

DISCIPLINARY

TOOLKIT

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# Purpose

The disciplinary policy and procedure apply to all employees, whether employed on a permanent, fixed term or relief basis. It does not apply to workers for example, agency temps, for which separate procedures apply. Employees on probation will be managed through the probationary policy however there may be occasions where this policy will also apply to those employees on probation.

This policy does not apply to dismissals where the employment is terminated for a reason unconnected to disciplinary action, i.e. redundancy, or to the end a fixed term contract at the end of its term.

All Schools are required to act promptly to deal with any acts of potential misconduct on the part of their employees. The disciplinary policy and procedure provides for fair treatment of individual employees and the framework through which disciplinary matters will be managed. There are key steps that a Headteacher (or Chair of Governor where it is the Headteacher's conduct that is a cause for concern) needs to follow to ensure that this fair treatment of employees is maintained.

**Minor Conduct Issues – Informal Stage (including Preliminary Investigations)**

#

On becoming aware of an employee's alleged misconduct, the Head Teacher will undertake, where practicable, immediate preliminary investigations about the issues of concerns or allegations made. This will normally involve a private discussion with the employee to establish if there is an acceptable explanation for the alleged misconduct. It is not usual for employees to be accompanied at this meeting. However, they may be if both the Head Teacher and the employee consider it appropriate.

The Head Teacher should:

* Present the apparent facts of the alleged misconduct to the employee
* Give the employee a full opportunity to respond and explain any factors affecting his/her conduct (if any underlying medical issues are suggested, it may be appropriate to refer the employee to Occupational Health for advice)
* Give thorough consideration to all the employee’s responses and decide what action is required. It may become apparent during the discussion that the problem is not a disciplinary matter and that other procedures, e.g. those relating to capability or reasonable adjustment, may be more appropriate.

**NB**: In certain cases (e.g. where current and on-going fraud is suspected) it may be appropriate not to inform the employee at this stage in order to allow necessary observations and collection of evidence to take place. Under statutory provisions, covert surveillance may be conducted though this will require the approval of the Chair of Governors. Advice must be sought from a legal provider, HR provider and/or the Counter Fraud and Investigations Team (CFIT) of Lincolnshire County Council, before any covert surveillance takes place.

A Head Teacher will need to determine if an issue can be resolved informally. This will depend upon factors such as the seriousness of the complaint/allegation and the impact on others, e.g. children, parents, other employees and the public. The Head Teacher should consider whether informal action could quickly and easily be taken to resolve the matter and should make every effort to resolve the matter in this way, immediately, wherever possible.

**NB**: Any case concerning an employee’s conduct including any case of fraud or theft, will be deemed a major issue and dealt with by formal investigation.

Notes will be taken of the Head Teacher’s conversation with the employee and, except in the most minor cases, the outcome of the meeting, including any remedial action, will be recorded normally using the Record of Actions form (ROA).

Notes of discussions on minor conduct issues will normally include:

* A clear statement of what was discussed with regard to the employee's conduct and an explanation of why this is unsatisfactory.
* The required level of improvement discussed and (wherever practicable) agreed with the employee. These should be in measurable terms such as quantity, quality, frequency, timing, etc.
* How the Head Teacher will assist the employee (if applicable) to meet the required standards.

This record is not a formal warning, which will be made clear, and should be phrased in a constructive and helpful manner.

A copy of the ROA will be given to the employee and a copy placed on the employee's supervision file. If supervision files are not used, it will be placed in a confidential and secure location within the school. It will not be placed on the employee's personal file. Employees, who disagree with the content of the ROA, have the right to ask for their written comments to be added.

Where an employee admits to an allegation at an informal stage and the Head Teacher feels that the allegation is serious enough to warrant disciplinary consideration, the Head Teacher and employee will make and sign a written record of this. The Head Teacher will ensure the employee appreciates the implications of the admission, i.e. that the matter will be fully investigated and may be considered at a formal Disciplinary Hearing.

**Major Conduct Issues – Formal Stage**

If the Head Teacher determines that the matter cannot be dealt with by informal action, they will, with advice from their HR provider, determine how the investigation should progress.

The Head Teacher will need to decide whether the employee remains in the workplace (see Guidance on Suspension from Work and template letter 3) and who will undertake the investigation. A risk assessment and communication plan should also be completed where this is considered necessary.

# Safeguarding Concerns

Where the matter concerns a safeguarding issue, i.e. there is a concern regarding the conduct of an employee in respect of a child, the Head Teacher must ensure that the Local Authority Designated Officer (LADO) is aware.

In circumstances involving Child Safeguarding issues a Strategy Meeting must be arranged. It will normally be arranged and chaired by the Local Authority Designated Officer (LADO) in line with the Lincolnshire SCB Procedures.

Employment investigations need not wait until after the resolution of any safeguarding concerns, unless there are on-going police enquiries in which case the HR provider will advise when the investigation should commence.

Any proposed actions relating to the employee (i.e. suspension or temporary redeployment and notification of investigation) will be dependent upon the actions of the Safeguarding Team. Safeguarding actions must take priority until risks are satisfactorily managed.

# Investigation Procedure

The purpose of the employment investigation is to determine all the relevant facts associated with the allegations and establish whether there is a case to answer. Dependent on the case, the Head Teacher will determine who will undertake the investigation. This may be decided by the Head Teacher in consultation with the HR provider.

Normally within 24 hours of the decision to investigate the employee concerned will be notified of the way forward (face to face meeting or letter as appropriate) and the investigation will be formally commissioned. The Head Teacher will draft a letter based on template letter 4, Investigation Notification, to notify the employee of the employment investigation; unless the employee has already been notified at the time of his/her suspension from work.

# Disciplinary Procedures and Absence

Employees, subject to the disciplinary procedure, who are absent due to sickness, may be referred to Occupational Health for advice on assisting their return to work and/or their participation in the investigation process. Whilst an employee may feel “stressed” and anxious under such circumstances issues will not be put on hold indefinitely awaiting an employee’s return to work.

If sickness or other absence prevents an employee attending a Disciplinary Hearing it may be postponed and re-arranged within 5 days or as soon as practicable. Employees will be advised that if they fail to attend the re-arranged hearing, then their case may be considered in their absence, based on written submissions and/or the attendance of a representative.

# Employment Investigation Outcomes

The investigation report is sent to the Head Teacher. The Head Teacher may wish to discuss the contents with the investigator and/or the HR provider, to help clarify any points of fact or evidence. It is for the Head Teacher to decide, in consultation with the HR provider, what the next steps will be.

The employee is notified, in writing, of the investigation outcome by the Head Teacher, using template letter 7, Investigation Outcome Notification,for guidance. The following outcomes can result from a formal employment investigation:

1. **No Further Action**

If it is decided the allegations do not justify further action or there is no evidence to substantiate the allegations, the effect on the employee(s) involved, along with other factors, will nevertheless be considered. This may be particularly the case where an employee has been suspended or temporarily redeployed during the investigation. In such instances, arrangements will need to be made for the employee’s return to their place of work. It may be necessary to carefully plan and manage the reintegration of the employee as they may have been away from where they normally work for some time. It may also be considered appropriate to have the employee transfer, voluntarily, to another area of the school. Any such considerations should be discussed with the employee concerned as a possibility at this time.

1. **Informal Action**

It may be decided the allegations warrant informal action. Examples of circumstances where informal action might be appropriate are:

* Employee is advised of the need to improve a particular skill, e.g. communication style and an action plan can be put in place to support this
* Employee’s conduct needs addressing but a formal sanction is considered too severe, e.g. an issue that could be resolved through improved self-awareness.

A record of any informal management action taken will be made using the Record of Action (ROA) template and held on the employee's supervision file (or other confidential and secure place within the school if supervision files are not held), noting that this is not a disciplinary sanction.

Where it is considered that a formal Disciplinary Hearing is not necessary, the Head Teacher will provide verbal feedback to the employee concerned.  In certain circumstances (for example to protect a witness) some information from the investigation may be withheld and the reason for withholding information should be explained and recorded.

1. **Formal Disciplinary Hearing**

Where a formal Disciplinary Hearing is considered appropriate, arrangements for the hearing will be made as soon as is reasonably possible. A Head Teacher will only hear the matter if they have not previously been involved and where there is an appropriate member of SLT to undertake the role of Management Representative. Otherwise, a Disciplinary Panel consisting of 3 non-staff Governors, with no prior involvement in the case, will hear all the evidence and decide the outcome.

An HR provider may also attend, together with the Head Teacher, the employee, his/her representative and, normally, the Investigator. Both the Head Teacher and the employee can submit documentation and call and question witnesses.

The Head Teacher will confirm the arrangements to all parties giving at least 10 working days’ notice, based on template letter 6, Appendix 7, Disciplinary Hearing Notification.

Any documentation, that either the Head Teacher or the employee wishes to be considered at the hearing, must be made available to the panel and the other party, no later than 7 working days prior to the hearing to enable (where practicable) distribution of full documentation packs to all parties by 5 working days prior to the hearing. If there is a late submission of evidence, it will be the Chair of the Disciplinary Panel to decide whether or not this will be accepted.

As part of the disciplinary hearing pack the employee subject to the investigation will be given a copy of the investigation report. In certain circumstances (for example to protect a witness) some information may be withheld.

Further information about a formal hearing can be found in the Guidance on Conducting a Hearing.

**Dismissal**

Dismissal will occur where there has been gross misconduct or where the employee has a final written warning and further misconduct or unsatisfactory conduct has taken place.

* **Dismissal with contractual notice** - Unless an employee is dismissed for gross misconduct, he/she will receive the appropriate period of notice.
* **Summary dismissal** - Actions of gross misconduct will, except in the most exceptional circumstances, justify dismissal without notice.
* **Note:** All dismissal notices will be in writing and will identify the reason(s) for the dismissal, the date on which the employment will terminate and the employee’s right of appeal (template letter 8, Disciplinary Hearing Outcome Notification is available for use).

