

Staff Disciplinary Procedure

Ffederasiwn Ysgolion **Llanidloes** Schools Federation



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Introduction

1. This staff disciplinary procedure applies to school staff employed under a contract of employment with the schools. It does not apply to staff employed directly by the LA, by an employment agency, staff whose contract of employment is held by another body, i.e. is shared with another school, or staff engaged under a contract to provide services. Members of staff have been made aware of this procedure and copies will be given to any member of staff who is the subject of any allegation.
2. All timescales included in this staff disciplinary procedure have been agreed by the governing body and the schools' local staff unions. Depending on the circumstances of the case, there may need to be flexibility with these timescales, e.g. where there is a large amount of paperwork or unavailability of staff.
3. Where required throughout this procedure the chair of the governing body ('the chair') will take appropriate action on behalf of the governing body as delegated by the governing body unless they are compromised, in which case the vice chair of the governing body will take over the role and actions normally carried out by the chair. If the vice chair is also compromised the governing body will have to select another governor who is not compromised and minute this decision.

Purpose and scope

4. The governing body is responsible for the conduct and discipline of school staff and is required to have a procedure in place for dealing with staff disciplinary matters.
5. The aim of this procedure is to ensure consistent and fair treatment for all members of staff within the schools.

Matters outside the scope of the procedure

6. Matters outside the scope of this disciplinary procedure include:
 - a. where employment is terminated:
 - i. by reason of redundancy
 - ii. by an employee reaching the end of a temporary or fixed-term contract
 - b. where any deficiencies in performance on the part of the staff member arise from a lack of aptitude or skill
 - c. staff grievances that employees raise with their employer
 - d. termination during or at the end of a probationary or induction period, whether or not extended beyond its originally specified duration
 - e. matters that should be dealt with through the governing body's general complaints procedure.

Key points

7. In all cases, the schools and governing body will ensure that disciplinary cases are dealt with in an unbiased, open and fair way.

8. The key points are as follows:

- a. Where appropriate, every effort will be made to address concerns about behaviour or conduct without recourse to formal procedures.
- b. No disciplinary action will be taken against a member of staff until the case has been fully investigated (for allegations of harm (abuse) caused to a child the investigation will be independent).
- c. An investigator will be objective and impartial but a member of staff may object to an investigator. The chair will determine whether the circumstances of the objection are valid and accepted and whether the investigator should be changed.
- d. Where it is considered that the allegation(s) amount to lesser misconduct the matter will be dealt with through lesser misconduct procedures. The member of staff will be informed of the allegation(s) against them and will be given the opportunity to defend the allegation(s) at a disciplinary hearing held before the headteacher, or the chair for allegations against the headteacher.
- e. A member of staff will not be dismissed for a first breach of discipline in cases of lesser misconduct but may receive a sanction in the form of a warning. Should the lesser misconduct be repeated it may result in a more severe sanction under the lesser misconduct process or a referral to the staff disciplinary and dismissal committee where it constitutes gross misconduct.
- f. The member of staff will be informed of any warnings at the end of the hearing, including the length of time they are to remain 'live'. The warnings will be confirmed in writing. At the member of staff's request, a copy of the warning will be sent to their union representative.
- g. Where it is considered that the allegation(s) amount to gross misconduct, the member of staff will be informed of the allegation(s) and will be given the opportunity to defend the allegation(s) at a hearing held before the governing body staff disciplinary and dismissal committee.
- h. The member of staff will be provided with details of the membership of the staff disciplinary and dismissal committee prior to a hearing and advised of their right of objection to any committee member. It will be for the chair to determine whether the circumstances of the objection are valid and accepted and whether a member of the committee is removed. The member of staff will be provided with all relevant information prior to any hearing.
- i. The member of staff has the right to be accompanied by a work colleague or a representative of their trade union during the investigation, the disciplinary hearing and the appeal hearing.
- j. Dismissal for gross misconduct, following the decision of the staff disciplinary and dismissal committee or following the outcome of any appeal, is likely to be without notice. Note that for teaching staff and school meals staff in community, community special, voluntary controlled and maintained nursery schools, the local authority will issue notice or dismiss. For voluntary aided and foundation schools, this is the responsibility of the governing body.
- k. A member of staff has the right to appeal against any disciplinary sanction.
- l. The process is supportive towards the needs of the member of staff.
- m. Investigations and hearings will be conducted in English or Welsh, or with access to interpretation, at the request of the member of staff.

Informal discussion with the headteacher and/or line manager – outside of disciplinary process

9. There will be occasions when it is appropriate for a member of staff's actions to be discussed with them as part of normal supervisory arrangements without recourse to the formal procedures. In such circumstances the member of staff will be given guidance and support from their line manager. This could take the form of advice, counselling, training instruction, coaching or other managerial strategies as is appropriate.

10. It will be made clear to the member of staff:

- what they need to do in relation to their conduct
- how conduct will be monitored and reviewed, and over what period of time
- that formal action could be taken if there is a recurrence of the conduct in question or if the member of staff fails to produce the necessary improvements.

11. Where discussions and support do not lead to the necessary improvements or relevant changes in conduct, within the agreed timescale, the member of staff will be advised in writing of further action to be taken, which may be formal. A record of these discussions will be retained and agreed by both parties.

Committees

12. The staff disciplinary and dismissal committee and staff disciplinary and dismissal appeals committee will each have a minimum of three governors, although the appeals committee may have more. No governor will be a member of both committees and both committees will have separate local authority advisers.

13. The chair (unless the chair is tainted or compromised in which case the vice chair should take over) and the clerk to the governing body will make the arrangements for disciplinary hearings.

A. Formal procedure for lesser misconduct

14. Responsibility for disciplinary matters considered to be lesser misconduct has been delegated by the governing body to the headteacher.

15. Any lesser misconduct allegations made against the headteacher will be dealt with by the chair.

16. There may be rare occasions where, at the end of an investigation into lesser misconduct matters, the evidence in the investigation report indicates that the behaviour constitutes gross misconduct. If the headteacher or chair concludes that this is the case, a referral for formal disciplinary action where dismissal may be an option may be justified. The member of staff will be informed immediately of this decision in writing.

