative a Headteacher *may* suspend an employee in any of the following circumstances, where:

- Gross misconduct is alleged;
- The presence of the employee may hinder the investigation;
- The nature of the allegation suggests either the employee or others may be at risk, feel vulnerable or find it unacceptable for the employee to remain in work;
- It is likely that further allegations may be made;
- School property/evidence may be destroyed or tampered with;

Please note that if an allegation(s) is raised against the Headteacher it would be the Chair of the Governing Body of the school that would undertake the suspension.

See Code of Practice on Suspension - attached at **Appendix 8** for guidance. **See Appendix 9 for sample letter and Appendix 10 for notes for the suspended employee.**

7.2 Written confirmation of the suspension should be sent to the employee within ***3 working days.***

7.3 In all cases, the employee **must** be informed of the nature of the allegations made against him/her unless, in accordance with the DfE guidance's ' Working together to Safeguard Children', where a Child Protection Strategy meeting is needed, or it is clear that Police or children's social care may be involved. Allegations then should not be given until those agencies have been consulted and have agreed what information can be disclosed to the person.

7.4 A suspended employee will receive full pay. Full pay is normal salary, including contractual allowances where appropriate. Should a suspended employee submit a

sickness absence certificate they shall still be deemed as suspended, although pay will be in accordance with the Sick Pay Scheme.

7.5 If suspension proves lengthy (over 3 months) a regular review will be conducted by the school in cooperation with the investigating team. The school will inform the individual of the reasons why and discuss any further support they may require through the link officer.

8. DISCIPLINARY SANCTIONS

8.1 Under the formal Disciplinary Procedure and following a full investigation a number of sanctions are available to a Disciplinary Panel e.g.:

- Verbal Warning – **See Appendix 12 for sample letter**
- First Written Warning – **See Appendix 12 for sample letter**
- Final Written Warning – **See Appendix 12 for sample letter**
- Dismissal - **See Appendix 13 for sample letter**

VERBAL WARNING

Where it is considered that an offence warrants formal disciplinary action the Head Teacher/Chair of the Governing Body/Discipline Panel may give a verbal warning e.g. for poor timekeeping, not obeying a reasonable instruction or safety rules, using language or behaviour that is offensive or unacceptable. The employee will be provided with written reason(s) of the decision within ***5 working days***. **A Verbal Warning will remain live for disciplinary purposes on an employee's personal file for a period of 6 months from the date the warning was issued.**

The employee has the right of appeal against a verbal warning. The employee should make any appeal in writing to the Clerk of Governors within ***5 working days*** of receipt of the formal warning. The appeal would be heard by the Appeals Panel who would not be involved in the first hearing. The employee must state the specific reasons for his/her appeal, i.e. whether it is against the finding that he/she has committed the alleged act(s) of misconduct and/or the form of disciplinary action decided upon. At least 10 working days notice shall be given of the Appeal Hearing and the decision of the Appeals Panel will be communicated within 5 working days of the Appeal. **Please see Appendix 12 for Disciplinary Hearing outcome letter.**

The Appeals Panel will hear any appeal and may uphold the appeal, substitute a lesser disciplinary sanction or confirm the disciplinary action taken.

FIRST WRITTEN WARNING

The Head Teacher/Chair of Governors/Discipline Panel may give a First Written warning in the following circumstances:

- Where it is considered that the misconduct is sufficiently serious to warrant this form of disciplinary action i.e. unauthorised absence from work, persistent bad timekeeping, carelessness and negligence in carrying out the duties of the post, misuse of school's email, intranet or internet system in accordance with the Schools ICT policy (This is gross misconduct in serious cases).

- Where an employee who has been issued with a verbal warning has failed to achieve and maintain the required improvement in conduct.

The employee will be provided with written reason(s) of the decision within ***5 working days*** of the hearing. **A First Written Warning will remain live for disciplinary purposes on an employee's personal file for a period of 12 months from the date the warning was issued.**

The employee has the right of appeal against a First Written Warning and should make any appeal in writing to the Clerk to Governors within ***5 working days*** of receipt of the formal warning. The appeal would be heard by the Appeals Panel who would not be involved in the first hearing. The employee must state the specific reasons for his/her appeal, i.e. whether it is against the finding that he/she has committed the alleged act(s) of misconduct and/or the form of disciplinary action decided upon. At least 10 working days notice shall be given of the Appeal Hearing and the decision of the Appeals Panel will be communicated within 5 working days of the Appeal. **Please see Appendix 12 for Disciplinary Hearing outcome letter.**

The Appeals Panel will hear any appeal and may uphold the appeal, substitute a lesser disciplinary sanction or confirm the disciplinary action taken.

FINAL WRITTEN WARNING

The Disciplinary Panel may give a Final Written warning in the following circumstances:

- Where it is considered that the misconduct is sufficiently serious to warrant this form of disciplinary action i.e. carelessness or negligence in carrying out responsibilities of a post or refusal to obey reasonable instructions

- Where an employee who has been issued with a First Written warning has failed to achieve and maintain the required improvement in conduct

The employee will be provided with written reason(s) of the decision within ***5 working days*** of the hearing. **A Final Written Warning will remain live for disciplinary purposes on an employee's personal file for a period of 18 months from the date the warning was issued.**

The employee has the right of appeal against a Final Written Warning and the employee, should make any appeal in writing, to the Clerk to Governors, within ***5 working days*** of receipt of the formal warning. The appeal would be heard by the Appeals Panel who would not be involved in the first hearing. The employee must state the specific reasons for his/her appeal, i.e. whether it is against the finding that he/she has committed the alleged act(s) of misconduct and/or the form of disciplinary action decided upon. At least ***10 working days*** notice shall be given of the Appeal Hearing and the decision of the Appeals Panel will be communicated within ***5 working days*** of the Appeal. **Please see Appendix 12 for Disciplinary Hearing outcome letter.**

The Appeals Panel will hear any appeal and may uphold the appeal, substitute a lesser disciplinary sanction or confirm the disciplinary action taken.