**Forms and Letters**

In order to support you throughout the disciplinary process, all forms and letters required to conduct a fair and consistent disciplinary process are provided for you in this section as follows:

**Forms**

* Preliminary Enquiries
* Record of Action (ROA)
* Support Officer Log
* Record of Interview Handwritten
* Record of Interview Typed
* Interview Introduction – Witness
* Interview Introduction – Subject
* Risk Assessment
* Communication Plan
* Template Investigation Report
* Written Record of Disciplinary Hearing
* Hearing Decision Record

**Template Letters**

* Template Letter 1 – Sanction outside of a Hearing – After Preliminary Enquiries
* Template Letter 2 – Sanction outside of a Hearing – After Investigation
* Template Letter 3 – Sanctions outside of a hearing – Outcome letter
* Template Letter 4 – Suspension Notification Letter
* Template Letter 5 – Suspension Review
* Template Letter 6 – Investigation Notification Letter
* Template Letter 7 – Investigatory Interview Notification Letter
* Template Letter 8 – Further Allegations Notification Letter
* Template Letter 9 – Investigation Outcome Notification Letter
* Template Letter 10 – Disciplinary Hearing Notification
* Template Letter 11 – Re-Arranged Hearing Notification
* Template Letter 12 – Disciplinary Hearing Outcome Notification
	+ First/Final Written Warning
	+ Dismissal With Notice
	+ Dismissal Without Notice (Summary Dismissal)
* Template Letter 13 – Extension of Live Warning

**Guidance Documents**

* Guidance on Suspension from Work
* Protocol for Dealing with the Media
* Hearing Procedure & Guidance Notes
* Resignations & Referrals in Cases of Misconduct
* Employee Guidance to Employment Investigations
* Disciplinary Panel Opening Script
* Guidance on the Role of Support Officer
* Frequently Asked Questions

# FORMS

## Preliminary Enquiries

As soon as a potential misconduct issue arises, the Headteacher should bring it to the attention of the employee. The Headteacher will need to undertake a preliminary enquiry to establish if it is a minor incident of misconduct that can be resolved through informal discussion, or by invoking the formal disciplinary procedure.

In order to make a considered decision on what action to take, please ensure that you are in possession of the following information:

Name of Employee: ………………………………………………………………………

Date: ………………………………………………………………………

Name of Headteacher: ……………………………………………………………………

Name of Person internal/external (delete as appropriate) who raised issue/concern/allegation (if applicable)**………………….………………………………………………**

N.B. Consider confidentiality if issue/concern/allegation was raised via Whistle Blowing Policy where appropriate

Date the allegation was made: ………………………………………………………………………

**Issue(s)/Concern(s)/Allegation(s)**

Consider if there has been:

* A breach of policy or procedure
* A grievance raised
* Gross misconduct (i.e. theft)
* Parental Complaint

**Initial evidence to support the issue/concern/allegation:**

|  |  |  |  |
| --- | --- | --- | --- |
| **Review of previous conversations** | **Additional Facts** | **Employees Response** | **Any Other information** |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |
|  |  |  |  |

**Decision**

Given all of the information you have acquired, a decision must be made in order to agree next steps.

**Action to Take**

1. No Action
2. Informal Action - Record of Action (ROA)
3. Invoke formal disciplinary procedure without need to investigate
4. Investigation

**Discussion Notes with Employee:**

**Notes:**

Confidentiality is to be maintained throughout

**Headteacher Signature**: ………………………………………………………

## Record of Action (ROA) Form

To be completed by the Headteacher to record any remedial action.

**Name of employee: Job title:**

**School:**

**Headteacher: Date Meeting Held to discuss ROA**

**Details of actions taken in response to issue:-**

|  |  |  |  |
| --- | --- | --- | --- |
|  | **Development area(s)** | **How are you going to do this?** | **What will success look like?** |
| **Behaviours**  |  |  |  |
| **Technical Knowledge** |  |  |  |

N.B. Schools must remove the ROA from files in line with LCC records retention & disposal schedule SC015

## Support Officer Log

|  |  |
| --- | --- |
| **Date of contact** | **Comments/areas of discussion** |
|  |  |
|  |  |
|  |  |
|  |  |

**NAME OF EMPLOYEE: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

The completed log must be retained by the Support Officer should it be required for the purposes of the investigation / disciplinary.

**Support office name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

# Record of Interview (handwritten)

This is a record of the investigation interview. These notes will not be a word for word representation, however, will capture the key comments by all parties involved in the hearing. The employee and the manager / chair will be asked to sign / initial each page; and all those present will sign the declaration form at the end to confirm it is an accurate reflection of the interview. Following the interview, a typed version will be sent to all those present to for review and signature.

Investigating Manager to read out pre-typed introduction, and to attach copy to notes.

Employee Name:……………………………………………………………………….

Accompanied by:……………………………………………………………………….

Date of Meeting: ……………………………….……………….

Name of Manager / Chair:…..…………………………………………….

Accompanied by: ………………………………………………….

 :……………………………..………………….

 :………………………………………………….

Location: ……………………………………………………

Time interview commenced:………………………………………………

Time interview finished: ……………………………………………………….

Total No of pages (including this one):……

**Hearing Notes**

|  |  |  |
| --- | --- | --- |
| **Who** | **Notes of what was said** | **Initials** |
|  |  |  |
|  |  |  |
|  |  |  |

**Declaration**

This statement is an accurate and fair record of the interview held. I understand that this interview is strictly confidential, and I will not discuss or share the content of this document with anyone unless officially required to do so by LCC or school.

Signature: ………………………………………... Date: ………………………………..

Name & Position (print): …………………………………………………………………………………….

Signature: ………………………………………… Date: ………………………………..

Name & Position (print): …………………………………………………………………………………….

#

# Record of Interview – Typed

**STATEMENT**

 INVESTIGATION TITLE

Statement of:

Interview Date(s):

Officer Conducting Interview:

Officer Taking Notes: Not Applicable

Other Persons Present:

Total number of

pages including

this one:

Location:

|  |
| --- |
| **Declaration**This statement is an accurate and fair record of the interviews held. I understand that this statement is strictly confidential, and I will not discuss or share the content of this document with anyone unless officially required to do so by Lincolnshire County Council.Signature: ………………………………………... Date: ………………………………..Name & Position (print): …………………………………………………………………………………….Signature: ………………………………………... Date: ………………………………..Name & Position (print): ……………………………………………………………………………………. |

|  |
| --- |
| **\*\* Investigator to read out pre-typed introduction for subject / witness (as appropriate). Investigator to attach copy to notes. Template can be found within investigation guidance\*\***Type the witness statement here –statement should be written in the first person e.g. “I told her to stop shouting at me”. Investigator’s questions do not need to be recorded but the subject area should be clear to the reader – in other words some context may need to be inserted e.g. “The investigator asked me if I could recall…” **END OF STATEMENT** |

# Interview Introduction – witness

This is a confidential interview regarding the investigation I have been asked to conduct around xxxxx.

The focus of this interview will be around potential conversations you may have had with xxxxx (or words similar to that effect). Notes will be taken by me which you will be given the opportunity to check for accuracy and sign.

The evidence you provide today may be used in the outcome report, your statement would not be released unless the matter is to be considered at a hearing and the final report will be confidential and only shared initially by management, HR and where appropriate legal services. However, should a Data Protection Access Requests your statement would be automatically released.

Cover Letter – to include with a copy of witness statement for verification and signature

Your witness statement relating to: Formal Disciplinary Investigation of <member of staff>

Dear <Name>

Please find <attached/enclosed> your witness statement for verification and signature.

Please check that the statement is a true and accurate statement of the information given in your interview. Please then sign and return it to me as soon as possible but not later than <date>.

If, to your recollection, you believe there is anything factually incorrect in the statement, or you are unable to sign for any reason, please contact me as soon as possible in writing (via letter or email),

Yours Sincerely

<Name>

Investigating Officer

# Interview Introduction - Subject of the Investigation

This investigation is being conducted in line with the County Councils Disciplinary policy / Grievance Policy. As per the letter you have been sent. This interview is to obtain information pertinent to the current investigation. I have been appointed as an independent investigator for this to explore the allegations from all angles.

Before we go into the interview it is important you know who we are and what our role is today.

xx. I am investigating officer. I will be leading the interview.

xx is here to take notes of this meeting. The notes will be taken using the councils record of interview forms.

xx is here in a support capacity to you. xx role is to act as ‘silent support’ and not to take part in the interview. So, to confirm xx cannot take part in the interview or answer on behalf of you. If however xx wants to suggest a break that is fine.

To confirm I have interviewed all relevant witnesses where relevant and reviewed documentation as necessary and the allegations which are subject of the investigation are:

• List Allegations

Therefore, I will be asking you some questions around these areas.

Throughout the interview it is absolutely fine to request comfort breaks or to speak privately to xx and we can adjourn for a few minutes if you’d like. There is water available so please let me know if you require. Toilets are located xx.

The evidence you provide today may be used within the outcome report, but statements will not be released unless the matter is to be considered at a hearing. Please be assured the report is confidential and will only be considered initially by management and HR. The report will, however, receive wider distribution if a hearing is necessary.

I can’t stress enough the importance of confidentiality of what is discussed at today’s interview. Do you understand this? To confirm you cannot discuss this with anyone else.

NB: If the individual is not accompanied, ensure that they are happy to continue on their own (particularly relevant if you are interviewing the main subject of the investigation).

NB: Start of interview set scene by asking question such as ‘Firstly tell me about your job role’ then ask questions relevant to allegations

##

## Risk Assessment

| **What is the risk?** | **Who is at risk?** | **Severity:*** **High**
* **Medium**
* **Low**
 | **Control actions/comments** | **Action by?** | **When complete?** | **Current Status** |
| --- | --- | --- | --- | --- | --- | --- |
| 1 |  |  |  |  |  |  |  |
| 2 |  |  |  |  |  |  |  |
| 3 |  |  |  |  |  |  |  |
| 4 |  |  |  |  |  |  |  |

Key

High – almost certain to happen with significant/critical impact to the individual, staff service or reputation

Medium – probably will happen with major impact to the individual, staff service or reputation

Low – unlikely to happen with low impact to the individual, staff service or reputation

**COMMUNICATION PLAN**

**Purpose: (**e.g. ensure consistent and correct information is given to individuals/wider team affected by the issue)

**Audience groups:** (e.g. individuals concerned/executive team/wider team/press etc.)

**Method of delivery:**

**Support Required:**

# Communication Plan

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Date** | **Message** | **Audience** | **Method** | **Actions** | **Owner** |
| Date of issue  | What the comms will say and what it is going to achieve | Who will be targeted? | How will the message be delivered, i.e. internal e-mail, interview, letter, staff briefing etc.  | What specifically needs to be done  | Who will do it  |



CONFIDENTIAL

# Investigation Report

DISCIPLINARY / GRIEVANCE / DIGNITY AT WORK (delete as necessary) INVESTIGATION

NAME, JOB TITLE, SCHOOL

|  |  |
| --- | --- |
| **Date** |  |
| **Investigator(s)** |  |

**INTRODUCTION**

* 1. Provide brief details of the ‘subject’ of the investigation, their employment history with LCC, current role and how long held etc.
	2. Provide brief outline of how the concerns arose.
	3. Note if suspended and when, whether redeployed for duration of investigation or if there are any specific changes in place to allow the investigation to take place ie. line management responsibility removed, budget responsibility suspended, taken off usual duties but still within department etc…
	4. If there are specific allegations record them at this point.