The investigation

17. As soon as an allegation has been brought to the attention of a headteacher or the chair a full investigation will be carried out. This investigation will be undertaken by someone other than the person who may be required to take informal action or formal action. Where the allegation is about a headteacher, the chair of the governing body will, where possible, arrange for the investigation to be carried out externally, by the LA, diocesan authority (if appropriate) or other independent person. A member of the senior leadership team will never be engaged to investigate allegations against the headteacher.

18. The member of staff will be advised of their right to object to any investigator. It will be for the chair to determine whether the circumstances of the objection are valid and accepted.

19. The member of staff and all witnesses will be interviewed, having been given information and advance notice. Notes will be taken during interviews and minutes normally produced within two school days. No undertaking of confidentiality will be given to witnesses; however, the overall confidentiality of the disciplinary process will be respected.

20. The member of staff will be given the opportunity to respond to the allegation and will be advised of their right to be accompanied by a work colleague or a representative of their trade union at an investigation interview meeting. Witnesses may also be accompanied when giving evidence if they so wish.

21. Once the investigation has concluded, the investigating officer will present the findings to the headteacher or the chair in a written report, a copy of which will be provided to the member of staff. This will be done as soon as practicable after the conclusion of the investigation.

22. Based on the evidence and findings in the investigation report the headteacher or chair may conclude that:

- the allegation is false or unfounded and no further action will be taken
- matters can be dealt with through informal procedures
- there appears to be sufficient evidence of lesser misconduct for a hearing before the headteacher or chair
- there appears to be sufficient evidence of lesser misconduct for a hearing to take place but, because the member of staff currently has a final written warning, the case should be referred to the staff disciplinary and dismissal committee
- there appears to be sufficient evidence that the allegation constitutes potential gross misconduct to be considered at a disciplinary hearing before the staff disciplinary and dismissal committee.

23. Where there is conflicting evidence the matter will be referred to a hearing before a headteacher or chair or a hearing before the staff disciplinary and dismissal committee if the findings in the report show that the allegation is considered to constitute gross misconduct.

The hearing before a headteacher or chair of the governing body

24. A hearing will take place before a headteacher or the chair, supported by advice from the LA or diocesan authority (where appropriate).

25. The member of staff will be sent a copy of this procedure and a copy of the investigation report and supporting documentation, and will be informed in writing of:

- the nature of the alleged misconduct
- the relevant procedure being followed and why
- the date, time and place for the hearing
- the possible outcome/sanctions from the hearing if the allegation(s) are upheld.

They will also be advised of their right to:

- produce written statements which will be circulated to all parties in advance of the hearing
- ask questions relating to any written statements
- state their case in person and/or through a representative
- produce witnesses
- be accompanied by a trade union representative or work colleague of their choice.

26. The six possible outcomes following on from such a hearing are:

- informal action
- a recorded oral warning
- a first written warning
- a final written warning
- a referral to a disciplinary hearing before the governing body's staff disciplinary and dismissal committee
- the allegation is not upheld.

Informal action

27. As a result of the hearing, the headteacher or the chair may deal with matters by giving advice, counselling, training instruction, coaching or other managerial strategies as appropriate. Such activity may be delegated to a member of the senior leadership team. In respect of the headteacher, however, the chair will refer for additional training as appropriate.

28. Where discussions and support structures do not lead to improvement or the relevant changes in conduct in the agreed timescale, the member of staff will be advised orally and in writing of further action to be taken.

Formal action

Warnings

29. Standard warning periods are as follows:

- recorded oral warning – 3 months
- first written warning – 6 months

- final written warning – 12 months

30. The duration of the warning may vary according to the detail of the offence and the detail of the required improvement. Warnings can be placed on record for different lengths of time than the periods set out.

31. If the member of staff's conduct is satisfactory for the specified period of a warning, such warnings will be expunged from the staff member's file after the specified period ends and will not be referred to again once spent.

32. A final written warning may be issued where lesser misconduct recurs despite attempts by senior managers to support the member of staff to improve their behaviour or conduct. A final written warning may also be issued where a single instance of proven misconduct is considered to be of a serious nature. It will also be made clear to the member of staff that failure to address the behaviours which are the subject of a final written warning could lead to further disciplinary proceedings which could lead to dismissal.

33. Every warning given will include:

- the specified period of the warning
- what action, improvement or outcome is expected for the future and the action needed to avoid any further disciplinary action
- the consequences of any failure to take the necessary action
- the right to appeal
- the time limit within which the appeal should be made
- how the appeal should be made.

Records of warnings

34. All warnings will be issued to the member of staff at the conclusion of the hearing, and in front of the member of staff's trade union representative or work colleague as appropriate. The warning will be confirmed in writing with a copy going to the member of staff's trade union representative or work colleague, if requested by the member of staff. The member of staff must confirm receipt in writing of any warning given. A record of the warning will be placed on the member of staff's file.

35. Copies of all warnings issued will also be sent to the LA chief education officer in respect of staff in community, community special or voluntary-controlled schools.

Appeals against formal warnings

36. There is a right of appeal against any disciplinary action. An appeal must be lodged within five working days to the clerk of the staff disciplinary and dismissal appeals committee. The appeal must be in writing and set out the grounds for appeal. The member of staff will be informed in writing of the date and time of the appeal hearing in advance. The appeals committee cannot impose a more severe penalty than that imposed at the first hearing.

B. Gross misconduct (where the allegation does not relate to allegations of child abuse)

37. The term gross misconduct means an act, or omission, or a series of actions or omissions by a member of staff that fundamentally repudiates the contract of employment. All gross misconduct allegations will be subject to a formal disciplinary hearing before the governing body's staff disciplinary and dismissal committee.

38. Gross misconduct allegations are usually referred to the headteacher or chair who will make an initial assessment of the situation (but not investigate) to determine the nature and circumstances of the allegation. This decision is not a predetermination of the case. The headteacher or the chair will seek advice from the local authority HR adviser on the most appropriate procedure to follow. The member of staff will be given as much information as possible at this stage provided it does not compromise witnesses (staff or pupils) or hinder a police investigation.

39. If the allegation involves potential criminal activity a referral will be made to the police. If this happens the governing body will normally take no further action until the matter is referred back to the governing body to complete the disciplinary process. The police will also be asked to agree what information can be released to the member of staff.

40. If after making the initial assessment of the allegation the conclusion of the headteacher or chair is that beyond reasonable doubt it is not possible for the allegation to be true, the headteacher or chair may take no further action. The member of staff will be informed immediately of this decision, which will be minuted by the clerk.