DISMISSAL

If conduct or performance is still unsatisfactory or the employee continues to fail to reach an acceptable and agreed standard or the case warrants it, a summary dismissal takes place. A summary dismissal is a **dismissal for misconduct without notice or payment in lieu of notice regardless of whether previous warnings have been given**. Only a Governors Discipline Panel can take the decision to dismiss unless this power has been delegated to the Headteacher. In these circumstances it is recommended that the Headteacher would take guidance from the HR Schools Team.

The employee will be provided, within ***5 working days*** of the decision, written reasons for dismissal and confirmation of the date on which employment was terminated as well as the right of appeal.

NB. Please speak to your designated HR contact for clarification relating to pay for notice periods

Notice of dismissal will be confirmed in writing to the employee, using recorded delivery, under the signature of the Chair of the Discipline Panel and a copy sent to your designated HR contact. **Please see Appendix 13 for Disciplinary Hearing outcome letter.**

The employee has a right of appeal against dismissal and the employee should make any appeal in writing, to the Clerk to Governors within ***5 working days*** of receipt of the letter confirming dismissal. The appeal would be heard by the Appeals Panel who would not be involved in the first hearing. The employee must state the specific reasons for his/her appeal, i.e. whether it is against the finding that he/she has committed the alleged act(s) of misconduct and/or the form of disciplinary action decided upon. At least ***10 working days*** notice shall be given of the Appeal Hearing and the decision of the Appeals Panel will be communicated within ***5 working days*** of the Appeal. **Please see Appendix 14 for Appeal invite letter and Appendix 15 for Outcome of Appeal letter.**

The Appeals Panel will hear any appeal and may uphold the appeal, substitute a lesser disciplinary sanction or confirm the disciplinary action taken.

In the event of an Appeals Panel upholding an appeal then any reference will be expunged from the employee's file with immediate effect.

9. ARRANGING A DISCIPLINARY/APPEAL HEARING

9.1 The Disciplinary Hearing will be organised by the School's Clerk to Governors. The employee will be given a minimum of ***10 working days'*** **written notice** of the Hearing. The employee has the right to be accompanied at the hearing by a work colleague or Trade union Representative and where possible the representative should be consulted for their availability on the date of the hearing.

A copy of the letter and enclosures should be **forwarded to the Trade Union representatives, if known**. The letter will inform the employee of;

- The formal Disciplinary Hearing and full details of the allegations;

- The opportunity to be accompanied by a Professional Association, Trade Union representative or work colleague. A note taker may also be present although he/she will take no part in the proceedings;
- Their right to call witnesses or submit documentation subject to the names of any witnesses and documents being provided in advance to the Hearing Panel;
- The names of any witnesses the Investigation Officer is calling;
- The Investigation Report will be enclosed.

The employee and investigating officers should provide the names of any witnesses and any copies of documentation to the Clerk to Governors Officer arranging the hearing at least ***5 working days*** in advance of the Hearing to allow circulation of papers to all parties. **Please see Appendix 7 for Disciplinary Hearing invite letter and Appendices 12 and 13 for Outcome of Disciplinary Hearing letters.**

10. INABILITY TO ATTEND A DISCIPLINARY HEARING

10.1 If an employee, or his/her representative, has a justifiable reason for being unable to attend a disciplinary hearing, there is a statutory right for this to be re-arranged on one occasion only, providing that this does not delay the process for more than ***5 working days***. If the employee, or his/her representative, is unable to attend the re-arranged hearing it will normally proceed in his/her absence but with his/her representative being provided with an opportunity to make representations on the employee's behalf.

10.2 A request to extend this time limit due to sickness by the employee will only be considered on written application from the employee or his/her representative stating the reasons for the request and must be accompanied by a medical certificate where sickness is the reason for the request. Prolonged absence of the employee will be referred to the Schools Attendance Management Policy.

11. COMPOSITION OF THE DISCIPLINE PANEL

11.1 The Discipline Panel should comprise a minimum of three Governors and will strive to reflect the School's commitment to valuing diversity and/or the level of employee. It is recommended that a HR representative provides guidance to the panel. The seniority of the Panel will reflect the potential seriousness of the alleged offence. **It is imperative that no Panel Member should have been involved in the investigatory process.**

11.2 The Discipline Panel must appoint a Chair who will preside over the hearing. **The Chair must be willing to present the outcome and the reasons for the decision made by the Discipline Panel, at any Appeal hearing Or Employment Tribunal resulting there from.**

11.3 The Panel can seek advice from the School's HR team provision or, if required, Legal Services.

12. PROCEDURE AT A FORMAL DISCIPLINARY HEARING

12.1 The procedure to be followed at a Disciplinary hearing is as follows:

- The Investigating Officer/s shall put the case, in the presence of the employee and his/her representative and may call any necessary witnesses to give evidence.

- The employee or his/her representative will then have the opportunity to ask questions of the Investigating Officer/s,(leave in representative) on the evidence given by him/her and any witnesses that have been called.

- The members of the Panel may ask questions of the Investigating Officer/s and witnesses.

- The employee or his/her representative puts his/her case in the presence of the Investigating Officer/s and calls such witnesses as he/he wishes.

- The Investigating Officer/s has the opportunity to ask questions of the employee and his/her witnesses.

- The members of the Panel may ask questions of the employee and his/her witnesses.

- The Investigating Officer/s and the employee or his/her representative have the opportunity to sum up their case if they so wish.

NO NEW EVIDENCE/WITNESSES MAY BE INTRODUCED AT THIS STAGE.

- The Investigating Officer and/or his/her HR representative and the employee and his/her representative, together with any witnesses, will then withdraw.

- The Panel will then consider their decision. If it is necessary to recall one or other of the parties to clarify a piece of evidence already given, both parties are to return notwithstanding that only one is concerned with the point giving rise to doubt.

- The Panel will announce their decision either orally on the day or in writing as may be determined.

- The decision, including an oral decision, will be confirmed in writing within ***5 working days*** of the hearing along with confirmation of an employee's right to appeal against the decision.

NB: The Chair of the Panel may adjourn the proceedings at any stage if this is requested by either side and appears necessary or desirable. If the adjournment is for the purpose of enabling further clarity of information.

Any adjournment will be for a stated period determined by the Panel will be of a reasonable time to allow them to consider the information already received. Witnesses will be required to be on-call throughout the proceedings but will not usually be present for all the hearing.