**2 SCOPE AND COVERAGE**

*Investigation objectives should be recorded as defined within the investigation brief*

*All interviewees should be recorded (including telephone interviews) - the initials should be inserted after each name as these will be the initials used throughout the report*

*If the list of interviewees is long consider including it as an appendix*

*If the investigator has not interviewed all individuals suggested by the ‘subject’ of the investigation the decision should be recorded in this section (including reasons e.g. character reference only)*

*List of files and documents inspected*

*If the list is long consider including it as an appendix*

* 1. Investigation objectives:

To establish whether:

* 1. Interviews were held as follows:

|  |  |  |
| --- | --- | --- |
| **Name** | **Position** | **Date** |
|  |  |  |
|  |  |  |
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* 1. the following records were examined:
* Letter of complaint
* Personal file
	1. Appendices:

|  |  |
| --- | --- |
| Appendix 1 |  |
| Appendix 2 |  |
| Appendix 3 |  |

**3 BACKGROUND**

*Include brief details of the service area / location / work environment*

*Key responsibilities of the ‘subject’ of the investigation*

*Include anything else to ‘set the scene’ for the reader - there is every chance that the reader*

*will not have any knowledge of the service*

*If the service area uses many acronyms, consider the use of a small glossary at this point or including it as an appendix*

*Aim to keep this section approximately half a page in length or a full page for more complex cases*

**4 FINDINGS**

*Organise the findings under each main allegation*

* *Avoid pages and pages of continuous text - break up with headings e.g. ‘Working Relationships’, ‘Service Complaints’, ‘Performance Management’, ‘Shouting Incident - 31 May’, ‘Previous Management Action’, etc…  This makes the report easier to read.*
* *Avoid using vast extracts from statements - only quote directly from the statements where it is necessary, for example, to illustrate the use of language or if the response to a question shows a particular disregard for policy or respect for others.  It is the investigator’s responsibility to analyse all the statements and draw out all corroborative evidence.  Interviewees are not always articulate during interviews, and the investigator should therefore use their own words to concisely convey the findings.*
* *Investigators are not just fact finders - it is the investigator’s responsibility to explain what the evidence means.  Avoid ‘he said, she said’ reports - the reader should not be left trying to establish what all the facts mean.*
* *If the evidence is inconclusive or there is no evidence to substantiate an allegation - say so.  The lead manager wants to know whether there is any evidence to support the allegations - it is also the investigator’s responsibility to explain how significant the evidence is - this should come across throughout the report.*
* *It is important to note any mitigating factors e.g. lack of procedural guidance, management action or expected documentation and any other actions / behaviors which may have compounded or aggravated the situation.*
* *Using full names throughout the report can be very repetitive - Council policy is to use initials e.g. Joe Bloggs (JB) - always quote full name and job title the first time they are mentioned within the report - initials thereafter.*
* *In addition to the specific allegations the report should include any patterns of behavior that may have some relevance.*
* *If specific actions demonstrate a breach of Council policy or service procedures - these should be noted throughout the report, where appropriate.*

**allegation 1:**

**Sub heading**

**Sub heading**

**allegation 2:**

**Sub heading**

1. **SUPPLEMENTARY ISSUES**
	1. There are no supplementary issues to this report OR
	2. cover issues which you have identified but are not directly related to the allegations or objectives of the investigation (could be system issues, management or policy weaknesses or matters which relate to the individual but were not part of the original brief – e.g. patterns of behaviour)
2. **CONCLUSIONS**

*This is where the investigator provides an overall fact-based opinion on a) whether there is any evidence to support the allegations and b) the strength of the evidence.*

*Support the conclusions with the strongest evidence without repeating the text in the main body of the report (where possible) - the conclusions should be clear and concise.*

*Identify to the reader the strengths and weaknesses in the evidence - emphasising the importance of any issues and where evidence can be open to different interpretation / scenarios.*

*Draw out key facts which demonstrate particular breaches of policy e.g. Code of Conduct, Dignity at Work, Financial Regulations, service policies & procedures etc*

*If there are any mitigating factors ensure that they are clear within the conclusions, and it is important to explain their significance.*

1. **Recommendations**

7.1 The report is sent to the Senior Manager and HR representative. A meeting with the Senior Manager, HR representative and investigator should be held to help clarify any points of fact or evidence. The Senior Manager decides, in consultation with HR Representative and Investigating Officer, what the next steps will be. The possible outcomes are:

1. • No further action
2. • Counselling / Management Action or
3. • A formal hearing is required.

*7.2 If the investigator believes there is sufficient evidence to warrant consideration by a disciplinary hearing, this should be indicated here.*

#### 7.3 Organisational Learning

*Any recommendations relating to system, policy, procedural or management weaknesses should be reported separately using the Action Plan Template.  It is the lead manager’s responsibility to ensure that these recommendations are discussed, agreed (with the investigating officer or Audit Manager, if necessary) and the Action Plan completed with agreed action, responsible officers and timescales for completion.*

*Action Plans arising out of investigations completed by CARM investigators will be included within the Audit recommendations tracker, to monitor implementation.  The implementation of Action Plans completed by management investigators should be monitored by the relevant Head of Service.*

***NB.    These Action Plans should not make any reference to the individuals involved in the investigation.***

**END OF REPORT**

## Record of Disciplinary Hearing

(handwritten)

This is a record of the disciplinary hearing. These notes will not be a word for word representation, however, will capture the key comments by all parties involved in the hearing. The employee and the chair will be asked to sign / initial each page; and all those present will sign the declaration form at the end to confirm it is an accurate reflection of the hearing. Following the hearing, a typed version will be sent to all those present to for review and signature.

Disciplining Chair to read out pre-typed introduction, and to attach copy to notes.

Employee Name:…………………………………………………………………………….

Accompanied by:…………………………………………………………………………….

Date of Meeting: ……………………………….………………..

Name of Chair:………..…………………………………………….

Panel Members: ………………………………………………….

 :……………………………..………………….

 :………………………………………………….

Location: ……………………………………………………

Time hearing commenced:………………………………………………

Time hearing finished: ……………………………………………………….

Total No of pages (including this one):………………………………..

**Hearing Notes**

|  |  |  |
| --- | --- | --- |
| **Who** | **Notes of what was said** | **Initials** |
|  |  |  |
|  |  |  |
|  |  |  |

**Declaration**

This statement is an accurate and fair record of the hearing held. I understand that this hearing is strictly confidential, and I will not discuss or share the content of this document with anyone unless officially required to do so by the school.

Signature: ………………………………………... Date: ………………………………..

Name & Position (print): …………………………………………………………………………………….

Signature: ………………………………………… Date: ………………………………..

Name & Position (print): …………………………………………………………………………………….

Signature: …………………………………………. Date: ……………………………….

Name & Position (print): …………………………………………………………………………………….

Signature: …………………………………………. Date: .……………………………….

Name & Position (print): ……………………………………………………………………………………..

# Disciplinary Hearing Decision Record

**Name of Employee: Date of Hearing:**

**Name of Union Rep: Headteacher(s) Name(s):**

Decision

The purpose of the hearing was to consider the following allegation(s)/ matter(s)

Having taken into account all of the evidence presented at the hearing, the findings in relation to this/these allegation(s)/matter(s) are:

The decision therefore is that:

The following action points are to be implemented by the employee / Headteacher (complete if appropriate):

Headteacher Signature:

Where the outcome is a summary dismissal, the individual will be informed that contact will be made with them to recover all school assets

## Template Letter 1 – Sanction outside of a hearing – after preliminary enquiries

PRIVATE & CONFIDENTIAL

<Addressee>

<Address>

<Date>

Dear <Addressee>

**Sanction Outside of a Hearing**

I am writing to you following my preliminary enquiries into an allegation of (**details of allegation).**

Under the Disciplinary Policy, the following arrangement apply:

"If it is evident from the preliminary enquiry that there is misconduct at a level that would warrant a written or final written warning; that a full investigation is unlikely to uncover any further misconduct or evidence; and the employee accepts the findings, it may be in the interests of the organisation and the employee to save the time and distress of a full investigation and offer a written or final written warning outside of hearing at this point. If accepted there will be no right of appeal. If the employee does not accept this then a full investigation will be commissioned."

Upon consideration of my findings, I have concluded that it would be appropriate to offer you a First Written / Final Written Warning. The warning would remain on your personal file for 6 months / 12 months, after which time it would be disregarded for disciplinary purposes.

The grounds for the sanction being offered are as follows:

* <INSERT SUMMARY DETAILS OF EVIDENCE SUPPORTING CASE>

I would like to invite you to a meeting to discuss this proposed sanction, as follows:

Date:

Time:

Location:

You may be accompanied to this meeting by a workplace colleague, trade union official, or recognised trade union representative. I will also have with me **(name of manager)** and **(name)** to take notes.

If you do not wish to accept this warning, and you wish to proceed to a formal investigation, I will require you to inform me of this at the meeting. If you choose this option a formal investigation will be commissioned.

However, if you wish to accept the sanction, this will be confirmed at the meeting, and I will confirm this sanction in writing. The meeting also provides you with an opportunity to ask any questions you have about this sanction.

Please don’t hesitate to contact me if you require any further information or advice.

Yours sincerely,

Headteacher

## Template Letter 2 – Sanction outside of a hearing – after investigation

PRIVATE & CONFIDENTIAL

<Addressee>

<Address>

<Date>

Dear <Addressee>

**Sanction Outside of a Hearing**

I am writing to you following receipt of the investigation report from (**name)** concerning the allegation(s) towards you concerning:

INSERT SUMMARY DETAILS OF ALLEGATION

I have enclosed a copy of the report for your information.

Under the Disciplinary Policy, the following arrangement apply:

"If it is evident from the preliminary enquiry that there is misconduct at a level that would warrant a written or final written warning; that a full investigation is unlikely to uncover any further misconduct or evidence; and the employee accepts the findings, it may be in the interests of the organisation and the employee to save the time and distress of a full investigation and offer a written or final written warning outside of hearing at this point. If accepted there will be no right of appeal. If the employee does not accept this then a full investigation will be commissioned.

Similarly, where an investigation takes place and the employee accepts its findings, the Headteacher may offer the employee a disciplinary sanction of a written or final written warning, without the need for a disciplinary hearing. Where the sanction is accepted by the employee, they will have no right of appeal."

Upon consideration of my findings, I have concluded that it would be appropriate to offer you a First Written / Final Written Warning. The warning would remain on your personal file for 6 months / 12 months, after which time it would be disregarded for disciplinary purposes.