The investigation

41. Please note: refer to paragraph 49 for allegations of child abuse. As soon as an allegation has been brought to the attention of the headteacher or the chair (if it concerns the headteacher) a full investigation will be carried out. This investigation will be undertaken by someone other than the person who may be required to take informal action or formal action. Where the allegation is about a headteacher, the chair of the governing body will, where possible, arrange for the investigation to be carried out externally, by the LA, diocesan authority (if appropriate) or other independent person. Consideration will be given as to any connection or prior involvement the appointed investigator may have with the member of staff as well as ensuring they have the relevant skills to undertake the investigation. A member of the senior leadership team will never be engaged to investigate allegations against the headteacher.

42. The member of staff will be advised of their right to object to any investigator. It will be for the chair to determine whether the circumstances of the objection are valid and accepted.

43. The member of staff and all witnesses will be interviewed, having been given information and advance notice. Notes will be taken during interviews and minutes normally produced within two school days. No undertaking of confidentiality will be given to witnesses; however, the overall confidentiality of the disciplinary process will be respected.

44. The member of staff will be given the opportunity to respond to the allegation and will be advised of their right to be accompanied by a work colleague or a representative of their trade union at an investigation interview meeting. Witnesses may also be accompanied when giving evidence if they so wish.

45. Once the investigation has concluded, the investigating officer will present the findings to the headteacher or the chair in a written report, a copy of which will be provided to the member of staff. This will be done as soon as practicable after the conclusion of the investigation.

46. Based on the evidence and findings in the investigation report the headteacher or chair may conclude that:

- the allegation is false or unfounded and no further action will be taken
- matters can be dealt with through informal procedures
- there appears to be sufficient evidence of lesser misconduct for a hearing before the headteacher or chair
- there appears to be sufficient evidence of lesser misconduct for a hearing to take place but, because the member of staff currently has a final written warning, the case should be referred to the staff disciplinary and dismissal committee
- there appears to be sufficient evidence that the allegation constitutes potential gross misconduct to be considered at a disciplinary hearing before the staff disciplinary and dismissal committee.

C. Allegations of child abuse – receipt of an allegation

49. Allegations of child abuse will be brought immediately to the attention of the headteacher who must inform the chair. The chair will receive allegations against the headteacher.

50. The headteacher or chair will immediately discuss the allegation and possible action with the local authority designated lead officer for safeguarding in education who has responsibility for discharging the local authority's safeguarding duties in terms of education where there is cause to believe that a member of staff has harmed a pupil who is registered at the school.

51. Where this discussion concludes that beyond reasonable doubt the allegation is not true this decision and the justification for it will be recorded by the headteacher, chair and the local authority designated lead officer for safeguarding in education, and agreement reached on what information should be put in writing to the member of staff. No further disciplinary action will be taken. The chair will be informed of this decision.

52. If the initial discussion and assessment indicates that an allegation might be true, and there are concerns about the welfare of a child or children, the local authority designated lead officer for safeguarding in education will arrange for a strategy discussion to take place involving the statutory authorities (i.e. social services and/or the police) in accordance with local child protection procedures.

53. The headteacher or chair will inform the member of staff about the allegation as soon as possible after consulting the local authority designated lead officer for

safeguarding in education. However, if a strategy discussion is needed, or police or children's social services need to be involved, no information will be given until those agencies have agreed what information can be disclosed to the member of staff.

54. At any point the headteacher or chair may suspend the member of staff, on full pay, in line with the governing body's agreed procedures. Suspension will not be an automatic action but will be informed by a thorough risk assessment, which will be documented by the headteacher or chair. Other alternatives such as reassignment of duties will be considered and discussed with the local authority designated lead officer for safeguarding in education and the local authority HR adviser. Suspensions will be reviewed by the chair (if they are not tainted) at appropriate intervals. The decision to extend a suspension, and the justification for it, will be reported to the member of staff and the governing body.

55. Only the governing body or their delegates (chair of the staff disciplinary and dismissal committee or chair of the staff disciplinary and dismissal appeals committee) can end a suspension, subject to the necessary delegation (which should be minuted).

56. Once the statutory authorities (e.g. the police and social services) have concluded their consideration of the allegation, it will be referred back to the governing body to consider the next steps. This will happen even if the statutory authorities take the decision not to pursue a criminal investigation.

Referral for an independent investigation

57. Governing bodies must appoint an independent investigator to investigate allegations of harm caused to a registered pupil, except where it is satisfied:

- beyond reasonable doubt that the allegation is not true
- beyond reasonable doubt that there is no evidence to corroborate the allegation
- that the person about whom the allegation was made has admitted to having done what has been alleged
- that the person about whom the allegation has been made has subsequently been convicted of a criminal offence in relation to the same allegation following criminal proceedings.

A person is not to be regarded as independent if the person is:

- a member of the governing body making the appointment
- a governor from another school within the federation of schools
- a parent or carer of a current or former pupil of the school in question
- a current or former member of staff of the school
- a member or employee of the local authority that maintains the school
- a trustee of the school
- a member of the appropriate diocesan authority for the school
- the body that appoints the foundation governors to the school governing body.

58. The governing body must not appoint an independent investigator until:

- the local authority has notified the governing body that it has discussed the allegation with all appropriate parties

- the statutory authorities have notified the governing body that:
 - (i) they have each concluded their investigation (if any)
 - (ii) any criminal proceedings have been discontinued or concluded
- the governing body has consulted with:
 - (i) the local authority designated lead officer for safeguarding in education
 - (ii) the headteacher (unless the allegation is made against them).

59. If there is any reasonable doubt or agreement cannot be reached the allegation will follow the gross misconduct procedures and will be independently investigated.

60. The independent investigator will set the parameters of the investigation and interview all witnesses in order to ensure a completely impartial and unbiased investigation is carried out. The report will not contain any personal views or comments, conclusions or recommendations as these are matters for the committee to determine.

61. The completed report will be given to the chair who will give a copy to the headteacher, or delegate if the allegation is about the headteacher. The chair will keep the report safely stored and inform the clerk that a disciplinary committee hearing is required. They will also liaise with the local authority HR adviser over the date of the hearing, distribution of papers and the members of the staff disciplinary and dismissal committee.

62. The chair will ensure that all relevant papers, including the full investigation report, are sent to the member of staff, their union representative or work colleague (if requested), the person presenting the case against the member of staff, members of the staff disciplinary and dismissal committee and local authority within the timescales set out in this procedure.