13. COMPOSITION OF THE APPEALS PANEL

13.1 The Appeals Panel will consist of three governors **who have not been involved in the original hearing or investigation.** It is recommended that a HR representative provides advice and guidance relating to the policy to the panel.

13.2 The Appeals Panel must appoint a Chair who will preside over the hearing. **The Chair must be willing to present the outcome and the reasons for the decision made by the Appeals Panel, at any Appeal hearing Or Employment Tribunal resulting there from.**

13.3 Unless there has been any fresh evidence unearthed or a significant change in circumstances affecting the case in question, the Appeals Panel will determine whether the previous decision was appropriate given all the circumstances and evidence heard.

14. PROCEDURE AT FORMAL APPEAL HEARING

14.1 An appeal against disciplinary sanction or dismissal must be made by the employee in writing stating the **exact reason** of appeal within ***10 working days*** of receiving notification of the decision. The **specific grounds for appeal must be stated** for example:

- Why the level of sanction imposed was too severe (i.e. judgement)
- In what way the procedure has not been followed (i.e. process)
- What evidence has not been heard (i.e. facts)
- Which mitigating circumstances relating to the misconduct have not been considered (i.e. facts)

14.2 The employee must provide sufficient details to fully explain the reason for appeal, which may include;

- Copies of any relevant statements made by witnesses considered at the disciplinary hearing;
- The names of any witnesses to be called;
- Any other documentation in support of their appeal

14.3 The outcome of the Appeal (for the individual) will either be their claim at the appeal will be judged to be successful and could result in either a lesser sanction being imposed or the sanction being removed completely or unsuccessful and therefore the original decision stands. **Please see Appendix 15 for outcome of Appeal letter.**

15. THE TREATMENT OF NEW EVIDENCE

15.1 In the event of pertinent or new evidence coming to light during an Appeals Hearing, the Panel should refer the case back to the original Disciplinary Panel in order for that Panel to be able to give consideration to the new evidence and for management to have an opportunity to respond. During any such reference back the outcome sanction would remain in place. The outcome of any reconvened Discipline Panel will be subject to a right of appeal in accordance with this Dismissal and Disciplinary Procedure.

15.2 **New evidence** may be accepted at the discretion of the Chair of the Panel and will normally only be accepted if there is a requirement of natural justice to allow such evidence. New evidence must be submitted to the Appeals Panel at least ***5 days*** before the Appeal. If the new evidence substantially affects the case, the information will be passed to the Investigating Officers to investigate and present back to the Disciplinary Panel.

15.3 If a rehearing is held as a result of the above (15.2) it must be noted that all the sanctions will become available to the panel.

16. RESIGNATIONS OF POSTHOLDER WHO FACE ALLEGATIONS RELATING TO SAFEGUARDING ISSUES

16.1 In accordance with Local Safeguarding Children Board's procedure for managing allegations against adults who work with Children and Young People and the DfE guidance 'Working together to Safeguard Children 2010', the fact that a person tenders his or her resignation or ceases to provide their services must not prevent an allegation from being followed up in accordance with this Disciplinary Procedure.

16.2 In all cases of gross misconduct, teachers must be investigated regardless of whether the individual resigns, and the Professional Misconduct Team of the DfE need to be advised of the outcome.

17. RECORD KEEPING IN RELATION TO SAFEGUARDING ALLEGATIONS

17.1 In accordance with the paragraph 10 of the DfE's document Working Together to Safeguard Children document it is important that employers keep a clear and comprehensive summary of any allegation made, details of how the allegation was followed up and resolved, and details of any action taken and decisions reached, on a person's confidential personnel file and give a copy to the individual. Such information should be retained on file, including for people who leave the organisation. At least until the person reached retirement age or for 10 years if that is longer. This information will prevent unnecessary re-investigation if allegations re-surface after a period of time.

17.2 In accordance with paragraphs 8.3 and 8.5 of Blackpool's Local Safeguarding Children Board guidance 'Managing Allegations Against Adults Who Work With Children And Young People', the Child Protection Strategy meeting all review any previous concerns or allegations regarding the conduct of the person who is the subject of the allegation. Discussions as to why the behaviour causes concern

should also be explored and recorded. Where it is the view that a case should be further investigated, the matter will then be referred to the Headteacher/Chair of Governors for consideration of disciplinary action. Those present at the strategy meeting will also determine what information can be shared, with whom and when.

17.3 In accordance with paragraph 6.2 Blackpool's Local Safeguarding Children Board guidance 'Managing Allegations against Adults Who Work with Children and Young People' any recorded information from previous concerns or allegations that are found to be malicious, unfounded or founded regarding the employee should be reviewed for background information as part of the investigation.

18. REPORTING TO THE APPROPRIATE LEGISLATIVE BODY

18.1 Following application of these procedures if an employee is dismissed or has resigned in circumstances where he/she would have been dismissed, or considered for dismissal, details will be forwarded to the appropriate legislative bodies e.g. Ofsted, Disclosure & Barring Service (DBS)

19. LEGAL RIGHTS

19.1 Nothing in these procedures shall be read as restricting in any way employee's from exercising their statutory rights under current employment law.

19.2 Employee's are advised to seek advice from their Professional Teacher Association and Trade Union representatives before exercising their rights.

20. EMPLOYEE ASSISTANCE PROGRAMME & TEACHER SUPPORT NETWORK

20.1 The Employee Assistance Programme is an independent organisation that provides completely confidential help and assistance including counselling for employees and their immediate families for any personal or work related problems. It is available 24 hours a day, 7 days a week, 365 days a year. They can be contacted on 0800 525 967, Minicom 0800 376 5467 or e-mail support4u@focuseap.co.uk

20.2 Teacher Support Network provides a range of services to help you – from the support phone line to money advice. They can be contacted on 08000 562 561 Txt: 07909341229 or email address: support@teachersupport.info

21. REVIEW STATEMENT

21.1 The effectiveness of this procedure will be measured actively by completing regular monitoring, assessment and evaluation, and through observation and feedback, to ensure a fair and consistent approach is adopted through the Disciplinary Policy.

