



PENPOL SCHOOL

Staff Conduct and Discipline Policy

Updated June 2024

Introduction

This policy is designed to help and encourage all employees to achieve and maintain appropriate standards of behaviour and conduct. It provides a method of dealing with apparent shortcomings in conduct, and its main purpose is to encourage an employee whose conduct is unsatisfactory to improve.

This policy will be applied consistently and fairly to all employees, based on the circumstances of their case. No-one will be treated less favourably on the grounds of their gender, disability, age, race, creed, colour, religion, nationality, ethnic or national origin, trade union membership or activity, sexual orientation, gender reassignment, medical condition or marital status. Furthermore, the employer recognises its responsibility to ensure the implementation of the rules of natural justice as part of this policy: ie the employee should know the nature of the accusation against them; the employee should have an opportunity to state their case; management should act in good faith.

The policy is written in line with the Advisory, Conciliation and Arbitration Service (ACAS) Code of Practice.

Informal guidance does not form part of the formal disciplinary policy.

All proceedings under this policy shall be held in private and shall be confidential.

Scope of the policy

This policy does not apply where there are matters of:

- minor misconduct that should be settled informally by means of counselling or informal reprimand in order to improve conduct
- competence or capability which is dealt with under the capability policy, unless it is clear that the employee is capable of reaching the required standard and has actively not done so
- ill health which is dealt with under sickness absence procedures unless there is good reason to believe that the absence or ill health are not genuine
- bullying, harassment, discrimination and/or victimisation which are dealt with in the first instance under dignity at work policies.

This procedure reflects the legal provisions relating to dismissal, Sections 35 and 36 of the Education Act 2002, the School Staffing (England) Regulations 2009 (which replace the provisions set out in Schedule 16 and 17 of the School Standards and Framework Act 1998), and the ACAS Code of Practice 'Disciplinary Practice and Procedures' as amended by the ACAS guide 'Discipline and Grievance at Work'.

The use of the word 'should' in this introduction indicates the Secretary of State's recommended course that should be adopted in any particular functions to which it relates. These can be to functions of the Local Authority, Governing Body or the Headteacher. Where the word 'should' is used, it is intended that that is the course that is followed and any deviation should only be for a very good reason.

Under the terms of the School Staffing (England) Regulations 2009 (Regulation 4), whilst a Governing Body has overall responsibility for decisions relating to disciplinary sanctions in respect of misconduct from staff in its school, a Governing Body is allowed to delegate this responsibility to the Headteacher, an individual Governor or group of Governors (with or without the Headteacher) (with the exception of the dismissal of Headteachers).

The Governing Body may delegate the responsibility for decisions relating to disciplinary sanctions (including dismissal) in respect of misconduct from staff in its school to a Panel

comprising solely of Governors or Governors and the Headteacher.

Where dismissal of a member of staff is under consideration, the School Staffing Regulations recommend that the Governing Body delegates such functions to the Headteacher, unless it thinks this would be inappropriate. In determining its delegated responsibilities to the Headteacher in this respect, Governors should give consideration to the following:-

- A Headteacher who is unwilling to perform this function and whose previous history of service at the school did not include any such responsibilities. This gives an existing Headteacher the option of preserving their current working arrangements but when the Governing Body considers a new appointment for the Headteacher post, the normal expectation for the Headteacher to undertake these responsibilities should apply.
- Where the Headteacher has been directly involved in disciplinary procedures leading to dismissal, has instigated a proposal to dismiss or is a witness.
- Where the Governing Body of a school with a religious character has agreed staffing policies which provide for Governor involvement in the interests of preserving the school's religious character.
- A Headteacher subject to suspension, disciplinary or capability procedures or a disciplinary sanction.
- Where the Local Authority has made representation to the Chair of the Governing Body on grounds of serious concerns about the performance of the Headteacher.
- Where the Headteacher has failed to abide by financial limits agreed by the Governing Body for any school purpose.

It is recognised that situations can arise where a staff member may appear to fall short in achieving the required standards of conduct. In addressing these issues, the Headteacher/Governing Body will ensure that all disciplinary cases follow the agreed Disciplinary Procedure, with each case being considered on its merits, without unreasonable delay, and in an objective, reasonable, fair and consistent manner.

Where possible, potential disciplinary issues should be resolved informally by drawing the employee's attention to the perceived unsatisfactory conduct, discussing the situation and the standards of conduct that are required, and agreeing an appropriate way forward, including any improvement required.