63. No evidence will be removed by any party from the investigation report.

Appointment of an independent non-governor member on staff disciplinary and dismissal committees and staff disciplinary and dismissal appeals committees dealing with allegations of child abuse involving registered pupils

64. The staff disciplinary and dismissal committee and the staff disciplinary and dismissal appeals committee will each have at least two governors plus an independent non-governor with voting rights (as required in law). The appeals committee may have more governors but membership of the committees will not overlap.

65. A disciplinary hearing will be held as soon as it can be arranged by the clerk to the staff disciplinary and dismissal committee even if the member of staff has subsequently resigned, or is on sick leave if this is for an indeterminate period of time and the committee deems it appropriate and necessary.

66. The member of staff will be provided with a copy of the agreed disciplinary and dismissal procedure and informed in writing of:

- the date, time and place for the disciplinary hearing
- details of the allegation(s) together with any supporting document
- names of any witnesses to be called if appropriate

- name of the adviser to the headteacher or chair
- a copy of the up-to-date procedure
- their right to be accompanied by a work colleague or a representative of their trade union
- the purpose of the hearing and the range of possible outcomes
- the membership of the staff disciplinary and dismissal committee and the staff disciplinary and dismissal appeals committee
- the name of the person presenting the case against the member of staff
- the date by which all relevant documentation must be returned to the clerk.

67. The clerk will arrange for the documentation from both parties to be distributed to the member of staff and their representative prior to the hearing, including up-to-date procedures, in accordance with the timescales set out in this procedure. In accordance with the law, all papers will be issued at least five working days prior to the hearing.

68. The staff member will be afforded the right to object to any member of the committee or the independent member on the basis of evidence that calls into question their ability to act impartially in the circumstances of the case. Objections should be sent to the chair and it will be for the chair to decide whether an objection is upheld.

The hearing

69. The hearing will be conducted in a fair manner with all parties having the opportunity to present evidence and call and question witnesses. There will also be an opportunity for the presenting officer and the member of staff and/or their trade union representative/work colleague to summarise their case. The clerk to the governing body will be present to record the hearing in detail.

70. There will be an opportunity for the staff disciplinary and dismissal committee to receive advice after which members of the committee will be left alone with the clerk to discuss the evidence and make their decision.

Decision reached after the hearing has taken place for all gross misconduct allegations

71. Having considered all the evidence and taken into account advice provided the staff disciplinary and dismissal committee will make their decision, their options including specifying required training and development, relegation to a lower grade, an oral warning, a written warning, a final written warning or dismissal and referral to the Education Workforce Council and Disclosure and Barring Service.

72. Where possible this decision will be given verbally at the end of the hearing. The committee's decision will also be given in writing to the member of staff as soon as possible after the hearing. The member of staff will also be informed of their right to appeal and the timescale within which this must be made.

73. Details of allegations found not to be upheld will be removed from the personnel records for the member of staff. However, for upheld allegations, a clear and comprehensive summary of the allegation, details of how the allegation was followed up and resolved, and a note of any action taken and decisions reached, will be kept on

the confidential personnel file of the member of staff for the relevant period of time. A copy of this documentation will also be provided to the member of staff.

Suspension

74. Suspension (or other action such as redeployment to another post outside of school) pending disciplinary proceedings may be considered for gross misconduct allegations where:

- it appears to be necessary to exclude the member of staff from the school, for the protection of pupils, other staff or property, or for the orderly conduct of the school
- the continued presence at work of the member of staff would be an obstacle to proper investigation of the allegations made against that member of staff.

75. Suspension will not be used in a punitive way and will be on full pay and without loss of emoluments. The member of staff will be called to an interview with the headteacher or chair before a suspension is implemented. Written notice will be given to all relevant parties following a decision to suspend.

76. The decision to suspend can be taken by the headteacher or the chair but only the governing body can end a suspension. The governing body may delegate this responsibility to the chair, the chair of the staff disciplinary and dismissal committee or the chair of the staff disciplinary and dismissal appeals committee. This decision will be minuted.

77. Before taking a decision to suspend or take other action the headteacher or chair will seek advice from the LA HR adviser and/or diocesan authority if appropriate. For child abuse allegations the advice of the local authority designated lead officer for safeguarding in education and any statutory authorities that are involved, i.e. police or LA social services, will also be considered. The continued effect of the suspension will be kept under review by the chair and the outcome of the review reported to the member of staff and the governing body.

Disciplinary hearing – appeal

78. A member of staff is entitled to appeal against a decision of the staff disciplinary and dismissal committee or the headteacher or chair (in respect of sanctions imposed under the lesser misconduct process). The notice of the intention and grounds for appeal needs to be lodged with the clerk to the staff disciplinary and dismissal appeals committee within the specified time limit set out in this procedure.

79. The appeal for both lesser and gross misconduct allegations will be heard by the disciplinary and dismissal appeals committee within a specified time set out in this procedure. Appeal hearings will focus on the issues set out in the appeal notification and may not always take the form of a complete rehearing. The form of the disciplinary appeal hearing will be a matter for the staff disciplinary and dismissal appeals committee to decide based on the nature of the appeal and any comments made. The member of staff will be given notice of the date and time of the appeal hearing. Agreeable times and dates will be arranged for all parties concerned where possible.

80. The staff disciplinary and dismissal appeals committee will come to one of three conclusions after considering all the facts presented to it, including any new evidence. These are to:

- uphold the decision of the staff disciplinary and dismissal committee or headteacher or chair (in respect of lesser misconduct proceedings)
- impose a lesser penalty
- conclude that no disciplinary action should be taken against the member of staff.

81. The staff disciplinary and dismissal appeals committee will not impose a more severe penalty than that imposed by the headteacher or chair (in respect of the headteacher in lesser misconduct cases) or the staff disciplinary and dismissal committee (in gross misconduct cases).

82. The decision of the staff disciplinary and dismissal appeals committee will be final and the staff member will be informed in writing.

83. The member of staff will be given a copy of the minutes of the appeal hearing and a copy of the staff disciplinary and dismissal appeals committee's conclusions.

84. If, as the result of an appeal, no disciplinary action is taken, all details thereof will be expunged from the member of staff's personnel file and they will be informed accordingly. The member of staff will be given a copy of the minutes of the appeal hearing and a copy of the staff disciplinary and dismissal appeals committee's conclusions.