APPENDIX 1

ACTS OF GROSS MISCONDUCT AND MISCONDUCT

The following list is not intended to be comprehensive and merely serves to provide examples of acts gross misconduct and misconduct, which throughout the application of the School's Disciplinary Procedure could lead to all sanctions including dismissal. These are examples, which could, dependant on the seriousness of the offences, result in summary dismissal:

- Theft and Fraud
- Serious Misbehaviour
- Breaching School rules, instructions, policies and legislative requirements
- Equal Opportunities
- Computer-related issues
- Criminal offences
- **Issues Identified by the Independent Safeguarding Authority**
- Attendance

ACTS OF GROSS MISCONDUCT

1. Theft and Fraud

a) Theft, attempted theft or misuse of public, private or school funds, property or resources.
b) Falsifying any document, timesheet, record, claim or account relating to the financial, operational or administrative processes or arrangements.
c) Providing false or misleading information or willful non-disclosure of information in support of an application for employment or during employment
d) Corrupt practices such as asking for or accepting bribes or unauthorised hospitality or gratuities; or falsely claiming money or benefits.

2. Serious Misbehaviour

a) Assault; violent or dangerous behaviour, including fighting at work
b) Serious physical or verbal abuse or bullying or harassment **(This may also be working in partnership with the school's Anti Harassment Policy)** towards fellow employees, clients or members of the public, including maltreatment; indecent behaviour;
c) Being under the influence of alcohol, drugs or other substances on duty
d) Engaging in unauthorised employment during hours when contracted to work for the School or during periods of sick leave.
e) Wilful damage to public, private or school property or resources
f) Other unacceptable conduct which substantially affects the performance of or relationship of the employee in their employment, whether or not the conduct occurred whilst on duty;

3. Breaching School rules, instructions, policies and legislative requirements.

a) Failing to observe the School's financial regulations, or operating procedures; including wilful non-disclosure of an interest in a contractual arrangement between an agency and the school
b) Serious breaches of health and safety precautions, including neglecting safety equipment; using School vehicles without authority and/or driving license. Any action which directly endangers others
c) Breaching the code of conduct or confidentiality so as to prejudice seriously the interests of the school or any individual including unauthorised disclosure of information to the media.
d) Gross carelessness or gross negligence in carrying out the duties of the post.
e) Prolonged or persistent absence from work without permission; **(This may also be working in partnership with the school's Attendance Management Policy adopted by the school).**
f) Breach of Safeguarding Procedures in relation to children and vulnerable adults**. (Please refer to Guidance for Safer Working Practice for Adults who Work with Children and Young People).** In accordance with Local Safeguarding Children Board's procedure for managing allegations against adults who work with Children and Young People the fact that a person tenders his or her resignation or ceases to provide their services must not prevent an allegation from being followed up in accordance with this Disciplinary Procedures and a conclusion reached.
g) Failure to obey instructions given by the school provided these are in accordance with accepted practices.
h) Malpractice in examinations

4. Equal Opportunities

a) Harassing, victimising or unfairly discriminating against someone on the grounds of race, gender, age, sexual orientation, gender reassignment, religion/belief or disability, or inciting or condoning such acts by others;
b) Serious breach of any equal opportunities legislation or school policy in relation to recruitment or provision of rights, benefits or services to employees and members of the public.

5. Computer-related issues

a) Serious misuse of, or deliberate damage to, any school computer hardware or software;
b) Any deliberate attempt to breach data protection or computer security rules accessing, storing or circulating offensive material via e-mail, the intranet or internet;

6. Criminal offences

a) Conviction for any criminal offence which makes the employee unsuitable for employment; or not disclosing a criminal conviction.(whether or not the criminal conviction is spent).

7. Issues Identified by the Independent Safeguarding Authority

a) Unsuitability to work with Children or Vulnerable Adults as a result of the Independent Safeguarding Authority's decision to barr the individual from working in Regulated Activity and subsequently including them on either the DBS Children's Barred List or Adults' Barred List. Further information about the Independent Safeguarding Authority can be found at www.gov.uk

The other type of misbehaviour is called misconduct. Employees will not be dismissed for a first instance of misconduct (except gross misconduct). If proven, an employee may be given a written warning or a final written warning depending on the seriousness and prior warnings on file. Once an employee has been given a final warning they may be dismissed if there is further misconduct.

ACTS OF MISCONDUCT

8. Misbehaviour (this may be gross misconduct in some situations).

a) Not obeying a reasonable instruction or safety rules; eg abuse of authority;
b) Using language or behaviour which is offensive or unacceptable to colleagues or others; unauthorised sleeping on duty
c) Careless damage to or unauthorized use of public, private or School property or resources

9. Attendance

a) Failing to comply with attendance rules and other working arrangements including persistent lateness

b) Failing to comply with absence reporting procedures including sickness certification rules

10. Breaching School rules and policies

a) Breach of code of conduct
b) Breach of Safeguarding Procedures in relation to children and vulnerable adults
c) Minor breaches of health and safety procedures
d) Carelessness and negligence in carrying out the duties of the post i.e. loss of School property

11. Equal opportunities

a) Minor breach of any equal opportunities legislation, or of the School's equality policies.

12. Computer-related issues

a) Inappropriate use of a work telephone or fax machine for personal calls without permission; misuse of the School's e-mail, intranet or internet system (this is gross misconduct in serious cases).

APPENDIX 2

WITNESS INVITE LETTER

STRICTLY PRIVATE AND CONFIDENTIAL

Please ask for:
Telephone:
Your Ref:
Date:

Dear

Investigation under the Disciplinary Procedure

In accordance with our Disciplinary Procedure I am investigating the following incident;

Please insert details of incident/s here

As part of the ongoing investigation, and in my capacity as Investigating Officer, I understand that you may be able to provide information relating to this incident and it would therefore be helpful to discuss these issues further.

I have arranged for this meeting to take place on…….. at …….. to be conducted at ……

On arrival, you should report to …… and ask for me.

Please find attached a copy of our Notes for Witnesses, which I am sure you will find both helpful and informative.