Informal action may often be a more satisfactory way of dealing with a breach of rules than a disciplinary meeting if it takes the form of a discussion with the objective of encouraging and helping the employee. Informal discussion must not turn into a disciplinary meeting and warnings will not be given and recorded.

Consideration should be given to any difficulties that an employee may be facing and a genuine attempt should be made to help the employee to overcome them. Where considered appropriate, managers should seek professional medical opinion and advice when managing staff who may be suffering from mental illness, alcohol or substance

abuse.

Investigation

No formal disciplinary action will be taken without a prompt and appropriate investigation into the circumstances.

The head teacher will nominate an investigating officer who is a senior member of staff and who should normally have received relevant training. Where the allegations are against the head teacher, the chair of the governing body will discuss the case with the school and an independent investigating officer will be nominated. The investigating officer will write to the employee at the earliest opportunity and give the following information:

- details of the allegation/s
- copies of appropriate and available information
- a copy of this disciplinary policy
- time and date of any investigation meeting, with five working days' notice (see section 4)
- confirmation of their right to representation by a trade union representative at all meetings.

The investigating officer will promptly carry out a full, thorough, comprehensive and unbiased investigation into the allegations in as timely a manner as the circumstances will allow. Care will be taken to ensure that, where appropriate, evidence is also sought from employees who may be supportive of the employee's case. This will involve the gathering of all relevant evidence from the relevant parties and an investigation meeting with the employee.

The investigation report should be completed as soon as possible and within 15 working days for allegations of misconduct and other cases where the fact finding is relatively straightforward. For allegations of gross misconduct and more complex cases, the investigation process should take no longer than 20 working days. In very complex cases or exceptional circumstances, a reasonable timescale will be agreed by mutual consent. The investigation may require employees and witnesses to be interviewed to establish the facts. Employees should be given notice of at least five working days in advance of any investigation meetings/interviews. Witnesses should be advised to seek advice as appropriate. Minutes of these meetings will be taken and agreed with the employee as a true record.

The role of the investigating officer is to gather evidence and produce a report that will recommend whether:

- no further action is required
- management guidance is appropriate
- training is required
- the case should be referred to a hearing
- whether the matter is potentially one of gross misconduct.

If other areas of concern arise during the process that require further investigation, the investigating officer will adjourn the meeting/investigation in order to undertake this.

If there is no case to answer, the matter will be closed, the employee informed in writing and all documentation removed from the employee's file. If the matter does not warrant a disciplinary hearing, the head teacher may arrange counselling or take informal action. If on completion of the investigation the investigating officer is satisfied that the alleged misconduct warrants a hearing, s/he will inform the employee and a disciplinary hearing will be arranged.

In the case of the head teacher, the investigating officer will submit a report to the

employer with a copy to the chair of governors. The employer and the chair of governors will decide if any further action is required and whether there needs to be a formal hearing convened with the governing body. The employer will be represented on the panel.

Persons directly involved in the investigative process may present a case or appear as a witness, but may not give advice to, nor sit on, the subsequent disciplinary hearing panel.

Representation

Employees have a statutory right to be accompanied at formal disciplinary meetings/hearings by their trade union representative or a workplace colleague. This employer will extend this right and allow for employees to be accompanied at all informal meetings as part of the disciplinary procedure.

The employee is responsible for arranging his/her representation, including notifying the representative of the hearing date in good time and sending copies of all relevant documentation. Where the employee's trade union representative is not available at the time proposed for the meeting/hearing, the employee may propose an alternative date and time.

Management should try to agree a mutually convenient date for the meeting with the employee and their union representative in order to ensure that meetings do not have to be delayed or rescheduled.

The trade union representative may address a hearing/meeting to put the case for the employee and/or sum up the case, respond on behalf of the employee to any views expressed at the meeting/hearing and may confer with the employee. They may not, however, answer questions on their behalf.

The school/academy will need to consider whether any additional support for the employee is required, for example to make reasonable adjustments where there is a physical disability or other special need.