Absence due to illness

85. If the staff member is absent due to sickness, the staff disciplinary and dismissal committee may decide to postpone the hearing. However, where the staff member may be absent for an indeterminate period, the staff disciplinary and dismissal committee can decide to hold the hearing. Where this decision is made the chair of the staff disciplinary and dismissal committee will inform the member of staff and offer the opportunity for a representative to attend in their place (i.e. a union representative or work colleague) or submit written evidence to present their case. The representative will have the same opportunity as the staff member to present evidence, call witnesses and sum up the staff member's case.

Summary

86. In adopting this procedure the governing body has taken due regard of advice and guidance from the local authority and the Welsh Government in their circulars on *Disciplinary and dismissal procedures for school staff guidance* and *Safeguarding children in education: handling allegations of abuse against teachers and other staff*. It has also consulted the local trade union representatives.

87. The governing body will also consult further before any amendments are made to this disciplinary procedure.

This annex contains sample letters for schools and governing bodies to use at various stages of the staff disciplinary process.

Letter (i) Lesser misconduct – sample letter for headteacher or chair to send to member of staff informing them that an allegation has been made

Date

Dear

Allegation made on [insert date]

On **[insert date]** I received a letter from **[insert name]** making an allegation of misconduct against you.

It is alleged that on **[insert date]** at **[insert time]** you – **[insert details of allegation]**.

As set out in the governing body's agreed staff disciplinary procedures I am arranging for this matter to be investigated and you will shortly receive a letter inviting you to a meeting with the investigator.

I am also enclosing a copy of the governing body's staff disciplinary procedure which sets out your rights, including the right to be accompanied by a work colleague or a representative of your trade union at all meetings held in connection with any disciplinary action.

Yours sincerely

Headteacher (or chair of governors if the allegation is about the headteacher.)

Letter (ii) Gross misconduct – sample letter for headteacher or chair to send to member of staff informing them that an allegation has been made

Date

Dear

Allegation made on [insert date]

On **[insert date]** I received a letter from **[insert name]** making an allegation of misconduct against you.

It is alleged that on **[insert date]** at **[insert time]** you **[insert details of allegation]**.

As set out in the governing body's agreed staff disciplinary procedures I am arranging for this matter to be investigated, and you will shortly receive a letter inviting you to a meeting with the investigator.

I am also enclosing a copy of the governing body's staff disciplinary procedure which sets out your rights, including the right to be accompanied by a work colleague or a representative of your trade union at all meetings held in connection with any disciplinary action.

Yours sincerely

Headteacher (or chair of governors if the allegation is about the headteacher)

****Or the following for allegations of harm caused to a child****

Date

Dear

Allegation made on [insert date]

On **[insert date]** I received a letter from **[insert name]** making an allegation of misconduct against you.

It is alleged that on **[insert date]** at **[insert time]** you **[insert details of allegation]**.

This allegation includes behaviours which amount to potential child abuse. As I am required in law, I have referred the matter to the local authority designated lead officer for safeguarding in education who has responsibility for discharging the local authority's safeguarding duties in terms of education. They have referred the matter to the statutory authorities and I am awaiting their advice as to the next stage and what information I can give you about the allegation.

I am also enclosing a copy of the governing body's staff disciplinary procedure which sets out your rights, including the right to be accompanied by a work colleague or a

representative of your trade union at all meetings held in connection with any disciplinary action.

Letter (iii) Sample letter inviting a member of staff to attend an investigation meeting in respect of misconduct allegations

Date

Dear

Ref: Investigation meeting on [insert date]

I refer to my letter dated **[insert date]** notifying you about an allegation that has been made against you.

I write to request your attendance at an investigation meeting with **[insert name]** who is investigating the allegations made against you, as below:

- a. **[insert details of the allegations]**
- b. **[insert details of the allegations]**
- c. **[insert details of the allegations]**

The meeting will be held on **[insert date]** at **[insert location]**.

You are entitled to be accompanied by a work colleague or trade union representative.

Yours sincerely

Headteacher (or chair of governors if allegation is about the headteacher)

Letter (iv) Sample letter inviting a witness to attend an investigation meeting in respect of misconduct allegations

Date

Dear

An allegation has been made against **[insert name]**.

I am writing to request your attendance at an investigation meeting with **[insert name]** who is investigating the allegation as you were a witness to the incident of **[insert details of allegation]**, which took place on **[insert date]** at **[insert time]**.

The meeting will be held on **[insert date]** at **[insert location]**.

[Select one of the following:]

[For a member of staff]

As a member of staff you are entitled, if you wish, to be accompanied by a work colleague or trade union representative.

[Or for a witness that is not a member of staff]

You may be accompanied by a friend if you wish.

Yours sincerely

Headteacher (or chair of governors if the allegation is about the headteacher)

****Alternative letter for the investigator to send****

Date

Dear

I have been appointed by the headteacher/chair of governors to investigate allegations made against **[insert name]**, a member of staff at **[insert name]** school.

I have been informed that you were a witness to the incident of **[insert details of allegation]**, which took place on **[insert date]** at **[insert time]**, and am inviting you to meet with me to give me your version of events/witness statement.

I suggest we meet at **[insert time/date]** if this is convenient for you. If not, please contact me and let me know.

Yours sincerely

Investigator

Letter (v) Sample letter to a witness to request their attendance at a disciplinary hearing for either lesser or gross misconduct

Hearing in respect of lesser misconduct allegations before the headteacher (or chair if the allegation is about the headteacher).

Date

Dear

Re: Disciplinary hearing on [insert date]

I am writing to inform you that you are required to attend as a witness at the disciplinary hearing of **[insert name]**. The hearing will take place on **[insert date]** and will commence at **[insert time]**.

I have received a copy of the investigation report and will be hearing evidence concerning the allegation(s).

Should you wish to discuss this matter please feel free to contact me on the above number.

Yours sincerely

Headteacher (or chair of governors if allegation is about the headteacher)

Sample letter for gross misconduct allegations to be heard by the governing body staff disciplinary and dismissal committee

Date

Dear

Re: Disciplinary hearing on [insert date]

I am writing to inform you that you are required to attend as a witness at the disciplinary hearing of **[insert name]**. The hearing will take place on **[insert date]** and will commence at **[insert time]**.