If you would feel more at ease with some support you do have the right to be accompanied at the interview by

Please insert details

If employee over 18 – can be a school colleague or trade union representative
If employee under 18 can be above or parent / guardian
If external witness it can be someone of their choosing

Where letter is to an internal witness please include

I appreciate this may be a stressful time for you so would like to remind you of the Employee Assistance Programme service, which is an independent organisation that provides completely confidential help and assistance including counselling for employees and their immediate families for any personal or work related problems. It is available 24 hours a day, 7 days a week, 365 days a year. They can be contacted on 0800 525 967, Minicom 0800 376 5467 or e-mail support4u@focuseap.co.uk

Can I also remind you of the need for confidentiality and advise you that you should not discuss this investigation with anyone other than the myself as the Investigating Officer, your chosen representative or your immediate family. Any breach of confidentiality may constitute a disciplinary offence and will be dealt with in accordance with the disciplinary procedure.

If you have any questions, please contact ……

Yours sincerely

Investigating Officer

APPENDIX 3

NOTES FOR WITNESSES

1. A Disciplinary Investigation is being carried out. As part of this process you are being interviewed as a witness. You may have already been asked for a written, signed, statement on what you know. It is important to note that you are a witness and we are not investigating any allegation against you. You are entitled to bring someone along to the meeting with you. As detailed in the covering letter

2. It is important to interview witnesses as part of the disciplinary investigation so as to gain a true picture of the events. Careful consideration will have been given to which people are interviewed as witnesses. In most cases it is the person making the allegations, anyone who saw the events and the employee who is the subject of the allegations. In some investigations it may be necessary to interview a representative group of people; (e.g. others who received a service from the person under investigation or a cross section of the staff at the Unit), to get a balanced view.

3. The purpose of interviewing witnesses is to gather the facts and circumstances of the event - surrounding the allegations

4. Notes will be taken at the meeting of what you say and you will have the opportunity to check and amend these notes if you so wish. You should sign the notes, to confirm they are an accurate and factual record of your meeting. They will, along with other statements, form part of a report of the Disciplinary Investigation.

5. If the evidence from the investigation suggests that there are some concerns, which need investigating, then a formal disciplinary hearing will take place. The person who is the subject of the investigation will have the opportunity to read all the papers that make up the investigation. This includes your notes and any statement. You may be asked to attend the disciplinary hearing in person, as a witness. If this is so the Investigating Officer or Line Manager will discuss it with you.

6. You are asked to keep the matter confidential and not to discuss the contents of the interview with anyone else- whilst the matter is under investigation.

7. It is recognised that being a witness can be stressful for some people. If you feel you require support during this time, please feel able to talk to the, Investigating Officer(s)

8. You do not have to talk to the employee under investigation, and if he/she contacts you direct, then you should refuse to discuss the incident and report the matter to the, Investigating Officer(s).

9. Thank you for your co-operation in this matter.

APPENDIX 4

WITNESS POST INTERVIEW LETTER – USED WHEN MINUTES ARE SENT OUT

STRICTLY PRIVATE AND CONFIDENTIAL

Please ask for:
Telephone:
Your Ref:
Date:

To Sent By Recorded Delivery

Dear

School Model Policy Disciplinary Procedure (December 2012)

I refer to the above interview conducted on DATE and have accordingly enclosed two copies of the notes for your consideration.

I would be grateful if you will read the notes and sign where indicated to confirm that it is indeed a true reflection of the interview. If however, you would wish to make any amendment(s) to the content, please do so and then sign and return one copy to me within 10 working days of the date of this letter, using the enclosed self-addressed envelope.

If we have not received a response from you within 10 working days of the date of this letter, we will presume that there are no amendments to be made and that the notes are correct.

Your assistance in this matter is appreciated and, if you should require any further information, please do not hesitate to contact me on the above telephone number.

Yours sincerely

Investigating Officer

APPENDIX 5

LETTER TO EMPLOYEE TO ADVISE OF INVESTIGATION

STRICTLY PRIVATE AND CONFIDENTIAL

Please ask for:
Telephone:
Your Ref:
Date:

Dear

Investigation under the Disciplinary Procedure

I have received details of allegations that you have

Please insert full and complete details of allegation/s and provide supporting documentation e.g witness statements.

As part of the investigation, in my capacity as Investigating Officer, I will need to formally interview you to discuss this issue further, under the process outlined in the Disciplinary Procedure –. A copy of the Procedure is enclosed for your information.

You are required to attend for Interview on ---------- at ---------- with ---------- and myself.

At least 5 working days notice must be given

Please note that throughout the investigation, and for any meetings convened under the Procedure, you have the right to be accompanied by a school colleague or trade union representative.

Can I also remind you of the need for confidentiality and advise you that you should not discuss this investigation with anyone other than the myself as the Investigating Officer, your chosen representative or your immediate family. Any breach of confidentiality may constitute a disciplinary offence and will be dealt with in accordance with the disciplinary procedure.

I appreciate this may be a stressful time for you so would like to remind you of the Employee Assistance Programme service, which is an independent organisation that provides completely confidential help and assistance including counselling for employees and their immediate families for any personal or work related problems. It is available 24 hours a day, 7 days a week, 365 days a year. They can be contacted on 0800 525 967, Minicom 0800 376 5467 or e-mail support4u@focuseap.co.uk

Please confirm that you will be attending the interview and who your representative will be by contacting myself as soon as possible.

Yours sincerely

Investigating Officer

APPENDIX 6

LETTER TO ADVISE NO FURTHER ACTION FOLLOWING INVESTIGATION

STRICTLY PRIVATE AND CONFIDENTIAL

Please ask for:
Telephone:
Your Ref:
Date:

To Sent By Recorded Delivery

Dear

Investigation under the Disciplinary Procedure

I write with reference to my letter of ……in connection with the allegation of Please insert full and complete details of allegation and our meeting on…….at……at which you were represented by……../ chose not to be represented. Please delete as appropriate

I am writing to confirm that the investigation has Insert either *neither disproved nor substantiated* or *exonerated* the claim made against you.