Suspension

Suspension is a neutral act and is not disciplinary action. The head teacher may suspend an employee from duty on full pay at a formal meeting called for the purpose. The employee will be given an opportunity, wherever possible, for a colleague or trade union representative to be present. Suspension will result from any suspicion or allegation of gross misconduct, and will be on full pay and from all performance of duties. A written record confirming the suspension will be provided to the employee within three working days of the suspension. Unless the employee has specific written permission from the head teacher, the employee may not be present on any part of the school/academy site during the time of the suspension. A suspended employee should be assigned a contact officer who should be a senior member of staff not involved with the case. The contact officer will review the suspension at regular intervals (every two weeks where appropriate) and advise the employee of progress with the case.

Before the decision is taken to suspend a staff member, the Headteacher is advised to contact the Schools' Employee Relations team to confirm that suspension is the most appropriate action as there are other options that may be more appropriate.

However, in the event of a decision being taken to suspend a staff member, the Headteacher will immediately inform the Chair of the Governing Body (in writing or verbally). The Director of Children, Schools & Families (or representative) and Schools' Employee Relations team will also be advised.

At the time of suspension, the staff member will be interviewed by the Headteacher and will be given an adequate opportunity to offer an early explanation. The staff member

will be encouraged to be accompanied by a trade union representative or a workplace colleague at this interview. The non-availability of a specific companion will not result in the postponement of the interview. A representative from the Schools' Employee Relations team may also be in attendance. At the interview the staff member will be verbally advised of the details of the allegation, that an investigation will be carried out and the anticipated timescales, and that he or she is to be suspended on full pay pending the outcome of the investigation.

This will be confirmed in writing in a letter to the staff member with a copy for the workplace colleague or trade union representative.

Suspension will apply in circumstances where it is deemed inappropriate by the Chair of the Governing Body and/or Headteacher for the staff member to remain at work while the facts and relevant information are being obtained. Suspension should apply where the allegations may amount to gross misconduct or where a staff member is the subject of a police investigation for an alleged offence which is considered relevant to his/her duties. In these cases, suspension will apply for the duration of the disciplinary process. Suspension is not a sanction or detriment to the member of staff, it is an entirely neutral act.

During the period of suspension the member of staff is required to remain away from their workplace and not to contact work colleagues, other than with the Headteacher's agreement.

The period of suspension will depend on the complexity of the investigation and may be determined by police enquiries or legal proceedings. It should not be unnecessarily protracted.

The staff member's suspension should be reviewed throughout the course of the investigation. The Governing Body may make the decision to end a suspension.

Suspended staff members will be reminded of the opportunity to use the Council's confidential counselling service provided by Relate, should they or their family require suitable support as a result of the suspension.

A school colleague should be nominated to maintain contact with the member of staff during the period of suspension.

The member of staff may be required to assist the school with its investigations or to attend a disciplinary hearing.

Definitions of misconduct and gross misconduct

Misconduct is where an employee breaks specific rules about behaviour or conduct. It is where conduct falls below expected standards and is usually wilful. There may be occasions when negligent conduct amounts to misconduct. Breaches of reasonable conduct at work can take many forms. Consideration will always be given to the particular circumstances.

Gross misconduct is misconduct which is so serious it may destroy the employment

contract between the employer and the employee, and make further working relationships and trust impossible. Some gross misconduct breaches of discipline may be regarded as serious enough to warrant summary dismissal without reference to any prior warnings.

Disciplinary sanctions

The possible actions arising from a disciplinary hearing are:

- No further action to be taken.
- Recorded oral warning – this will remain on the employee's record for 3-6 months dependent on the nature and severity of the breach.
- Written warning – this will set out the nature of the misconduct/reasons for the warning, and any improvements and the change in behaviour required. The employee will be notified that the warning constitutes part of the formal disciplinary process and the consequences of any further misconduct could be a further written warning and ultimately dismissal. It will remain on the employee's record for six months.
- Final written warning – this will be given where misconduct is serious but is not considered serious enough to justify dismissal. A final written warning may also be issued where there is a failure to improve following previous written warning/s. It will remain on the employee's record for 12-18 months dependent on the nature and severity of the breach.

Where a final written warning is issued during the term of a first written warning, the duration of the final written warning will supersede that of the first written warning. Upon expiry, the warning will be removed from an employee's personnel file except for warnings relating to the safety and welfare of children or young people.

The written notification will include the following information:

- the exact nature of the misconduct proven
- the basis of their decision
- the period of time given for improvement, if appropriate, and the standard of improvement expected
- the disciplinary sanction being applied and, where appropriate, how long this will last
- notification of the likely consequences of further proven misconduct
- information about the employee's right of appeal, including how they should make it and to whom.