The governing body staff disciplinary and dismissal committee will be hearing evidence concerning the allegation(s).

Should you wish to discuss this matter please feel free to contact me on the above number.

Yours sincerely

Chair of the staff disciplinary and dismissal committee or clerk to the staff disciplinary and dismissal committee

Letter (vi) Sample letter to the member of staff to request their attendance at a disciplinary hearing for either lesser or gross misconduct

Lesser misconduct allegations would be heard by the headteacher (or chair if allegations are about the headteacher).

Date

Dear

Re: Disciplinary hearing on [insert date]

I am writing to inform you that you are required to attend a disciplinary hearing into allegations made against you on **[insert date]** which, if proved, would amount to lesser misconduct under the school's disciplinary policy. The hearing will take place on **[insert date]** and will commence at **[insert time]**.

I will be hearing evidence concerning the(se) allegation(s).

You are also entitled to be accompanied by a work colleague or trade union representative.

Should you wish to discuss this matter please feel free to contact me on **[insert details]**.

Yours sincerely

Headteacher (or chair of governors if the allegation is about the headteacher)

Gross misconduct allegations to be heard before the staff disciplinary and dismissal committee

Date

Dear

Re: Disciplinary hearing on [insert date]

I am writing to inform you that you are required to attend a disciplinary hearing before the staff disciplinary and dismissal committee into allegations made against you on **[insert date]** which, if proved, would amount to gross misconduct under the school's disciplinary policy. The hearing will take place on **[insert date]** and will commence at **[insert time]**.

You are also entitled to be accompanied by a work colleague or trade union representative.

Should you wish to discuss this matter please feel free to contact me on **[insert details]**.

Yours sincerely

Chair or clerk of the staff disciplinary and dismissal committee

Both letters should also include:

- details of the allegation(s) and any supporting documents
- the names of any witnesses being called
- the name of the adviser to the headteacher or chair of governors
- a copy of the up-to-date procedures
- the purpose of the hearing and possible outcomes
- the name of the person presenting the case against the member of staff
- the date by which all relevant documentation must be sent to the clerk to the governing body
- information about the right to produce written statements (which will be circulated to all parties in advance of the hearing), to ask questions relating to any written statements, and to state their case in person and/or through a representative
- details of the possible sanctions that could apply
- the membership of the staff disciplinary and dismissal committee and the appeals committee (for a staff disciplinary and dismissal committee hearing for gross misconduct).

Plus the member of staff's right to:

- produce written statements and/or other evidence which will be circulated to all parties in advance of the hearing
- ask questions relating to any written statements and/or other evidence so produced
- state their case in person and/or through a representative
- produce witnesses
- be accompanied by a work colleague or a representative of the member of staff's trade union.

Letter (vii) Sample letter: lesser misconduct – conclusion of a disciplinary hearing with the headteacher (or chair if allegations are about the headteacher)

Notice of final written warning

Date

Dear

Final written warning

I refer to the disciplinary hearing before me, which you attended on **[insert date]**. I am writing to confirm the decision taken that you be given a final written warning under the provisions of the school's staff disciplinary procedure.

The unsatisfactory conduct in respect of which this warning is given was **[insert details]**.

The conduct/improvement expected is:

[insert details]

[insert details]

[insert details]

This warning will be placed on your personal file, but will be disregarded for disciplinary purposes after a period of **[insert number]** months, subject to the maintenance of satisfactory conduct. For the avoidance of doubt, this means that this warning will remain in effect until **[insert date]**.

The likely consequence of further misconduct/insufficient improvement **[delete as appropriate]** during the period of this final written warning is that more formal action will be taken through the governing body's staff disciplinary and dismissal committee which may result in your dismissal.

You have the right of appeal against this decision in writing to the clerk of the governing body within **[insert number]** working days of receipt of this letter. Your letter should clearly set out the grounds of your appeal.

Yours sincerely

Headteacher (or chair of governors if allegation is about the headteacher)

Letter (viii) Sample letter: lesser misconduct – conclusion of a disciplinary hearing with the headteacher/chair (if allegation is about the headteacher)

Oral warning/written warning/training and/or development

Date

Dear

Oral warning/written warning/training and/or development

I refer to the disciplinary hearing before me, which you attended on **[insert date]**. I am writing to confirm the decision taken that you be given an oral warning/written warning/training and/or development under the provisions of the staff disciplinary procedure.

The unsatisfactory conduct in respect of which this warning/training/development arrangement is given was **[insert details]**.

The conduct/improvement expected is:

[insert details]
[insert details]
[insert details].

This warning will be placed on your personal file, but will be disregarded for disciplinary purposes after a period of **[insert number]** months, subject to the maintenance of satisfactory conduct. For the avoidance of doubt, this means that this warning will remain in effect until **[insert date]**.

The likely consequence of further misconduct or insufficient improvement during the period of this warning may be further disciplinary action which could result in a final written warning or a referral to the staff disciplinary and dismissal committee where dismissal may be an outcome.

You have the right of appeal against this decision and your appeal should be made in writing to the clerk of the governing body within **[insert number]** working days of receiving this disciplinary decision. Your letter should include the grounds of your appeal.

You may specify your preference for a full rehearing, including the grounds or whether the appeal is to focus on specific issues. However, the decision on the format of the appeal will be for the staff disciplinary and dismissal appeals committee to take, having considered your wishes.

Yours sincerely

Headteacher (or chair of governors if allegation is about the headteacher)

Letter (ix) Sample letter: lesser misconduct – notice of appeal hearing with the staff disciplinary and dismissal appeals committee

Date

Dear

Invitation to attend a staff disciplinary appeal hearing

You have appealed against the training/development/oral warning/written warning/final written warning **[delete as appropriate]** given to you by the headteacher **[or chair in respect of the headteacher]**, and which was confirmed in writing to you on **[insert date]**.

The appeal hearing will take place on **[insert date]** at **[insert place]** at **[insert time]**, as agreed. It will be conducted by the staff disciplinary and dismissal appeals committee of the governing body.

You have the right to be accompanied by a work colleague or trade union representative. If your chosen representative is unable to attend the appeal hearing at the time given above, you may propose another date and time for the meeting to take place.

The timescale for issuing committee papers set out in the Government of Maintained Schools (Wales) Regulations 2005 is at least five clear working days prior to the meeting. You should therefore ensure that a copy/copies/agreed bundles of any written submissions, upon which you wish to rely at the appeal hearing, are submitted in time for the papers to be distributed at least five clear working days before the hearing. The information must also include the names of any witnesses that will be attending on your behalf.