As a consequence, no further action will be taken *(where employee is currently suspended also include the wording 'and you will no longer be suspended from duty, effective from …….) A further meeting will be arranged to re-integrate you back into school.*

Thank you for your assistance in resolving this matter

Yours sincerely

Investigating Officer

APPENDIX 7

INVITE TO DISCIPLINARY HEARING LETTER

STRICTLY PRIVATE AND CONFIDENTIAL

Please ask for:
Telephone:
Your Ref:
Date:

Dear

Investigation under the Disciplinary Procedure

Further to my letter of……..I am writing to confirm that the investigation has been completed. You are now required to attend a formal Disciplinary hearing on ….. at ……, to be conducted at ……; on arrival, you should report to ……. and ask for me.

At least 10 working days notice of meeting must be given to enable evidence to be submitted 5 working days before meeting.

The Hearing Panel will consist of Please include names and during the Hearing you will be required to respond to the following allegation(s):

Please detail full and complete allegations, which should mirror those within the final investigation report

I enclose a copy of the Disciplinary Procedure for your information and confirm that two copies of all the written evidence that will be presented at the hearing are enclosed, so that you can provide your representative with one. Should you wish to submit any written evidence of your own for the Panel to consider, this should be forwarded to me to arrive at least 5 working days before the meeting, together with names of any people you wish to call to provide evidence on your behalf.

I must advise you that the outcome of this hearing may be:

No further action is taken
A verbal warning, first written or final written warning is issued
A decision for your dismissal is made

May I remind you that you have the right to be accompanied by a trade union representative or a school colleague Where under 18 please add or parent or guardian Please advise me of your chosen representative and provide them with the copy letter attached.

Can I also remind you of the need for confidentiality and advise you that you should not discuss this investigation with anyone other than the myself as the Investigating Officer, your chosen representative or your immediate family. Any breach of confidentiality may constitute a disciplinary offence and will be dealt with in accordance with the disciplinary procedure.

Please confirm your attendance by contacting me on the above telephone number.

Yours sincerely

Investigating Officer

APPENDIX 8

CODE OF PRACTICE ON SUSPENSION

Where it is deemed necessary for an employee to be suspended from duty, the following Code of Practice shall apply:

- The employee shall be called to a meeting with the Head Teacher/Chair of Governors or his/her representative and where appropriate a representative from the Children's Services HR Unit.

- The employee will be informed of the right to be accompanied by his/her Professional Association/ Trade Union representative or a colleague of his/her choice in advance of this meeting, and at any subsequent meeting which may be convened during the period of suspension. The Professional Association/ Trade Union representative or colleague will attend the meeting purely in the capacity of an observer.

- The employee will be informed of the reason for suspension from duty and asked to hand-over his/her ID card, security pass, if appropriate, keys and any other property belonging to the School.

- A letter, confirming the suspension and the reason(s) for the suspension will be sent to the employee within **3** working days from the date of the suspension. A copy of the letter must also be sent to HR Schools team. The employee will be informed not to return to the school premises and be advised not to have contact with colleagues. It is good practice to appoint a Link officer to maintain contact with suspended employee and keep them informed of progress.

- When on suspension with pay an employee must be ready to attend investigatory meetings/interview when requested and must not undertake any action to hinder the investigation.

- Suspension from duty is a neutral act and does not constitute disciplinary action against an employee nor will it result in loss of earnings

- Every effort must be made, where possible, to conclude a disciplinary investigation as quickly as possible from the date the suspension commences.

- Any suspended employee submitting a sickness absence certificate shall still be deemed as suspended, although pay will be in accordance with the appropriate sick pay scheme.

- Should formal disciplinary proceedings be warranted it should be noted that those Line Managers involved in the suspension process are not precluded from being involved, if appropriate, in any formal disciplinary procedure.

NB: Head Teachers/Line Managers who have been involved in the investigatory process will be precluded from being a member of any subsequent Disciplinary Panel.

APPENDIX 9

LETTER TO CONFIRM SUSPENSION

STRICTLY PRIVATE AND CONFIDENTIAL

Our ref:
Your ref:
Please ask for:
Telephone:
Date:

Dear

Investigation under the Disciplinary Procedure

I write with reference to our meeting held on ….. at which you chose not to be represented /were represented by Delete as appropriate and where applicable include Name of representative and which was attended by Please include names of those present**.**

This letter is confirmation that you are formally suspended on full pay with effect from ……..

You have been suspended following an allegation of potential Gross Misconduct in accordance with the Disciplinary Procedure (Copies of which are enclosed together with "Notes for Employees Suspended from Duty")

The nature of the allegation is:

Please include full and complete details of allegation/s

You must not return to work at (Base Location**)** or any Blackpool Council establishment until you are required to do so. Additionally, you will need to hand in any work related property you currently hold and should not discuss your suspension with any other member of the Authority other than your representative, Human Resources team members or myself.

You should note that this suspension is without prejudice. It does not imply punishment or that the outcome of the investigation has been decided.

You have the right to seek advice and be represented at any future meetings or interviews by a school colleague or Professional Association/ Trade Union representative where under 18 please add or parent/guardian and you must be available to attend these during normal working hours.

Can I also remind you of the need for confidentiality and advise you that you should not discuss this investigation with anyone other than the myself as the Investigating Officer, your chosen representative or your immediate family. Any breach of confidentiality may constitute a disciplinary offence and will be dealt with in accordance with the disciplinary procedure.

During your suspension (Name), (Telephone Number)**,** will act as link officer and will maintain contact with you and keep you advised of ongoing progress.

I appreciate this may be a stressful time for you so would like to remind you of the Employee Assistance Programme service, which is an independent organisation that provides completely confidential help and assistance including counselling for employees and their immediate families for any personal or work related problems. It is available 24 hours a day, 7 days a week, 365 days a year. They can be contacted on 0800 525 967, Minicom 0800 376 5467 or e-mail support4u@focuseap.co.uk

Yours sincerely,

APPENDIX 10

NOTES FOR EMPLOYEES SUSPENDED FROM DUTY

Being suspended from duty does not mean that it has been decided that the allegation(s) are proven or that disciplinary action will be taken. It does mean that the allegation(s) are being taken seriously

Although you may feel punished, in taking the decision to suspend you, your Manager would have considered your protection from further allegation(s). Suspension from duty often occurs as a result of serious allegations. It may be that your removal from the situation was to minimise any escalation of the matter.