Appeals

An employee can appeal against any formal disciplinary action. The appeal must be made in writing to the chair of governors within 15 working days of receipt of the decision letter.

Appeals against the fairness and reasonableness of any disciplinary action may be considered by the appeals panel in relation to one or more of the following grounds:

- The procedure – the grounds of appeal should detail how any procedural irregularities prejudiced the disciplinary decision.
- The facts – the grounds of appeal should detail how the facts do not support the decision or were misinterpreted or disregarded. They should also detail any new evidence to be considered.
- The decision – the grounds of the appeal should state how the act(s) of misconduct did not justify the level of disciplinary action taken or the act was one of misconduct rather than gross misconduct.

Wherever possible the appeal should be heard within 20 working days of the lodging of the appeal, and the employee should have at least ten working days' notice of the appeal hearing.

The appeals panel should be formed from the governing body with a quorum of three. No member of the disciplinary hearing panel shall be a member of the appeal panel. All documentation presented to the hearing, together with the decision of the head teacher/chair of the panel, as well as any subsequent correspondence, must be made available to the appeal hearing panel. Any new evidence should be copied to all parties at least five working days before the appeal hearing.

Dismissal and notice periods are effective from the initial dismissal decision. Should the appeal be successful, reinstatement will also be from the original date with no break in employment continuity.

GROSS MISCONDUCT

Should the Headteacher believe the alleged misconduct is so serious that it may constitute gross misconduct, s/he may suspend the staff member on full pay and without any loss of emoluments, pending a formal investigation.

Definition of 'Gross Misconduct'

'Gross Misconduct' occurs where a member of staff acts in a way which is incompatible with the faithful discharge of his or her duty to the employer. The misconduct must be gross or grave, seen in the light of all the circumstances of the case and so serious that it goes to the root of the contract of employment and makes the staff member's continued employment incompatible with the best interests of the school.

Some examples of conduct which potentially amount to gross misconduct (justifying summary dismissal (that is, instant dismissal without notice or payment in lieu of notice)) might include:-

- all fraud, theft or serious dishonesty at work
 - deliberate, serious (negligent) acts which have the potential for causing serious injury to staff members or pupils
 - damaging school property deliberately or recklessly
 - serious violent or threatening behaviour at work
 - deliberate serious breach of confidentiality
 - supplying or being in possession of illegal drugs
 - serious or persistent sexual or racial harassment
 - drunkenness (such as to impair the performance of duties) or being under the influence of illegal drugs during school hours
 - insolent or abusive behaviour towards parents, pupils, or other members of staff
 - sexual misconduct
 - serious act of insubordination
- (This list is not exhaustive)*

Alleged criminal offences

The case of an employee charged with, or convicted of, a criminal offence should not normally in itself be a reason for disciplinary action. Consideration must be given to what affect the charge or conviction has on the employee's suitability to do the job and their relationship with the school/academy and work colleagues. The disciplinary policy will only be instigated where there are reasonable grounds for believing that the nature of the activities is sufficiently serious to have an adverse effect on the ability of, or confidence in, the employee to carry out his/her duties properly.

Where an employee is alleged to have committed a criminal offence and police

investigations are underway, disciplinary proceedings must be handled carefully and in accordance with police instructions so as not to interfere in the police investigation.

Record keeping

Managers and panels must keep written records of meetings and discussions relating to the disciplinary process. Copies of all final meeting records must be given to employees. Written confirmation of the outcome of any meetings will be sent to the employee for their information and a copy kept on the employee's personnel file.

Upon expiry, any warning will be removed from the employee's personnel file except for warnings relating to the safety and welfare of children or young people.

Equality monitoring

To ensure that we are meeting our public sector equality duty, we will monitor annually the impact of this policy by reference to the protected characteristics of staff (age, disability, gender reassignment, marriage or civil partnership, pregnancy or maternity, race, religion or belief, sex and sexual orientation). The results will be shared (anonymised where appropriate) with the recognised trade unions.

REPORTING MISCONDUCT TO THE INDEPENDENT SAFEGUARDING AUTHORITY (ISA) AND GENERAL TEACHING COUNCIL (GTC)

Employers (the Governing Body/Cornwall Council) have a duty, under the Safeguarding Vulnerable Groups Act 2006 to produce a formal report to the ISA when a person is dismissed from employment on grounds of misconduct relating to the safeguarding of children or Vulnerable Adults or resigns in circumstances which would have led to their dismissal if they had not resigned.