The grounds for the sanction being offered are as follows:

* <INSERT SUMMARY DETAILS OF EVIDENCE SUPPORTING CASE>

I would like to invite you to a meeting to discuss this proposed sanction, as follows:

Date:

Time:

Location:

You may be accompanied to this meeting by a workplace colleague, trade union official, or recognised trade union representative. I will also have with me **(name)** to take notes.

If you do not wish to accept this warning, and you wish to proceed to a disciplinary hearing, I will require you to inform me of this at the meeting. If you choose this option a disciplinary hearing will be arranged.

However, if you wish to accept the sanction, this will be confirmed at the meeting, and I will confirm this sanction in writing. The meeting also provides you with an opportunity to ask any questions you have about this sanction.

Please don’t hesitate to contact me if you require any further information or advice.

Yours sincerely,

Headteacher

# Template letter 3 – Sanction outside of a hearing – outcome letter

PRIVATE & CONFIDENTIAL

<Addressee>

<Address>

<Date>

Dear <Addressee>

**DISCIPLINARY OUTCOME – FIRST FORMAL WRITTEN WARNING**

I refer to our meeting on (insert date) at (insert venue). Present at the meeting were the following (insert names, designations and roles of all those present).

(**NOTE**: if employee did not attend and/or attended without representation this should be identified, together with the circumstances, e.g. that the employee was happy to proceed without representation and/or had been notified the hearing would proceed in their absence)

The purpose of the meeting was to discuss the offer of a sanction outside of a hearing, namely a <First OR Final – delete as appropriate> Formal Written Warning, in respect of the following allegation(s) against you:

(insert detail of the allegation(s)).

You agreed to this proposal, therefore the warning you have received is effective from the date of this letter. A copy of this letter will be placed on your personal file where it will remain. However, it will not normally be regarded for disciplinary purposes after a period of <6 OR 12 – delete as appropriate depending on whether first or final warning> months. This warning will be taken into account should any further misconduct occur during the identified period of this warning and as a consequence it could result in your dismissal.

It was explained to you that by accepting this <First OR Final – delete as appropriate> Formal Written Warning outside of a hearing there is no right of appeal against the sanction. This is in accordance with the Schools Disciplinary Policy.

Please find enclosed two copies of this letter, one is to be retained for your records, you are required to sign the declaration and return the second copy to me by not later than <enter date allowing 5 working days> to confirm your acceptance of the above.

If you have any queries about this letter please contact me.

Yours sincerely

Head Teacher

I understand the contents of this letter and confirm my acceptance of the <First OR Final – delete as appropriate> Formal Written Warning for <6 OR 12 – delete as appropriate depending on whether first or final warning> months. I further understand that in accepting this sanction outside of a hearing that I have no right of appeal.

Signed ……………………………………………………………………………………………………………………………………

Print Name …………………………………………………………………………………………………………………………….

Date ……………………………………………………………………………………………………………………………………….

## Template Letter 4 – Suspension notification

**PRIVATE & CONFIDENTIAL**

<Addressee>

<Address>

<Date>

Dear <Addressee>

**SUSPENSION FROM WORK**

I refer to your meeting with **(insert names/designations)** held at **(insert venue)** on **(insert date).**

As confirmed at the meeting, issues have been brought to management’s attention, which raise concerns as to your conduct. It is alleged that **(insert detail of** **allegation(s)).**

In view of the above concerns, and after careful consideration of alternatives to suspension, the decision has been taken that it is considered appropriate you are suspended from work, with immediate effect. This letter serves to confirm that decision.

As was explained to you, your suspension from work is a precautionary act, which will enable School to further consider this matter and carry out a fair and impartial investigation. It is stressed that your suspension from work is not a form of disciplinary action against you; neither does it serve to presume guilt on your part.

However, you are advised to note and act upon the fact that in the circumstances in which you find yourself, there may be a requirement of you to notify your professional body or association of your circumstances.

An appropriate investigator will be identified shortly, and this will be confirmed in writing to you. Following on from this the investigator will make direct contact with you regarding the investigation. In the course of the investigation, you will be interviewed and will be invited to offer explanation or comment on the allegations.

You are encouraged to be accompanied at the interview by a companion, who may be a school work colleague, trade union official or recognised trade union representative. You are advised, however, that the person who accompanies you is there to provide you with support only. They are not permitted to answer questions on your behalf.

Should any additional allegation(s) come to light during the course of the investigation you will be advised in writing that further allegation(s) will also be investigated.

Any information, which is gained during the investigation process, may be presented at a subsequent disciplinary hearing, if it is decided to proceed to a disciplinary hearing. You will be informed in writing of the outcome of the investigation following its conclusion.

You need to be particularly aware of how suspension from work impacts upon your pay, sickness and leave. Information on this is set out below:

**Pay** - During your suspension you will continue to receive contractual pay, which will be the normal remuneration applicable immediately prior to your suspension. For employees who work irregular hours, pay received during suspension will be based on the average hours worked during the 12 weeks immediately prior to suspension.

Additional allowances are not pay for the purposes of your contract of employment. However, as previously stated, suspension is not a disciplinary action and the school does not wish for employees who are suspended from work, to suffer any short term unexpected financial loss as a result. Therefore, you will continue to receive any additional allowances you normally receive. You will receive these at the average level paid during the 12 weeks preceding your suspension. You will continue to receive these for a period of 2 months following the effective date of your suspension.

For clarity, additional allowances refer to payments for shifts, sleep in arrangements etc. They do not refer to average expenses or telephone allowances. In addition, School’s wish that suspended employees do not suffer a short term unexpected financial loss does not extend to such losses as may arise from an employee not being able to work additional hours as a consequence of not being at work.

**Sickness** – In accordance with the Schools’s Disciplinary and Sickness Absence Policies whilst you will receive full contractual pay during a period of suspension from work, should you fall ill during your suspension from work and, but for the suspension, be unable to work as normal by virtue of the ill health, your suspension from work will end the day before the start date of the period of sickness absence, as identified in the self-certification/Fit Note notification. You will be regarded as being absent from work through sickness and the school’s sickness provisions, including normal contractual sick pay entitlements, will operate for this period. In such event, you must comply with the school’s sickness absence reporting procedures and may be referred to Occupational Health if this is felt appropriate.

Upon the period of sickness absence ending, should circumstances warrant the continuation of the suspension from work, this will be confirmed with you and will be effective from the day immediately following the ending of the period of sickness absence. In respect of both suspension from work and sickness absence from work you are required to be contactable and available to attend meetings during your normal working hours.

**Leave** – Annual leave will continue to accrue during your suspension from work, and you may request annual leave in the normal way. You are reminded that your contract of employment continues to operate and that, as explained elsewhere in this letter, you are required to make yourself available for any meetings or interviews during your normal working day. Consistent with this, you must obtain the necessary authority to take any leave during your suspension, to be unavailable without the appropriate authorisation may be referred to the disciplinary procedure.

It is a term of your suspension that you are not required to attend work, which includes relief work. However, should you wish to visit your place of work during your suspension, for any reason, you should do so only by prior permission and arrangement with me. Failure to seek such prior permission may also be treated as a disciplinary offence.

Your suspension from work will be reviewed regularly and you will be notified, in writing, of the outcome.

LCC appreciates that suspension from work can cause concern and that you may want to share your feelings and concerns with someone. Therefore, the following support arrangements are available if you wish to make use of them:

* Your Support Officer is **(insert name/designation & contact details).** If you do not wish this person to act as your support officer, please contact me immediately. Unless I hear from you to the contrary it will be presumed you have no objections to this nomination, and the support officer will be provided with your contact details.
* The LCC’s Counselling and Wellbeing Hub, which can be accessed by telephoning (01522) 555440 or Thecounsellingandwellbeinghub@lincolnshire.gov**.** You can also make your own independent arrangements for support during the investigation by contacting your staff/union representative.

You are reminded that this matter is strictly confidential. Other than obtaining appropriate trade union and/or legal advice, you are not to discuss any aspect of this matter with anyone other than the support, which is available as identified above and/or your manager.

The above is in accordance with disciplinary policy and procedure, a copy of which is enclosed.

If you require any advice or clarification on the operation of the procedure please contact **(insert name & telephone number of HR representative),** who will look to assist you.

You should note that (HR Provider) and the investigator will each be provided with a copy of this letter for their information.

Yours sincerely

Name

Headteacher

# Template Letter 5 – Suspension review

**STRICTLY PRIVATE AND CONFIDENTIAL**

[Enter name]

[Enter address]

[Enter date]

Dear [Enter name]

**SUSPENSION REVIEW**

Further to my letter to you dated [enter date] in accordance with the school’s Disciplinary Procedure, I can confirm that I have now undertaken a suspension review which took place on [enter date].

At the review, consideration was given to the lifting of your suspension.  However, I must inform you that there has been no change or additional information which would support either lifting your suspension or redeployment into a different role at this stage.

I can confirm that I will continue to review your suspension, and I will undertake the next review on [enter date].

Please find attached a leaflet in respect of the Counselling and Wellbeing Hub service which is available to you if you would like to contact them.

The Council’s Counselling and Wellbeing Hub service can be contacted by telephoning (01522) 555440 if you would like to access this service. (or insert details of equivalent service if purchased elsewhere)

Yours sincerely

## Template Letter 6 – Investigation notification

**PRIVATE & CONFIDENTIAL**

<Addressee>

<Address>

<Date>

Dear <Addressee>

**INVESTIGATION NOTIFICATION**

Further to the discussions you have had regarding the allegation(s) of misconduct against you, I am writing to confirm that an investigation into the allegation(s) will be undertaken by an Investigator. You are expected to co-operate fully and honestly with the investigation process.

**(INSERT, AS APPROPRIATE, THE FOLLOWING**) The Investigator is **(INSERT** **NAME/DESIGNATION) OR** You will be notified of who the Investigator is when one has been identified.

The specific allegation(s), which will be investigated, are as follows **(INSERT DETAIL** **OF ALLEGATION(S)).**

In the course of the investigation, you will be interviewed and will be invited to provide explanation and comment on the allegations. You are encouraged to be accompanied at the interview by a school work colleague, recognised trade union officer or recognised trade union representative. You should note that whilst you may be accompanied, the person accompanying you is not allowed to answer questions on your behalf.

Should any additional allegation(s) come to light during the course of the investigation you will be advised in writing that the further allegation(s) will also be investigated. Any information which is gained during the investigation process may be presented at a subsequent Disciplinary Hearing, if it is decided to proceed to a Disciplinary Hearing.

It is appreciated that such investigations can cause concern and that you may want to share your feelings and concerns with someone. Therefore, the following support arrangements are available if you wish to make use of them **(Note: employees suspended from work should already have been notified of the following support arrangements)**

* Your Support Officer is **(INSERT NAME/DESIGNATION & CONTACT DETAILS**). If you do not wish this person to act as your Support Officer you must contact me immediately. Unless I hear from you to the contrary it will be presumed you have no objection to this nomination, and the Support Officer will be provided with your contact details.
* (If appropriate) The Council’s Counselling and Wellbeing Hub service, which can be accessed by telephoning (01522) 555440.
* You can also make with your own independent arrangements for support during the investigation by contacting your staff/union representative.