The members of the staff disciplinary and dismissal appeals committee are **[insert names]**.

The decision of this appeal hearing is final and there is no further internal right of review. The possible outcomes from the appeal hearing are:

[insert details].

If there is any aspect of this letter or of the staff disciplinary procedure, to the extent that it applies to you, that requires further clarification, please contact me.

Yours sincerely

Clerk of the governing body's staff disciplinary and dismissal appeals committee

Letter (x) Sample letter: lesser misconduct – conclusion of an appeal hearing before a governing body staff disciplinary appeals committee against the training/development/verbal warning/written warning given by the headteacher or chair

Date

Dear

Confirmation of outcome of staff disciplinary appeal hearing

You appealed against the decision made at the disciplinary hearing held on **[insert date]** when you were given a **[insert details]** warning/training/development in accordance with the staff disciplinary procedure. The appeal hearing, before the governing body staff disciplinary and dismissal appeals committee, was held on **[insert date]**.

I am now writing to confirm the decision taken by the staff disciplinary and dismissal appeals committee, which is that the decision of **[insert details]** stands/the decision of **[insert details]** is to be revoked **[amend as appropriate – specify if no disciplinary action is being taken or what the new disciplinary action is]**.

You have now exercised your right of appeal under the staff disciplinary procedure. The decision of the appeal hearing is final and there is no further internal right of review.

Yours sincerely

Clerk to the governing body staff disciplinary and dismissal appeals committee

Please note: if the headteacher appeals against a warning given or any action suggested by the chair of governors under lesser misconduct procedures, the appeal would also be heard by the staff disciplinary and dismissal appeals committee.

Letter (xi) Sample letter: gross misconduct – notice of a disciplinary hearing before the staff disciplinary and dismissal committee

Date

Dear

Invitation to attend a staff disciplinary and dismissal committee hearing on [insert date]

I am writing to advise you that as a result of the investigation into allegations that **[insert details]**, your attendance is required at a formal disciplinary hearing before the governing body staff disciplinary and dismissal committee. If the allegation(s) is/are proven this could lead to the issuing of a written warning/final written warning or the termination of your employment.

The hearing will take place on **[insert date]** at **[insert place]** at **[insert time]**, as agreed. It will be conducted by the staff disciplinary and dismissal committee of the governing body. The names of the committee members are **[insert names]**.

You have the right to be accompanied by a work colleague or trade union representative. If your chosen representative is unable to attend the hearing at the time given above, you may propose another date and time for the meeting to take place within five days of the date suggested in this letter for the hearing.

You also have the right to provide written submissions and to invite witnesses to give evidence in support of your case. The timescale for issuing committee papers set out in the Government of Maintained Schools (Wales) Regulations 2005 is five clear working days prior to a meeting. You should therefore ensure that a copy/copies/agreed bundles of any written submissions upon which you wish to rely at the hearing are submitted in time to meet this deadline. The information should also include the names of any witnesses that will be attending on your behalf.

I confirm that **[insert name]**, who will be the presenting officer, has indicated that the following witnesses will be attending the hearing as part of the management case **[insert details]**.

You will also have the right to appeal against the decision of the staff disciplinary and dismissal committee.

If there are any aspects of this letter or the staff disciplinary procedure, to the extent that it applies to you, that requires further clarification, please contact me.

Yours sincerely

Clerk of the governing body's disciplinary and dismissal committee

Letter (xii) Sample letter: gross misconduct – conclusion from a disciplinary hearing with the staff disciplinary and dismissal committee

Date

Dear

Specified training and/or development/oral warning/written warning/final written warning/confirmation of decision to dismiss you from your employment [delete as appropriate]

You attended a disciplinary hearing before the governing body on **[insert date]** into allegations that **[insert details]**. I am writing to confirm the decision taken that you be given specified training and/or development; or oral warning/written warning/final written warning [delete as appropriate]; or that you be dismissed in accordance with the staff disciplinary procedure.

[A. The following words should be used for any sanction other than dismissal. This applies to any category of school.]

[Either]

The training and development requirements identified are **[insert details]**. A letter confirming these training and development requirements will be placed on your personal file but will be disregarded after a period of **[insert details]**, i.e. **[insert actual date of expiry]** provided the required training and development has been satisfactorily undertaken.

[Or]

This oral/written/final written **[delete as appropriate]** warning will be placed on your personal file but will be disregarded for disciplinary purposes after a period of **[insert number]** months, i.e. **[insert actual date of sanction expiry]**, provided that **[list the behaviours or improvements required or to be achieved within the life of this warning]**.

You have the right of appeal against this decision and your appeal should be made in writing to the clerk of the governing body within **[insert number]** working days of receiving this disciplinary decision. Your letter should include the grounds of your appeal.

[B. The following words should be used for a sanction of dismissal]

For community, community special and voluntary controlled schools and maintained nurseries the LA will issue the notice of dismissal within 14 working days of being notified of the decision of the staff disciplinary and dismissal committee or the staff disciplinary and dismissal appeals committee.

The staff disciplinary and dismissal committee considered all the information received and the reason for recommending to the LA your dismissal is as follows: **[insert the reasons for dismissal]**.

You have the right of appeal against this decision and your appeal should be made in writing to the clerk of the governing body within **[insert number]** working days of

receiving this disciplinary decision. Your letter should include the grounds of your appeal.

Yours sincerely

Clerk to the governing body's staff disciplinary and dismissal committee

For voluntary aided and foundation schools the governing body is the employer and will terminate the contract of employment.

The staff disciplinary and dismissal committee considered all the information received and the reason for your dismissal is as follows: **[insert the reasons for dismissal]**.

You have the right of appeal against this decision and your appeal should be made in writing to the clerk of the governing body within **[insert number]** working days of receiving this disciplinary decision. Your letter should include the grounds of your appeal.

Yours sincerely

Clerk of the governing body's disciplinary and dismissal appeals committee

Letter (xiii) Sample letter: gross misconduct – notice of appeal hearing before the staff disciplinary and dismissal appeals committee

Date

Dear

Invitation to attend disciplinary appeal hearing

You have appealed against the written warning/final written warning/dismissal **[delete as appropriate]** confirmed in writing to you on **[insert date]**.