This report will normally be produced once the employer's procedures have been completed and sent to the **ISA , P O Box 181, Darlington DL1 9FA** (The Governing Body is advised to contact the School's Employee Relations Team in the first instance.)

Reports should be made promptly, within a month of the person's dismissal or resignation.

Employers are required to report the facts of the case and provide all relevant information relating to the dismissal or resignation to the Secretary of State. When a person has not been convicted of an offence, the Secretary of State can only act if the allegation of misconduct has been substantiated by other means.

Employers should also inform the staff member that their case is being reported to the ISA and advise them to retain any relevant paperwork which they may need if their case is considered further.

The Secretary of State has the power to bar an individual through List 99 or restrict a person's employment.

If the case does not relate to the safety and welfare of children, the ISA will pass the report on to the GTC which will then consider the case under its disciplinary functions. Since 20 January 2009, employers have been required to refer cases relating to registered

teachers to one of two bodies:

- the GTC
- the Independent Safeguarding Authority (ISA).

Referral to either body is a statutory requirement.

The GTC deals with cases where issues concerning the safety or welfare of children do not arise and where a registered teacher is dismissed for misconduct or incompetence, or resigns in circumstances where dismissal was possible.

THE PROCEDURE

INFORMAL APPROACH

Minor failures to achieve standards of conduct or adhere to established rules will be dealt with informally in the immediate work environment, ie between the line manager and staff member. This may take the form of a discussion, and/or advice. The staff member will be advised of the improvement in conduct required and the possible consequences of formal action in the event of failure to achieve the required level of improvement.

The informal approach will normally be the first step unless the offence is repeated or serious enough to warrant recourse to the formal procedure. The objective of any such action will be to help the staff member improve.

Line managers will retain their own notes of informal action as they may be relevant if formal action is taken later. Hard copy notes should be kept securely and confidentially on the staff member's personal file and a copy of any notes kept should be given to the staff member. If a satisfactory improvement in conduct is achieved and sustained under the informal process, the notes will be removed from the file. This is likely to be within 6 months.

It should be emphasised that it is normal management practice for line managers to speak to their staff informally when necessary about their work or conduct, and that, if approached constructively by both parties, it is unlikely that formal action will be required.

However, if the informal approach does not rectify the situation or if more serious action is deemed necessary, the line manager may recommend to the Headteacher that a formal disciplinary investigation be conducted in accordance with Section 9 of the formal procedure.

FORMAL APPROACH

The decision to invoke the formal Disciplinary Procedure rests with the Headteacher and/or Governing Body.

The Governing Body/Headteacher are advised to contact the Schools' Employee Relations Team initially on all disciplinary matters. Where the concern is related to child protection, financial or IT matters, the Council's Joint Consultancy Team, Internal Audit or Computer Audit sections, respectively, must also be notified and may carry out the investigation.

DISCIPLINARY INVESTIGATION

A full formal investigation into any concerns or allegations regarding the conduct of a member of staff will be conducted by the immediate line manager in most cases, or a senior member of staff nominated by the Headteacher as the Investigating Officer, prior to any hearing being held under this procedure. Investigations will be undertaken without delay, particularly in cases of alleged gross misconduct.

Careful consideration should be given to identifying the appropriate person to undertake the investigation. In all cases, the person undertaking the investigation should be senior to the employee facing the concerns or allegations.

The Headteacher may act as the Investigating Officer or, as in most cases, the Investigating Officer will prepare a written report detailing the substance of the allegations, and the facts relevant to the case, for presentation to the Headteacher. In cases of alleged gross misconduct where the Headteacher may be responsible for making the decision to dismiss (ie: as part of a Disciplinary Panel), the Headteacher should not be involved in the investigation nor have sight of the investigatory report prior to the hearing. In these circumstances, the Investigating Officer will be required to make a decision without consulting the Headteacher as to whether or not the case merits consideration at a disciplinary hearing.

If the Investigating Officer is to be accompanied by a *member of the Schools' Employee Relations Team*, then the employee must be offered the opportunity to be accompanied by a workplace colleague or trade union representative. However, there is no statutory right for the employee to be accompanied.