You are reminded that this matter is strictly confidential. Other than obtaining appropriate trade union and/or legal advice you are not to discuss any aspect of this matter with anyone other than the support, which is available (as identified above) and/or me.

You will be informed in writing of the outcome of the investigation following its conclusion. In the meantime, you should continue to comply with the terms of your suspension as detailed in the letter of suspension you have previously received. **(only insert in cases where the employee has been suspended)**

The above is in accordance with the School’s Disciplinary Policy and Procedure, a copy of which is enclosed. Also enclosed is a copy of the Employee Guidance on Employment Investigations. **(Note: employees suspended from work should already have been provided with copies of these two documents)**

If you require any advice or clarification on the operation of the procedure please contact me and I will look to assist you.

You should note that the Investigator and HR provider will be provided with a copy of this letter. Your Support Officer will also be provided with a copy.

Yours sincerely

Name

Head Teacher

## Template Letter 7 – Investigatory Interview notification

**PRIVATE & CONFIDENTIAL**

<Addressee>

<Address>

<Date>

Dear <Addressee>

**INVESTIGATION INTERVIEW NOTIFICATION**

As you are aware from previous correspondence you have received, you are to be interviewed during the course of the current investigation into allegations against you. The purpose of the interview is for the Investigator to make enquires of you in relation to the allegations and the circumstances giving rise to them. Additionally, it provides you with the opportunity to respond to the allegations and offer explanation.

The allegations, which are the subject of the investigation, are set out below **(INSERT ALLEGATIONS DETAIL)**

I am now able to confirm the arrangements for the Investigator to conduct the interview, and this is to take place on **(INSERT DATE/TIME/VENUE).**

You are required to attend the investigatory interview. Additionally, as previously advised you are encouraged to be accompanied at the interview by a school work colleague or recognised trade union officer/representative. Should you wish to arrange to be accompanied you should do so without delay and should contact me directly should any difficulties arise in making arrangements. You are reminded that the person accompanying you will not be able to answer questions on your behalf.

You are also reminded that you are expected to co-operate fully and honestly with the investigation and that any information, which is gained during the process of the interview, will be presented at a subsequent Disciplinary Hearing in the event it is decided to proceed to a Disciplinary Hearing.

The above is in accordance with the School’s Disciplinary Policy and Procedure, a copy of which you have previously been provided with.

If you require any advice or clarification on the operation of the procedure please contact me and I will look to assist you.

It will be presumed you will be attending the above interview. You are required to contact me directly and immediately should you have any difficulty with the arrangements.

You should note that the Investigator and HR provider will be provided with a copy of this letter. Your Support Officer will also be provided with a copy.

Yours sincerely

<Name>

Head Teacher

## Template Letter 8 – Further allegations notification

**PRIVATE & CONFIDENTIAL**

<Addressee>

<Date>

Dear <Addressee>

**FURTHER ALLEGATIONS NOTIFICATION**

Further to the previous correspondence you have received, advising you of an investigation into certain allegations against you, you are advised that further allegations have come to light.

The details of the further allegations are as follows. It is alleged **(INSERT DETAIL OF FURTHER ALLEGATIONS).** These further allegations are now formally added to those detailed in the previous correspondence you have received.

As previously advised, in the course of the investigation you will be interviewed and will be invited to offer an explanation on the allegations. If you have already been interviewed it may be that you will need to be interviewed again as a consequence of the further allegations.

As also previously advised, you are encouraged to be accompanied at any investigatory interview; either by a recognised trade union officer/representative or a school work colleague. You are reminded that the person accompanying you cannot answer questions on your behalf. You are also reminded of the expectation that you will co-operate fully and honestly with the investigation and that any information, which is gained during the investigation process, may be presented at a Disciplinary Hearing, in the event it is decided to proceed to a Disciplinary Hearing.

The above is in accordance with the School’s Disciplinary Policy and Procedure, a copy of which was provided to you in earlier correspondence.

If you require any advice or clarification on the operation of the procedure please contact me and I will look to assist you.

You should note that the HR provider and the Investigator will be provided with a copy of this letter. Your Support Officer will also be provided with a copy.

Yours sincerely

Name

Head Teacher

## Template Letter 9 – Investigation outcome notification

**PRIVATE & CONFIDENTIAL**

<Addressee>

<Address>

<Date>

Dear <Addressee>

**INVESTIGATION OUTCOME NOTIFICATION**

Further to the previous correspondence you have received, advising you of an investigation into certain allegations against you, I now write to advise you that the investigation is complete and to advise you of the outcome.

**(INSERT, AS APPROPRIATE, ONE OF THE FOLLOWING OUTCOMES)**

**Outcome 1**

The outcome of the investigation is that your explanation has been accepted and/or there is no evidence to support the allegations. Consequently, there will be no further action on the matter. If you have not been spoken to already about the conclusion of this matter, this will happen shortly. This will provide an opportunity to discuss any issues arising.

**(WORDING TO BE USED IF EMPLOYEE IS SUSPENDED/TEMPORARILY REDEPLOYED)** Your suspension from work (or temporary redeployment) is now lifted and you are able to return to your post. If you have not been contacted already regarding your return to work, contact will be made with you shortly to make the necessary arrangements. This will provide an opportunity to discuss any issues arising.

**Outcome 2**

The outcome of the investigation is that it is considered the allegations are supported by evidence. However, having regard to all the circumstances of this matter, it has been decided that on this occasion it will be concluded by means of appropriate **(INSERT INFORMAL ACTION OR COUNSELLING/MENTORING/DEVELOPMENT/OTHER OPTION)**

Arrangements will be made for the appropriate identified action to be taken without any unnecessary delay. If you have not been contacted already regarding the action to be taken, contact will be made with you shortly to make the necessary arrangements to meet with you and discuss the next step. This will provide an opportunity to discuss any issues arising.

You should note that a record will be made of the action taken and this will be placed on your personal file as it is considered a part of the formal disciplinary process.

**Outcome 3**

The outcome of the investigation is that there is considered to be a case for you to answer. Consequently, this matter will be put before a Disciplinary Panel at a Disciplinary Hearing in accordance with the School’s Disciplinary Policy and Procedure. This letter serves as formal notification of this.

The specific allegations, which will be considered at the hearing, are **(INSERT DETAIL OF ALLEGATION(S))**

You have the right to be accompanied at the hearing by either a school work colleague or a recognised trade union officer/representative. If you wish to exercise this right you should inform me so the necessary arrangements can be made for the hearing.

Confirmation of the arrangements for the hearing, which will be made in consultation with your representative, will be sent to you in due course. In the meantime, you are advised that the hearing may proceed in your absence should you fail to attend without advance notification and without good reason.

**(INSERT IF EMPLOYEE IS SUSPENDED)** You should continue to comply with the terms of your suspension as detailed in the letter of suspension you have previously received.

You are reminded that this matter remains strictly confidential. Other than obtaining appropriate trade union and/or legal advice you are not to discuss any aspect of this matter with anyone other than the identified support, which is available to you, and/or with me.

The above is in accordance with the School’s Disciplinary Policy and Procedure, a copy of which was provided to you in earlier correspondence.

If you have any queries regarding this letter you should contact me, and I will look to assist you.

You should note that the HR provider and the Investigator will be provided with a copy of this letter. Your Support Officer will also be provided with a copy.

Yours sincerely

Name

Head Teacher

## Template Letter 10 – Disciplinary Hearing notification

**PRIVATE & CONFIDENTIAL**

<Addressee>

<Address>

<Date>

Dear <Addressee>

**DISCIPLINARY HEARING NOTIFICATION**

Further to the previous correspondence you have received, informing you of the outcome of the recent investigation into allegations of misconduct against you, I am writing to confirm that you are required to attend a disciplinary hearing, as detailed below:

**Date:**

**Time:**

**Venue:**

On arrival, please ask for **(insert name/designation)**

The hearing will be conducted by (**name of Panel Chair)** / (**disciplinary panel consisting of the following two panel members:**

**(insert name/designation)**

**(insert name/designation)** )

Also, in attendance will be (**a HR representative (insert name), ;**  a management representative to present the management case (usually the Head Teacher) **(insert name/designation), (the Investigator (insert name) who will present information from the recent investigation)** and a note taker**.**

The specific allegation(s) which will be considered at the disciplinary hearing is/are as follows **(insert detail of allegation(s).)**

**Either:**

**I must inform you that the outcome of this disciplinary hearing could result in you being issued with a formal disciplinary warning under the Disciplinary Policy.**

**Or**

**Since you already have an active (final) written warning on your file, I must inform you that the outcome of this disciplinary hearing could result in your dismissal from employment, in accordance with the Disciplinary Policy.**

**Or**

**Since we view the allegations against you as gross misconduct offences, I must inform you that the outcome of the disciplinary hearing could result in your summary dismissal from employment in accordance with the Disciplinary Policy.**

In view of the seriousness of these allegations the Disciplinary Panel will consider what disciplinary action to take, if any, and whether the Council can continue to have trust and confidence in your ability to carry out your job. You need to be aware that all disciplinary matters are considered serious and a range of sanctions are available including dismissal.

During the course of the hearing, you will have the right to hear and question all evidence presented in respect of the allegation(s) and to provide a statement on your own behalf.

**(insert/delete)** Please find enclosed the investigation report, accompanying interview records and appendices and a document outlining how the hearing will be conducted.

Any documentation you wish to be considered must be received by me no later than 7 working days prior to the hearing so that it can be distributed to all who will be attending 5 working days prior to the hearing.

Where necessary, please ensure the information you provide is redacted, if you require help with redacting documents you wish to submit for a hearing, the LCC Customer Information Service will assist.

The management representative has also been informed of the above.

**OR**

**(insert/delete)** The investigation report, accompanying interview records and appendices and a document outlining how the hearing will be conducted will follow shortly. Once received, in accordance with the school’s disciplinary procedure, any documentation you wish to be considered must be received by me no later than **(7)** working days prior to the hearing so that it can be distributed to all who will be attending **(5)** working days prior to the hearing.

In the event that any documentation is submitted late, it will be for the disciplining manager to decide whether or not it is to be considered at the hearing.

**(insert as appropriate)** It is not management’s intention to call witnesses to the hearing.

**OR**

It is management’s intention to call witnesses to the hearing, as follows: **(insert names/titles)**

If you would like to call any witnesses to the disciplinary hearing, you must inform me by means of the return of the enclosed copy of this letter. You are responsible for inviting any witnesses you wish to attend.