WHAT HAPPENS NEXT?

The Investigating Officer (s) is responsible for investigating the allegations, and will contact you to set up an interview to obtain the facts of the case as you understand them. At this meeting you will be allowed to bring with you a Professional Association/ Trade Union representative or school colleague. This meeting may take time to set up if the Investigating Officer(s) has to interview the complainant and/or witnesses before meeting you.

HOW LONG IS IT FOR?

No lime limit can be set. The Investigating officer will aim to conclude disciplinary investigations as quickly as they can, but need to carry out a full and fair investigation. Complex investigations can take longer. As the investigation progresses, sometimes new evidence comes to light which allows for a person to return to work. In most cases people have to wait until the investigation is concluded or where appropriate a Disciplinary Hearing set up and a decision made about the allegation(s).

WHAT DOES FULL PAY MEAN?

It means contractual pay, which includes basic salary and contractual enhancements, e.g. Shift allowance.

WHAT HAPPENS IF I AM OFF SICK WHILST SUSPENDED?

Should a suspended employee submit a sickness absence certificate they shall still be deemed as suspended, although pay will be in accordance with the Sick Pay Scheme.

MUST I STAY AT HOME?

All School policies/procedures still apply whilst you are on suspension. For example if you wish to attend a funeral you must still apply for special leave under the Special Leave Policy. You are still employed by the School who can request you to attend work and meetings with minimum notice. So if you wish to go on holiday, you will need to agree leave. Also, if you are going to spend any time away from your normal home (anything beyond a couple of days) you should leave a contact address/number. Therefore, you will need to inform the Investigating Officer(s), or other “link” officer.

WHAT DOES IT ACTUALLY MEAN, “I CANNOT ATTEND WORK OR TALK TO OTHER EMPLOYEES”?

You must not attend your workplace whilst suspended without prior agreement of the Investigating Officer(s) This also applies if you need something from work. When it says you should not speak to other employees, it means about the matters under investigation. You do not have to avoid people in the street and you can talk about social matters. You should be cautious about what you discuss. You should not do anything that could be construed as “intimidating witnesses”.

If you are suspended and you:-

- go on holiday without prior agreement
- attend your workplace without permission

- or inappropriately discuss the details of the case, without clarifying the matter with the Investigating Officer(s), or "link" officer.

You are likely to be in breach of the suspension, which may lead to further disciplinary action. Please talk to your "link" officer if you are unsure.

If you want to ask a colleague questions about the allegation(s), or see if they will be a witness, you should approach them through the Investigating Officer(s), so as to avoid any claims of intimidation of witnesses. Your colleagues will have the right to be accompanied by a representative.

WHAT SHOULD I BE DOING?

It is recommended that you swiftly write out the facts of the matter under investigation as you see them. You should contact your Professional Association/ Trade Union or Professional Association if you are a member. They will be able to give you further advice and support and it is often good to have someone 'neutral' to talk to. If you are not a Trade Union Member, you may wish to consider an alternative representative to help you.

A number of people have found it useful to contact the Counseling Service provided by EAP. This is an independent organisation that provides completely confidential help and assistance including counselling for employees and their immediate families for any personal or work related problems. It is available 24 hours a day, 7 days a week, 365 days a year. They can be contacted on 0800 525 967, Minicom 0800 376 5467 or e-mail support4u@focuseap.co.uk

Counselors are trained and experienced and are bound by a Code of Conduct covering professional standards, including confidentiality.

It is possible that you may experience some periods of depression or anxiety. It is important that if you are worried about your health during such a stressful time, that you see your General Practitioner.

It is important for all concerned that the matter is kept confidential. You may of course talk over the details of the case with your family, Professional Association/ Trade Union Representative or Counselor.

Equally, witnesses interviewed as part of the investigation will be asked to keep the matter similarly confidential.

RESIGNATION

Some people who are suspended from duty consider resigning before the disciplinary hearing. If you are a Trade Union Member your representative can advise you about this course of action.

The Authority cannot proceed with a disciplinary hearing if the person is no longer an employee. However, neither do you get the opportunity to present the facts of the matter under investigation, how you saw the events.

If you wish to tender your resignation you would need to put this in writing. If you are intending to resign you are advised to contact HR to discuss the implications. In particular how this will affect the notice period, your pay and any future job references.

It is important to stress that it is only a decision you can make. The Disciplinary Procedure starts from a point where you are innocent until proven otherwise. The School does not/cannot/will not put on any pressure to encourage you to resign.

In accordance with Local Safeguarding Children Board's procedure for managing allegations against adults who work with Children and Young People the fact that a person tenders his or her resignation or ceases to provide their services must not prevent an allegation from being followed up in accordance with this Disciplinary Procedures and a conclusion reached.

FURTHER SUPPORT AND ASSISTANCE

You will be given the name of your "link" officer, someone who can offer support during your suspension. Someone who can keep you up-to-date on the situation and who you may contact for further information of your suspension or just the disciplinary process generally.

APPENDIX 11

GUIDANCE ON THE ROLE OF LINK OFFICER

Key Responsibilities

Conduct regular welfare checks to provide any support required
Provide information with regards to the progress of the investigation (minimum of once a month) dependant upon the complexity of the case.
Contact the suspended employee within 5 working days to introduce themselves and check what immediate support is required.

Agree method of contact (suggest via telephone) dependant upon the complexity of the case.

Diarise contact dates and ensure each contact is recorded and content documented.

If suspension proves lengthy (over 3 months) conduct regular reviews with the investigating team and inform individual of the reasons why and discuss any further support they may require.

It is the responsibility of the Link Officer/Investigation team to arrange contact with the individual around any absence of the Link Officer or to ensure that an alternative contact is given if the absence is to be lengthy or ongoing.

If support is required by the individual the Link Officer can liaise with the School to ascertain if required support can be provided e.g. Occupational Health, Employee Assistance Programme or counselling services used by the school.