The Investigating Officer will prepare a written report detailing the substance of the allegations, and the facts relevant to the case, for presentation to the Headteacher.

The timing of such interviews and any notice given will take account of the availability of all the parties and will be determined by the Investigating Officer paying due regard to the circumstances of the case, the overall timetable for the investigation and the need not to unreasonably delay its completion. The unavailability of the employee's preferred companion at the interview will not normally be reason for the interview not taking place or being re-arranged.

The employee will be given written notice in reasonable time of an investigatory interview which will include clear details of the allegation(s).

The Headteacher on reviewing the report will determine (i) that no further action is required or (ii) whether alternative action (for example, informal counselling/oral caution) is necessary or (iii) whether a formal Disciplinary Hearing is necessary.

A formal disciplinary penalty will only be imposed as a result of a disciplinary hearing where the case has been carefully investigated, all relevant facts considered and the allegations against the staff member are founded (or founded on the balance of probability).

Further advice on conducting a Disciplinary Investigation is available from the Schools'

DISCIPLINARY ACTION

Where, following an investigation, a Disciplinary Hearing is considered necessary this will be convened at one of four stages determined according to the nature and extent of any previous action and the seriousness of the concerns.

Stage One

Where an informal approach has not achieved the desired outcome or where the situation warrants moving directly into the formal procedure, and there are minor matters under consideration.

Stage Two

Where matters dealt with by action at Stage One continue to be of concern, where there is an accumulation of minor matters not previously considered under the formal procedure or where there are more serious concerns about conduct or performance.

Stage Three

Where matters dealt with at Stage One or Stage Two continue to be of concern or where there are very serious concerns about conduct or performance.

Stage Four

Where matters dealt with by action at Stage One, Two or Three continue to be of concern or in cases of gross misconduct or gross negligence.

DISCIPLINARY SANCTIONS

The outcomes of a disciplinary hearing will depend upon the circumstances of the case, but may include any of the following formal disciplinary sanctions.

The employee will be asked, at the end of the disciplinary hearing, whether s/he wished a copy of the letter to be sent to their trade union representative or workplace colleague. A copy should **not** be sent without the employee's permission.

WARNINGS

The outcome of the hearing, including the reasons for the decision, will be confirmed to the member of staff in writing within **1 calendar week** of the hearing.

Stage One - Oral Warning

- If an oral warning is deemed necessary, the staff member will be informed that his/her conduct is expected to improve. Objectives may be specified to confirm the accepted standard and it will be made clear by the supervisor that if further acts of misconduct occur, then further disciplinary action may be taken.
- An oral warning will remain active for a period of **6 months** after the hearing and will be disregarded for future disciplinary purposes.

Stage Two - Written Warning (Appendix 7 – standard letter)

- In the case of more serious concerns or a repeat of the misconduct for which an oral warning has been given, the staff member may be given a formal written warning.
- If a written warning is determined, the staff member will be informed that should any further act of misconduct occur, further disciplinary action may be taken.
- A written warning will remain active for a period of **12 months** after the hearing and will be disregarded for future disciplinary purposes.

Stage Three - Final Written Warning

- In the case of very serious concerns, or a repeat of the misconduct for which a written warning was issued, a final written warning may be issued.
- If a final warning is determined, the member of staff will be informed that should any further act of misconduct occur, further disciplinary action may be taken.
- A final warning will normally remain active for a maximum of **12 months** after the hearing (with the exception of the circumstance where a final written warning is issued as an alternative to dismissal – and will normally be disregarded for future disciplinary purposes.

WARNINGS – ADDITIONAL GUIDANCE

Warnings should cease to be live following the specified period of satisfactory conduct and should be disregarded for future disciplinary purposes.

However, depending on the nature of the case, the hearing may impose a final written warning that will remain in force for a period of greater than 1 year. This is particularly so where the imposition of a lesser penalty is an act of leniency (see Section 18 Other Options). In this event, the employee must be informed in writing how long the warning will remain active and the reason for the longer time period.

DISMISSAL

Taking into consideration the recommendation of the School Staffing (England) Regulations 2009 for the Headteacher to normally lead in all initial staff dismissal decisions, the Governing Body may delegate the responsibility for dismissal to the Headteacher (See Section 9.3 Disciplinary Investigation). In such circumstances it is recommended that the Headteacher involves other Governors in this process in the interests of objectivity. (If the dismissal relates to a Headteacher, see Section 21.8 Disciplinary Action Against a Headteacher.)