You should note that the school’s procedures do not stipulate that a school employee is obliged to attend as a witness for a fellow employee, should they not wish to do so. Therefore, in the event that you wish to call any School employees as witnesses it will be for the individuals concerned to decide whether or not they wish to attend the hearing in this capacity.

As this is a formal disciplinary hearing you may be accompanied by a companion, who may be a school work colleague, trade union official or recognised trade union representative. **(insert if applicable)** A copy of this letter has been forwarded to your representative.

Please note that the hearing may proceed in your absence should you or your representative fail to attend without advance notification to me and without good reason.

If there is good reason to postpone the hearing it will be rearranged within 5 days or as soon as is practicable. In this event, you will be advised of the rearranged date in writing and if you are unable to attend on this date, then your case will be considered based on the written documentation you provide and/or the presentations made by your representative in your absence.

Where the note taker feels it is necessary to make an audio recording in order to support with the preparation of the notes, the requirement to make the recording will be clarified with all present at the start of the hearing.

The above is in accordance with the Disciplinary policy and procedure, a copy of which was provided to you in earlier correspondence.

You are required to acknowledge receipt of this letter by signing one copy and returning it to me, in the pre-paid envelope enclosed.

Those attending the disciplinary hearing will be provided with a copy of this letter.

Yours sincerely

Name

HR Representative

I acknowledge receipt of the letter, notifying me of the arrangements for a disciplinary hearing, as detailed above. I confirm my attendance.

SIGNED…………………………………………… DATE…………………………..

NAME (Print)………………………………………………………………………….

I will/will not\* be accompanied at the hearing. I will be accompanied by:

Name: ……………………………………… Title: ………………………………….

I do not intend to call witnesses**\* or** I intend to call the following witnesses**\***

Name: --------------------------------------- Title: -----------------------------------

Name: --------------------------------------- Title: -----------------------------------

**(\*\* delete as appropriate)**

## Template Letter 11- Re-arranged disciplinary hearing

**PRIVATE & CONFIDENTIAL**

<Addressee>

<Address>

<Date>

Dear <Addressee>

**RE-ARRANGED DISCIPLINARY HEARING NOTIFICATION**

I refer to the previous correspondence you have received, informing you of the arrangements for your disciplinary hearing.

As the hearing did not take place because **(insert reason)** set out below are the arrangements for your re-arranged disciplinary hearing:

**Date:**

**Time:**

**Venue:**

You should report to reception and ask for **(insert name/designation)**

As this is a re-arranged disciplinary hearing, you are reminded that the hearing will proceed in your absence should you not attend. You are advised that if you choose not to attend or you are unable to attend the hearing you may wish to make arrangements for your representative to attend and/or for a written statement of case to be submitted for the disciplining manager to consider in your absence. The re-arranged hearing will take place, and your case will be considered based on the written documentation you have submitted and/or the presentations of your representative in your absence.

As previously advised, the hearing will be conducted by disciplining manager(s) as follows:

**(insert name/designation)**

**(insert name/designation)**

Also, in attendance will be (**a HR representative (insert name);** a management representative to present the management case **(insert name/designation), (the Investigator (insert name) who will present information from the recent investigation)** and a note taker**.**

The specific allegations and arrangements for the hearing are as previously notified to you in the letter date (**date of hearing notification letter)**

You are reminded that if you would like to call any witnesses to the disciplinary hearing, you must inform me by means of the return of the enclosed copy of this letter. As previously advised, you are responsible for inviting any witnesses you wish to attend.

You are also reminded that as this is a formal disciplinary hearing you may be accompanied by a companion, who may be a school work colleague, trade union official or recognised trade union representative. **(insert if applicable)** A copy of this letter has been forwarded to your representative.

Where the nominated notetaker at meetings and/or hearings associated with the process feels it is necessary to make an audio recording in order to support with the preparation of the notes, the requirement to make the recording will be clarified with all present at the start of the meeting.

The above is in accordance with the disciplinary policy and procedure, a copy of which was provided to you in earlier correspondence.

You are required to acknowledge receipt of this letter by signing the attached copy and returning it to me, by return of post. A pre-paid envelope is provided.

You should note that those attending the hearing will be provided with a copy of this letter.

Yours sincerely

Name

HR Representative

I acknowledge receipt of the letter, notifying me of the arrangements for a re-arranged disciplinary hearing, as detailed above. I confirm my attendance.

SIGNED…………………………………………… DATE…………………………..

NAME (Print)………………………………………………………………………….

I will/will not\* be accompanied at the re-arranged hearing. I will be accompanied by:

Name: ……………………………………… Title: ………………………………….

**(\* delete as appropriate)**

I will be forwarding my documentation for presentation at the re-arranged hearing by no later than …………………. (please insert date)

I do not intend to call witnesses**\*\***

I intend to call the following witnesses**\*\***

Name: --------------------------------------- Title: -----------------------------------

Name: --------------------------------------- Title: -----------------------------------

**(\*\* delete as appropriate)**

## Template Letter 12 – Disciplinary hearing outcome notification

1. **First/Final written warning**
2. **Dismissal with notice**
3. **Dismissal without notice**
4. **DISCIPLINARY HEARING OUTCOME – WRITTEN WARNING/FINAL WRITTEN WARNING DISCIPLINARY WARNING**

**PRIVATE & CONFIDENTIAL**

<Addressee>

<Address>

<Date>

Dear <Addressee>

**DISCIPLINARY HEARING OUTCOME – WRITTEN WARNING**

I refer to the disciplinary hearing held on **(insert date)** at **(insert** **venue)**.

Present at the hearing were the following **(insert names, designations and roles of all those present).**

**(NOTE: if employee did not attend and/or attended without representation this should be identified, together with the circumstances, e.g. that the employee was happy to proceed without representation and/or had been notified the hearing would proceed in their absence)**

The purpose of the hearing was to consider the following allegation(s) against you **(insert detail of the allegation(s)).**

Having carefully considered all the evidence presented at the hearing, I have found that **(insert detail of findings).**

The Panel consider that your conduct in this matter constitutes misconduct. Consequently, the decision is that you be given a **(insert first or final written warning).**

The warning you have received is effective from the date of this letter. A copy of this letter will be placed on your personal file where it will remain. However, it will not normally be regarded for disciplinary purposes after a period of **6 months / 12 months** (delete as appropriate). This warning will be taken into account should any further misconduct occur during the identified period of this warning and as a consequence it could result in your dismissal.

**(insert as appropriate)** I have also determined that as part of the formal disciplinary action taken against you any pay increment(s) due to be paid to you during the period of your warning will be withheld. Any such increment withheld will be paid to you upon the expiry of your warning subject to your conduct having improved to an acceptable standard. However, the payment of any withheld increment(s) will not be backdated.

**(insert as appropriate)** I also further determined that the following management action take place in respect of you **(insert detail of any management action determined by the panel, e.g. that the employee undertakes refresher training or is to work under supervision for a time)**

You have the right to appeal against this decision, as detailed in the Appeals Policy, a copy of which is enclosed. If you wish to exercise your right to appeal you must do so by writing to HR Business Support team within 10 working days of receipt of this letter.

In lodging your appeal, you are required to clearly identify your grounds for appeal. The enclosed Appeals Policy document will assist you to identify the grounds for appeal. However, to illustrate the clarity and detail required it is insufficient to simply identify that you felt not all the evidence was considered. You will need to identify the evidence, which you believe was not considered. In submitting your appeal, you will also need to identify who, if anyone, will be representing you at your appeal and provide their contact details.

**(insert as appropriate)** As a consequence of this disciplinary action you are further advised that LCC will be notifying relevant bodies of the decision, namely **(insert as appropriate – examples include the teaching agency, health professions council and/or the disclosure and barring service (DBS)).**

You should note that I have provided (**your manager**) and Human Resources with a copy of this letter for information purposes.

If you have any queries about this letter you should contact **(insert** **name/telephone number of HR representative)** in the first instance.

Yours sincerely

Name/Designation

Panel Chair

1. **DISCIPLINARY HEARING OUTCOME (WHERE WARNING ALREADY EXISTS)**

 **DISMISSAL WITH NOTICE**

**PRIVATE & CONFIDENTIAL**

<Addressee>

<Address>

<Date>

Dear <Addressee>

**DISCIPLINARY HEARING – DISMISSAL**

I refer to the Disciplinary hearing held on **(insert date)** at **(insert** **venue).**

Present at the hearing were the following **(insert names, designations and roles of all those present).**

**(note: if the employee did not attend and/or attended without representation this should be identified, together with the circumstances, e.g. that the employee was happy to proceed without representation and/or had been notified the hearing would proceed in their absence)**

The purpose of the hearing was to consider **(insert detail of** **allegation(s)).**

Having carefully considered all the evidence presented at the hearing the disciplinary panel found that **(insert detail of findings).**

The disciplinary panel considers that your conduct in this matter constitutes misconduct.

**(insert as appropriate) - either**

In reaching its decision in respect of an appropriate disciplinary sanction, the disciplinary panel had regard to the fact that you have previously received a disciplinary warning, which was live for disciplinary purposes at the time of your further misconduct. The previous warning was a final written warning. The Panel noted that at the time you received this warning you were advised that any further misconduct could result in your dismissal.

Having regard to the above and the disciplinary panel's finding of misconduct, the decision of the disciplinary panel is that in view of your further misconduct you are to be dismissed.

**OR**

In reaching its decision in respect of an appropriate disciplinary sanction, the disciplinary panel had regard to the fact that you have previously received a disciplinary warning, which was live for disciplinary purposes at the time of your further misconduct. The previous warning was a first written warning. The Panel noted that at the time you received this warning you were advised that any further misconduct could result in your dismissal.

Having regard to the above and the disciplinary panel's finding of misconduct, the decision of the disciplinary panel is that you be given a final warning and due its cumulative effect, you are to be dismissed.

As this is not a summary dismissal, this letter serves to issue you with your due notice of **(insert number** **of weeks)** weeks and the period from **(enter date)** until **(enter date)** will be paid as notice. Therefore, your employment with the school will terminate on **(insert date).**

You **(insert will or will not)** be required to work your notice.

***(note regarding notice period dates***

1. ***If the employee attended the hearing and notice was given verbally***

*The notice period starts the day after the hearing*

1. ***If the employee did NOT attend the hearing***

*The notice period starts 2 days after posting the outcome letter)*

**(insert as appropriate)** The disciplinary panel also determined that as part of the formal disciplinary action taken against you any pay increment(s) due to be paid to you during the period of your notice will be withheld.