APPENDIX 12

VERBAL/FIRST WRITTEN WARNING/FINAL WRITTEN WARNING LETTER

STRICTLY PRIVATE AND CONFIDENTIAL

Please ask for:
Telephone:
Your Ref:
Date:

Dear

Outcome of Disciplinary Procedure

I am writing to confirm the outcome of the disciplinary hearing on …. to consider allegations of misconduct, which you attended. You chose not to be accompanied at the hearing/ were accompanied by your representative, Delete as appropriate and add name of representative if applicable.

The Hearing Panel, having considered the allegation(s), agreed that:

Please include full details of all allegations upheld

Where some allegations were not upheld add 'but that their was insufficient information or the following allegations could not be proven

Please include full details of all allegations not upheld

The Hearing Panel have taken into account all the circumstances put forward and decided that you should be issued with a Please insert either verbal warning, first written warning or final written warning under the Disciplinary Procedure.

A copy of this warning will be retained on your personal file for the period stated within the Disciplinary Policy. However, you should be aware that any further incidents, of a similar or wholly unrelated nature, might result in disciplinary action being taken against you, which could ultimately lead to your dismissal.

You have the right of appeal against this decision. If you wish to exercise this right of appeal you should write to the Clerk to the Governors within five working days of receipt of this letter, stating the grounds for your appeal and enclosing any relevant documentation.

Yours sincerely

APPENDIX 13

DISMISSAL LETTER

STRICTLY PRIVATE AND CONFIDENTIAL

Please ask for:
Telephone:
Your Ref:
Date:

Dear

Outcome of Disciplinary Procedure

I am writing to confirm the outcome of the disciplinary hearing on … to consider allegations of misconduct, which you attended. You chose not to be accompanied at the hearing/ were accompanied by your representative, Delete as appropriate and add name of representative if applicable.

The allegations presented to the panel are as follows;

Please include full details of all allegations

Following full and careful consideration of all the facts at the Panel's disposal, I must confirm the decision that the evidence presented demonstrates that your behaviour constituted gross misconduct. As such, the School is unable to continue with your employment and I have no alternative but to confirm your summary dismissal from your position with immediate effect.

Should you have any personal effects to collect from your workplace, you should contact Please insert name and telephone number of link officer

You have the right to appeal against the decision of the Hearing Panel. Should you wish to exercise this right you should give notice of your appeal and the grounds for it, enclosing any relevant documents, to the Clerk to the Governors within 5 working days of the receipt of this letter.

Yours sincerely

APPENDIX 14

APPEAL INVITE LETTER

STRICTLY PRIVATE AND CONFIDENTIAL

Please ask for:
Telephone:
Your Ref:
Date:

Dear

Appeal Hearing under the Disciplinary Procedure

Following receipt of your notification of appeal against the decision to Please insert either dismiss you/issue you with a verbal warning/issue you with a first written warning/issue you with a final written warning I am writing to inform you that a meeting of the Appeals Committee has now been arranged. You are invited to attend a Hearing on …….. at ……. which will be held at ……..

At least 10 days notice of the Appeal Hearing must be provided

A copy of the Disciplinary Procedure is enclosed with this letter. Should you wish to submit any written evidence of your own for the Panel to consider, this should be forwarded to me to arrive at least 5 working days before the meeting, together with names of any people you wish to call to provide evidence on your behalf.

May I remind you that you have the right to be accompanied by a trade union representative or a school colleague where under 18 please add or parent/guardian and you should advise me of who your chosen representative is. I have also enclosed a copy of this letter for you to give to your chosen representative.

Can I also remind you of the need for confidentiality and advise you that you should not discuss this investigation with anyone other than the myself as the Investigating Officer, your chosen representative or your immediate family. Any breach of confidentiality may constitute a disciplinary offence and will be dealt with in accordance with the disciplinary procedure.

Yours sincerely

APPENDIX 15

OUTCOME OF APPEAL LETTER

STRICTLY PRIVATE AND CONFIDENTIAL

Please ask for:
Telephone:
Your Ref:
Date:

Dear

Outcome of Appeal Hearing under the Disciplinary Procedure

At the hearing held on ……, the Appeals Committee considered the points you raised in your appeal against the decision of the ……. Committee on ……...

You attended the Appeal Hearing and were accompanied by ……/ chose not to be accompanied Delete as appropriate and add name of representative if applicable or add You were invited to attend the Appeal Hearing, but chose not to attend.

Following full and careful consideration of all the information presented, the Appeals Committee Please insert either decided to uphold the decision /overturn the decision or issue you with a lesser sanction

The decision of the Appeals Committee is final and no further rights of appeal or hearing shall be allowed under these procedures.

Yours sincerely

APPENDIX 16

DISMISSAL AND DISCIPLINARY PROCEDURE FLOWCHART

INFORMAL STAGE

Minor offences or lapses by the employee are dealt with by the Head Teacher/Line Manager. Outcome recorded in writing.

ISSUE RESOLVED

Yes
No further action required

No
Where this has failed to resolve the matter or it is considered that the matter warrants formal disciplinary action a verbal warning may be given by the Head Teacher/Chair of Governors/Discipline Committee.

A Verbal Warning will remain live for disciplinary purposes on an employee's personal file for a period of 6 months from the date the warning was issued

ISSUE RESOLVED

Yes
No further action required

No
Where a Verbal Warning has failed to resolve the matter or a subsequent but different offence is committed, a First Written Warning may be given by the Head Teacher/Chair of Governors/Discipline Committee.

A First Written Warning will remain live for disciplinary purposes on an employee's personal file for a period of 12 months from the date the warning was issued.

ISSUE RESOLVED

Yes
No further action required

No
Where a First Written Warning has failed to resolve the matter or a subsequent but different offence is committed, a Final Written Warning may be given by the Discipline Committee.

A Final Written Warning will remain live for disciplinary purposes on an employee's personal file for a period of 18 months from the date the warning was issued.

ISSUE RESOLVED

Yes
No further action required

No
If Final Written Warning has not led to an improvement in conduct or performance and the employee fails to reach an acceptable and agreed standard of performance then dismissal will normally result. The Discipline Committee will issue the dismissal notice.

NB THERE IS NO NEED TO ISSUE EACH SANCTION IN TURN A SANCTION SHOULD BE ISSUED WHICH IS APPROPRIATE TO THE ALLEGATION