A representative from the Schools' Employee Relations Team is entitled to attend a Disciplinary Hearing to give advice where dismissal is the potential outcome. The Headteacher/Disciplinary Panel will need to consider any advice given prior to making a decision to dismiss. Dismissal should not take place before advice is sought from the Schools' Employee Relations Team.

Where advice has not been sought, or advice given has been disregarded, the school may be liable for any costs which arise as a result of its actions.

Once the decision is taken to dismiss, the member of staff will be advised verbally at the hearing of the decision and of the right of appeal. This decision will be confirmed in writing to the staff member, within 1 calendar week. This letter will state the date of dismissal (with or without notice) and will include the right of appeal.

In the case of summary dismissal for gross misconduct, the date of dismissal will be the date of the disciplinary panel's decision to dismiss and pay will be stopped immediately. Should the dismissal be overturned at appeal, pay will be reinstated from the date of dismissal.

Should the member of staff choose not to stay to hear the outcome, the decision will only be given and confirmed in writing to the staff member. A second copy of the letter will be enclosed for the employee to forward to his/her trade union representative.

OTHER OPTIONS

As an alternative to dismissal, there may be circumstances which warrant other penalties. These may include, where feasible, sanctions such as redeployment, transfer, change or removal of duties, or downgrading; all of which may have an impact on an individual's earnings. These sanctions may be implemented together with a final written warning. Advice will be sought from the Schools' Employee Relations Team. Such a final written

warning will normally remain active for an extended period of greater than 12 months (as is the usual time span of a final written warning, referred to in paragraph 15.6) and will then be disregarded for future disciplinary purposes.

When action other than dismissal is taken, the staff member will be warned that if further acts of misconduct occur whilst the warning is still "active" the Disciplinary Procedure may again be invoked.

APPEAL AGAINST DISMISSAL

An appeal against dismissal may be made by the staff member in writing to the Headteacher or, where the appellant is the Headteacher, to the Chair of the Governing Body, outlining the reason for the appeal, within **2 calendar weeks** of receiving the written confirmation of the dismissal. The appeal must clearly detail the grounds on which the appeal is being made. A failure to clearly state the grounds of the appeal within the 2 week period will result in the appeal being out of time.

Appeals will be heard, where practicable, within **2 calendar weeks** of receipt of the appeal application.

The appeal will be heard by an Appeals Panel of at least 3 Governors who have not been involved in any previous action or decision connected with the dismissal. Where there are not enough of such Governors available, the appeal may be heard by 2 Governors or a Governor from another school may be seconded to the panel. Where applicable, there should be an equal number of Governors on dismissal hearings and appeal hearings.

Appeals against dismissal will take the form of a full hearing of the case, depending on the grounds for dismissal. Further advice should be sought from the Schools' Employee Relations Team.

POLICE INVESTIGATIONS

Where the misconduct is such that the police are also conducting a criminal investigation into the same allegations, there can be difficulty and delay in collecting information due to awaiting the outcome of the police investigation.

Disciplinary proceedings should not commence alongside police investigations until careful consideration in consultation with the police has been undertaken to ascertain the appropriateness of commencing internal disciplinary proceedings whilst police investigations are underway. Police investigations do not determine disciplinary issues which will include assessment of wider issues than whether a crime has been committed.

The circumstances of each case should be carefully considered prior to making the decision to pursue a disciplinary investigation where police investigations are underway. In making the decision how to proceed, the school must liaise with the police in order to identify whether an internal investigation can be carried out without the employee incriminating themselves in relation to the criminal proceedings. Considerations to be borne in mind when making this decision may include how long the police enquiries will take to conclude, the extent to which this may be accommodated by the school, the extent to which the employee can respond to the allegations without implicating their

position in the criminal investigation and whether a sufficiently full investigation can be undertaken under the circumstances.

Statements made to the police by potential witnesses in the disciplinary proceedings, including the accused member of staff, can and should be made available for use in the disciplinary proceedings provided consent is given by the individual making the statement.

DISCIPLINARY ACTION AGAINST A HEADTEACHER

Where a Headteacher is the subject of disciplinary action, the Chair of the Governing Body may request the Head of Service (Schools and Achievement) (or representative) to present the case against the Headteacher to a Committee of the Governing Body.