You have the right to appeal against the disciplinary panel’s decision, as detailed in the School’s Appeals Policy, a copy of which is enclosed. If you wish to exercise your right to appeal you must do so by writing to **(INSERT NAME/ADDRESS** **OF THE CHAIR OF GOVERNORS)** within 10 working days of receipt of this letter. In lodging your appeal, you are required to clearly identify your grounds for appeal. The enclosed Appeals Policy document will assist you to identify the grounds for appeal. However, to illustrate the clarity and detail required it is insufficient to simply identify that you felt not all the evidence was considered. You will need to identify the evidence, which you believe was not considered. In submitting your appeal, you will also need to identify who, if anyone, will be representing you at your appeal and provide their contact details.

**(insert as appropriate**) As a consequence of this disciplinary action you are further advised that the school will be notifying relevant bodies of the disciplinary panel’s decision, namely **(insert as appropriate – examples include the teaching agency, health professions council and/or the disclosure and barring service (DBS)).**

You should note that I have provided the Investigator and (HR Provider) with a copy of this letter for information purposes.

If you have any queries about this letter you should contact **(insert** **name/telephone number of HR representative)** in the first instance.

Yours sincerely

Name/Designation

(Chair of the Disciplinary Panel)

1. **DISCIPLINARY HEARING OUTCOME - DISMISSAL WITHOUT NOTICE**

**PRIVATE & CONFIDENTIAL**

<Addressee>

<Address>

<Date>

Dear <Addressee>

**DISCIPLINARY HEARING - DISMISSAL**

I refer to the Disciplinary hearing held on **(insert date**) at **(insert** **venue)**.

Present at the hearing were the following **(insert** **names, designations and roles of all those present).**

The purpose of the hearing was to consider the following allegation(s) against you **(insert detail of allegation(s))**

**(note: if the employee did not attend and/or attended without representation, this should be identified together with the circumstances, e.g. that the employee was happy to proceed without representation and/or had been notified the hearing would proceed in their absence)**

Having carefully considered all the evidence presented at the hearing the disciplinary panel found that **(insert detail of findings).**

The disciplinary panel considers that your conduct in this matter constitutes gross misconduct. Consequently, the disciplinary panel’s decision is that you be summarily dismissed, without notice. Consistent with this decision I write to confirm that your last day of employment with the school is **<insert date>**

***(note regarding dismissal dates)***

1. ***If the employee attended the hearing and summary dismissal was given verbally***

*The dismissal takes effect on the day of the hearing*

1. ***If the employee did NOT attend the hearing***

*The dismissal takes effect 2 days after posting the outcome letter*

You have the right to appeal against the disciplinary panel’s decision, as detailed in the Appeals Policy, a copy of which is enclosed. If you wish to exercise your right to appeal you must do so by writing to **(INSERT NAME/ADDRESS** **OF THE CHAIR OF GOVERNORS)** within 10 working days of receipt of this letter. In lodging your appeal, you are required to clearly identify your grounds for appeal. The enclosed Appeals Policy document will assist you to identify the grounds for appeal. However, to illustrate the clarity and detail required it is insufficient to simply identify that you felt not all the evidence was considered. You will need to identify the evidence, which you believe was not considered. In submitting your appeal, you will also need to identify who, if anyone, will be representing you at your appeal and provide their contact details.

**(insert as appropriate)** As a consequence of this disciplinary action you are further advised that the school will be notifying relevant bodies of the disciplinary panel’s decision, namely **(insert as appropriate - examples include the teaching agency, health professions council and/or the disclosure and barring service (DBS)).**

You should note that I have provided the Investigator and (HR Provider) with a copy of this letter for information purposes.

If you have any queries about this letter you should contact **(insert** **name/telephone number of HR representative)** in the first instance.

Yours sincerely

Name/Designation

(Chair of the Disciplinary Panel)

## Template Letter 13 – Extension of live warning

**PRIVATE & CONFIDENTIAL**

<Addressee>

<Address>

<Date>

Dear <Addressee>

**RE: Extension to Live Warning**

I write further to our meeting on ***(insert date)***, present at the meeting were ***(insert attendees & designations).***

During the meeting we discussed your previous behaviour which was deemed a breach of Lincolnshire County Council's Code of Conduct. After consideration of the allegations against you, it was deemed appropriate to issue a ***(insert first / final)***written warning. You were advised at the time that this warning would remain live for ***(insert 6 or 12)*** months until ***(insert date warning was due to expire)***.

*NB: Only use in cases of absence:*

As you have been absent due to ***(insert reason)*** for ***(insert length of time - 28 consecutive days or more)*** I am writing to confirm that the decision has been made to extend your live warning for a further ***(insert weeks/months ensuring time period does not exceed length of absence & length of original warning).*** The extension to your ***(insert first / final)*** written warning will commence with immediate effect from the date you return to work and will remain in place for the length of time specified above.

*NB: Only use in cases of further allegations:*

As there have been further allegations of misconduct against you during the period of your ***(insert first / final)*** written warning I am writing to confirm that due to the nature of these new allegations it is deemed appropriate to extend your live warning for ***(insert length of time – up to 6 months for first written & up to 12 months for final written)****.*

A copy of this letter will be placed on your personal file where it will remain. This warning will be taken into account should any further misconduct occur during the identified period of this warning and as a consequence it could result in your dismissal.

If you have any queries in respect of this letter, please do not hesitate to contact me.

Yours Sincerely

Headteacher

# GUIDANCE DOCUMENTS

## Guidance on Suspension from Work

In certain circumstances it may be considered appropriate to suspend an employee from work. It is important to note that suspension does not constitute disciplinary action and does not itself imply any presumption of guilt on the part of the employee. The employee should be advised of this.

Headteachers will:

* Consider the wellbeing and mental health of anyone they are thinking of suspending
* Only suspend someone if there is no other option
* Plan what support they will provide to anyone they suspend

**Grounds for Suspension**

Where alleged misconduct is sufficiently serious to be considered potential gross misconduct (or other veryserious situations) the employee may be suspended from work. Examples of this include:

* Alleged gross misconduct such as:
* Abuse or harassment of a vulnerable child
* Fighting or serious physical violence at work
* Fraud or theft
* Malicious damage to the property of colleagues, children, the school or public
* Serious personal harassment or bullying (see Notes below)
* Corrupt practice
* Where the employee is being charged with a serious criminal offence.
* Where there is a clear concern that the employee or others may be placed at risk by the employee remaining in the workplace.
* Where it is considered possible that the employee may influence witnesses or interfere with relevant evidence.

Alternatives to suspension from work, such as temporary redeployment to another area of the school or work base or working from home, should be carefully considered before initiating suspension. It is advisable to record why any such alternatives to suspension are not considered appropriate.

**Notes:**

1. In cases of personal harassment or bullying, it will be the alleged harasser who is suspended or temporarily redeployed to a different work location or asked to work from home, where such actions are considered necessary.
2. If it is considered necessary for the harassee to take time away from work (e.g. to recover from the stress of the alleged incident) consideration should be given to granting authorised absence. This will not be classed as suspension.

**The Suspension Process**

**Stage 1 – The decision to suspend**

In respect of any alleged misconduct, the Head Teacher will, where practicable, undertake immediate preliminary investigations. Preliminary investigations will normally involve a private discussion with the employee concerned to establish if there is an acceptable explanation for the alleged misconduct. Dependent upon the nature and seriousness of the allegations there may be a need to consider the immediate suspension of the employee concerned. In such circumstances the Head Teacher may wish to consider the matter with the appropriate HR provider.

Following this, a Strategy Meeting should be called as soon as possible. Consideration will be given at the Strategy Meeting as to whether there are sufficient grounds to suspend. If a Strategy Meeting is not possible within a reasonable timescale the Head Teacher may wish to seek advice from their HR provider on whether suspension is appropriate. If it is considered that there are sufficient grounds to suspend, then the Head Teacher should do so after discussion with the Chair of Governors.

Where a Head Teacher is not available, it may be necessary for a manager at the school to require the employee to leave the place of work for the remainder of the period of duty on authorised absence. Confirmation that suspension is necessary will be approved by the Head Teacher as soon as possible.

**Stage 2 - Practical arrangements**

Where it has been agreed to proceed with suspension and following a preliminary investigation, the Head Teacher may wish to discuss with the HR Provider the practical arrangements on how to implement the suspension to include:

* Locating suitable office space to ensure the suspension meeting takes place in private
* Safeguarding of relevant documents, records and other items of School property
* Handing over keys and other equipment, e.g. a work mobile or IT equipment and where these could potentially be used inappropriately, ID and access cards
* Accompanying the employee back to the workplace to collect personal belongings if required or arranging for these to be delivered to/collected by the employee
* Limiting or removing access to IT systems
* Guidance about contact with other employees whilst suspended, e.g. it may be necessary in some circumstances for a suspended employee to be prohibited from contact with particular named employees.
* Escorting the employee off the premises
* How the employee’s absence from work will be communicated to internal and external colleagues and customers

**Access to IT systems and networks**

When a decision to suspend has been taken the Head Teacher should also consider the implications of maintaining the individual’s access to their e-mail account and any IT systems and networks.

A letter confirming the suspension will need to be prepared in advance of the suspension meeting and signed by a Head Teacher. (see letter Appendix 13 Suspension Notification). This includes:

* A statement confirming that suspension is not a disciplinary action
* The reason for suspension
* The length of the suspension and arrangements for review
* Actions that will be taken during the suspension
* Impact on pay, leave and sickness
* Contacts within the School and fellow employees during suspension
* Support mechanisms available

###

**Stage 3 – Advising the employee of suspension**

When the above arrangements are in place, the Head Teacher should convene a suspension meeting. The meeting should take place as soon as possible after the alleged misconduct.

The employee has a right of representation at the suspension meeting. However, the unavailability of a representative must not delay convening the meeting or the suspension itself.

Under normal circumstances, the Head Teacher should ask the employee to attend a suspension meeting, giving a brief outline of the reasons for the meeting; advising the employee that they have the right to have a school work colleague or recognised trade union officer/representative present.

###

**Stage 4 - The Suspension Meeting**

Those present in the suspension meeting would normally be:

* Head Teacher
* HR provider, if required
* The employee being suspended
* A School work colleague of the employee or recognised trade union officer/representative

The Head Teacher will explain the reasons for the suspension; reminding the employee that suspension is not a disciplinary action and does not itself imply any presumption of guilt on the part of the employee. The employee should also be advised that suspension is on contractual pay and that notes of the meeting will be made.

Where the meeting takes place without an employee representative present, the Head Teacher should inform the employee why the suspension is proceeding without such representation and note these reasons for the record.

Where the employee decides not to have a school work colleague or recognised trade union officer/representative present at the suspension meeting, this will also be noted by the Head Teacher for the record.