The appeal hearing will be a full rehearing/or some other arrangement **[delete/specify as appropriate]**. Your views about the form of the appeal have been taken into account. The hearing will take place on **[insert date]** at **[insert place]** at **[insert time]**, as agreed. It will be conducted by the staff disciplinary and dismissal appeals committee of the governing body. The members of the staff disciplinary and dismissal appeals committee are **[insert names]**.

You have the right to be accompanied by a work colleague or trade union representative. If your chosen representative is unable to attend the appeal hearing at the time given above, you may propose another date and time for the meeting to take place.

The timescale for issuing committee papers set out in the Government of Maintained Schools (Wales) Regulations 2005 is five clear working days prior to a committee meeting. You should therefore ensure that a copy/copies/agreed bundles of any written submissions upon which you wish to rely at the appeal hearing are submitted in time to meet this deadline. The information should also include the names of any witnesses that will be attending on your behalf.

The decision on this appeal hearing is final and there is no further internal right of review. The possible outcomes from the appeal hearing are **[insert details]**.

If there is any aspect of this letter or the staff disciplinary procedure, to the extent that it applies to you, that requires further clarification, please contact me.

Yours sincerely

Clerk of the governing body's disciplinary and dismissal appeals committee

Letter (xiv) Sample letter: gross misconduct – conclusion of the appeal hearing against warning/dismissal

Date

Dear

Confirmation of outcome of disciplinary appeal hearing before the staff disciplinary and dismissal appeals committee

You appealed against the decision made at the disciplinary hearing held on **[insert date]** when you were given a **[insert details]** warning/or you were dismissed **[delete as appropriate]**, in accordance with the staff disciplinary procedure. The appeal hearing was held on **[insert date]**.

I am now writing to confirm the decision taken by the appeals committee who conducted the appeal hearing. The decision of **[insert details]** stands/is to be revoked **[amend as appropriate – specify if no disciplinary action is being taken or what the new disciplinary action is]**.

You have now exercised your right of appeal under the staff disciplinary procedure. The decision on the appeal hearing is final and there is no further internal right of review.

Yours sincerely

Clerk of the governing body's disciplinary and dismissal appeals committee

Letter (xv) Sample letter: misconduct – inviting member of staff to a suspension meeting or reassignment of duties/working from home, etc.

Date

Dear

Possible suspension from duty or reassignment of duties/working from home/undertaking work not involving contact with pupil.

You have been informed that an allegation has been made against you concerning **[insert details]**.

Given the seriousness of the allegation I am inviting you to attend a meeting with me on **[insert date]** at **[insert time]** at **[insert location]** where I will consider whether suspension from duty **[or other option]** is appropriate. You have the right to be accompanied by a work colleague or a representative of your union.

At this meeting I will provide you with as much information as I can about the allegation and you will be given an opportunity to make representations before I make my decision.

I am also enclosing a copy of the school's staff disciplinary procedure. Please read the section entitled 'Suspension' as this details all the conditions relevant to you and your employment status, should you be suspended from your place of work.

Yours sincerely

Headteacher (or chair of governors if the allegation is about the headteacher)

Letter (xvi) Sample letter: misconduct – confirming suspension from duty or other action following suspension meeting

Date

Dear

Suspension from duty with effect from [insert date] or Reassignment of duties/working from home/undertaking work not involving contact with pupil, etc.

[Either]

Thank you for attending the meeting today. In accordance with the governing body's agreed staff disciplinary procedure I am writing to confirm your suspension from duty as from **[insert date]** pending the current investigation into the misconduct allegation **[insert details]**. **[Insert name]** has been assigned the role of investigating officer.

[Or]

[This alternative wording may be suitable where child abuse allegations have been raised and are held in abeyance pending investigation by the statutory authorities]

Thank you for attending the meeting today. I am writing to confirm your suspension from duty as from **[insert date]**. In accordance with the governing body's agreed staff disciplinary procedure, I shall write to you again when I am in a position to be able to confirm who has been appointed to the role of investigating officer.

You will be contacted in the near future to attend a meeting, so that you may be given the opportunity to comment and provide a statement to the investigating officer on the above allegation.

I would like to remind you that the act of suspension is a neutral act and is not disciplinary action and does not imply a presumption of guilt, but given the nature of the allegations against you I consider it necessary that you should not remain in school at this time.

Please provide your written undertaking that you will not contact other members of staff or visit your place of work during the suspension period, unless authorised in advance by myself or the headteacher.

I am mindful of the isolation suffered by some members of staff who find themselves in such circumstances – I will make arrangements for the LA occupational health unit to contact you directly to offer you any support and any help required. For further support or advice during this time, please contact **[insert name]** at **[insert name]** authority.

The continued effect of the suspension will be kept under review and I will write to you to notify you if it is considered that the suspension should continue or should come to an end, and the reasons for that decision.

Notwithstanding the above, I hope that matters can be concluded promptly under the provisions of the school's disciplinary procedure.

Sample letter for alternative to suspension

Thank you for attending the meeting today to consider the immediate arrangements for your employment while the allegations against you are being investigated and dealt with. In accordance with the staff disciplinary procedure, I am writing to confirm that **[choose one of the following or insert another option]** you have been reassigned to other duties **[give details]**/arrangements have been made for you to work from home/arrangements have been made for you to work at **[give details]**.

[Optional]

I understand you are a member of **[insert name]** union and that you may wish your representative/work colleague to be party to all correspondence we send to you. I would be grateful if you could let me know who your representative will be by return post. I have included a prepaid envelope for this purpose.

I will also be informing the local authority of your suspension (and the chair if the headteacher has imposed the suspension).

Yours sincerely

Chair of the governing body/headteacher

Letter (xvii) Sample letter: gross misconduct – ending suspension

Please note: this letter can be signed by the chair of governors, vice chair or another governor such as the chair of the staff disciplinary and dismissal committee or the chair of the staff disciplinary and dismissal appeals committee if authority has been delegated by the governing body.

Date

Dear

[Either]

This letter is to confirm that your suspension implemented on **[insert date]** is now ended. You will be contacted shortly about arrangements for you to start work again.

[Or]

This letter is to confirm that your alternative working conditions implemented on **[insert date]** will cease from **[insert date]**. You will be contacted shortly about arrangements for you to commence your normal work again.

Yours sincerely

Chair or governors (or any other governing body delegate that has been delegated responsibility)