The Head Teacher should also inform the employee what will be communicated to internal and external colleagues and the school as a whole to explain their absence from work, and how the school will respond to any enquiries from the media about the employee’s absence from work.

During the suspension meeting, the Head Teacher should allow the employee the opportunity to comment on the alleged misconduct and the decision to suspend. Any comments made by the employee will be noted for the record.

At the conclusion of the suspension meeting,the Head Teacher must give the employee the pre-prepared letter of notification and associated documents, including a copy of the School’s Disciplinary Policy and Procedure document. If it is decided not to proceed with the suspension, e.g. as an alternative it is decided to temporarily redeploy the employee to another work area or have him/her work from home, then the pre-prepared documentation will be destroyed and a revised letter, confirming the action taken, prepared and issued.

If the employee being suspended is a member of a recognised trade union, a copy of the suspension letter will be forwarded to the employee’s trade union representative unless the employee requests otherwise.

Head Teachers need to be sensitive to reactions from the employee including shock, stress or distress and may need to consider offering the employee support either to their home or a place of safety.

###

**Suspension Reviews**

The Head Teacher should review the suspension (or temporary redeployment) every 2 weeks whilst the investigation is carried out and will keep a written record of each review. The Head Teacher will ensure the Chair of Governors is kept up to date. The review should address whether the conditions for suspension (or temporary redeployment) continue to be met, giving due consideration to the suspension (or temporary redeployment) being lifted and the employee being allowed to return to work in their substantive post, or, possibly after full discussion and agreement with the employee, in a different area or capacity.

The Head Teacher is responsible for keeping the employee informed of each review and its outcome. Suspension records will form part of the paperwork to be presented at a Disciplinary Hearing if one is arranged.

###

**Support during Suspension**

Throughout all stages of the suspension process the employee will be given as much information as possible about the allegations or issues of concern, subject only to protecting the interests of any other party.

The Head Teacher should ensure that a Support Officer is identified and that this person maintains regular contact with the employee. The suspended employee will be asked to confirm the acceptability of the identified person as a Support Officer.

The Head Teacher will also make the employee aware of the availability of the Counselling and Wellbeing Hub service, where the school purchases this service.

Although suspension from work should not lead to social isolation it may be necessary in some circumstances for a suspended employee to be prohibited from contact with particular named employees. This should be made clear to the suspended employee.

The school will ensure that all employment matters relating to an individual employee remain confidential. Should there be a press enquiry or other request for a statement regarding the position of any employee, the Head Teacher should inform the individual employee of this enquiry immediately.

**Protocol for Dealing with the Media on Employment Issues**

Where there has been a media/press enquiry or other request for a statement regarding the position of any employee, the school should inform the employee of the enquiry immediately. It is the responsibility of the Head Teacher to let the member of staff know about the enquiry.

In these circumstances, the member of staff should also be informed, prior to its release, that the following statement will be issued.

“We are unable to comment on any matters that relate to individual members of staff”

The Head Teacher should normally be named as making the statement.

There are normally follow up questions from the media once the statement is issued.

Normally the same short statement should continue to be used.

Advice should be sought from your HR provider in these circumstances.

## Disciplinary Hearing Procedure and Guidance Note

1. Chair of the Panel arranges for the parties to enter together and to take designated seats.
2. Chairman conducts introductions, explains the protocol for the hearing and responds to any initial procedural questions.

NB If the employee is unaccompanied, the Chairman checks that he/she is happy to proceed without representation and makes a note to that effect.

1. When directed by the Chairman:
2. The Investigating Officer presents the investigation report, including all relevant documentation
3. Employee/representative puts questions to the Investigating Officer.
4. Panel members/HR Adviser puts questions to the Investigating Officer
5. Investigating Officer withdraws after his/her questions have been completed (unless the Investigating Officer is also the management representative)
6. The Management representative presents the management position in relation to the employee’s alleged offences, including all relevant documentation
7. Employee/representative puts questions to the management representative.
8. Panel members/HR Adviser puts questions to the management representative if they wish
9. Management representative questions any witnesses called to appear by management
10. Employee/representative questions the management witnesses
11. Panel members/HR Adviser question the management witnesses if they wish
12. Each management witness withdraws after his/her questioning has been completed
13. Employee/representative presents the employee’s responses/case
14. Management representative puts questions to the employee/representative
15. Panel members/HR Adviser put questions to the employee/representative if they wish
16. Employee/representative questions any witnesses called to appear by the employee/representative
17. Management representative questions the employee witnesses
18. Panel members/HR Adviser questions the employee witnesses if they wish
19. Each employee witness withdraws after his/her questioning has been completed
20. Management representative summarises the school’s management position
21. Employee/representative summarises the employee’s position
22. All parties withdraw

**The Decision**

All three panel members discuss the employee’s conduct, all related evidence and any relevant policies, procedures and practices.

The panel make the final decision on the outcome. The HR provider acts in an advisory capacity only.

Before making the final decision the panel should ask themselves:

1. Has there been as much investigation as is reasonable in the circumstances?
2. Have the requirements of the disciplinary procedures been properly complied with up to this point?
3. Has sufficient regard been paid to any explanation put forward by or on behalf of the employee?
4. Is there a genuine belief that the employee has committed the misconduct alleged?
5. Are there reasonable grounds on which to sustain that belief on the balance of probabilities (i.e. is it more likely than less that the employee did what is alleged)?
6. Is the misconduct sufficiently serious to justify the disciplinary action being contemplated?
7. Has regard been given to any mitigating circumstances put forward by or on behalf of the employee?
8. Is the decision with the band of reasonable responses of a reasonable employer in the circumstances?
9. If dismissal is the only option, have alternative sanctions been considered and recorded, e.g. redeployment?

The effect of answering yes to questions 1 to 5 is to reach the finding that the allegations have been found. Questions 6 to 9 help to determine whether the proposed outcome is reasonable.

Note – if the panel wishes to put further questions to either party, both parties will be recalled even if the question is to be directed at one party only. At no time should the panel be alone with either the employee/representative, or with the management representative.

Chairman makes a written summary of the decision and related action plans using the Hearing Decision Record form at Appendix 11.

All parties are recalled. The Chairman reads out the panel’s decision and any related performance improvement plans and/or action plans. This is confirmed in writing to the employee.

The Chairman brings the hearing to a prompt close, without further discussion or debate.

**Possible Outcomes**

The School’s Disciplinary Policy and Procedure allows for the following hearing outcomes:

**No Further Action**

Where it is considered there is no case to answer.

**Informal Action**

Where the alleged offence is proven but a reprimand is considered an appropriate outcome due to mitigating circumstances or the nature of the offence, e.g. a relatively minor issue.

**First Written Warning**

* Where the employee’s conduct has fallen below acceptable standards or,
* Where the offence is sufficiently serious to justify an immediate formal sanction.

**Note:** The warning will be regarded as live for disciplinary purposes for between 6 to 12 months, as determined at the Disciplinary Hearing.

**Final Written Warning**

* Where the employee’s conduct continues to be significantly below acceptable standards and previous written warning(s) have not resulted in sufficient improvement, or
* Where the offence is so serious that a final warning is appropriate as a first formal warning or
* Where dismissal would normally be appropriate but significant mitigation is accepted.

**Note:** The warning will be regarded as live for disciplinary purposes for between 12 to 24 months, as determined at the Disciplinary Hearing.

All warnings will be confirmed in writing and will include:

* A clear statement of the unsatisfactory conduct or behaviour
* The level of the warning
* The length of time it will remain live for disciplinary purposes
* The required level of improvement (in measurable terms)
* The consequences of no improvement in conduct or behaviour
* The right to appeal

**Note:** The HR provider who attended the Disciplinary Hearing will prepare, on behalf of and in the name of the Chair of the Disciplinary Panel, the written confirmation of the hearing outcome, based on template letter 8 Disciplinary Hearing Outcome Notification. A copy of the outcome warning letter will be placed on the employee’s personal file where it will remain. However, it will not normally be regarded for disciplinary purposes beyond the live period determined at the Disciplinary Hearing.

**Other Formal Action**

The Disciplinary Panel may decide that the circumstances of a particular case are such that in addition to a warning, some other formal action is also appropriate, e.g. the Panel may identify a need for the employee to undertake refresher training or work under supervision for a period of time.

**Withholding of incremental salary progression**

For support staff only - in cases in which it is decided that a formal written warning (or dismissal with notice) is the appropriate sanction any pay increment(s) due to the employee concerned (during the live period of the warning or notice period) may be withheld. Any such increments withheld during the period of a written warning will become payable to the employee immediately following the expiry of the identified live period, subject to the improved conduct of the employee concerned but these will not be backdated.

**Redeployment**

In conjunction with any of the above sanctions and where it is agreed that it is not reasonable for the employee to return to their substantive post, in discussion with the employee, a move to another post, at the same grade, within the school, should be considered. The written confirmation of such action will normally by accompanied by an appropriate level of written warning, as determined at the Disciplinary Hearing.

**Dismissal**

Dismissal will occur where there has been gross misconduct or where the employee has a final written warning and further misconduct or unsatisfactory conduct has taken place.

* **Dismissal with contractual notice** - Unless an employee is dismissed for gross misconduct, he/she will receive the appropriate period of notice.
* **Summary dismissal** - Actions of gross misconduct will, except in the most exceptional circumstances, justify dismissal without notice.
* **Note:** All dismissal notices will be in writing and will identify the reason(s) for the dismissal, the date on which the employment will terminate and the employee’s right of appeal (template letter 8, Disciplinary Hearing Outcome Notification is available for use).

**Resignations and Referrals in Cases of Misconduct**

Under the Education (prohibition from Teaching or Working with Children) Regulations 2003, where an employer had ceased to use a person due to resignation or dismissal relating to the person’s misconduct or unsuitability to work with children, the employer was required to refer the person to the Secretary of State (through the DCSF). From January 2009, the Independent Safeguarding Authority has assumed responsibility from the Secretary of State for barring decisions. This responsibility now sits with the Disclosure and Barring Service (DBS) following the introduction of the Freedom Act 2010. In addition, the Education Act 2011 gives responsibility to the Secretary of State to regulate teachers’ conduct and to hold a list of teachers who have been prohibited from teaching. Regulations (The Teachers’ Disciplinary (England) Regulations 2012) provide information about how specific and detailed arrangements should operate.

Since 1st April 2012, the arrangements for the regulation of teachers’ professional conduct has moved to the National College for Teaching & Leadership. The primary purpose is to consider the imposition of a prohibition order on a teacher following a finding of “unacceptable professional conduct”, conduct that may bring the profession into disrepute “or a conviction, at any time, of a relevant criminal offence”.

In order to comply with these regulations, it is necessary to ensure that Disciplinary procedures are being applied to ensure that procedures are seen through to a clear outcome in respect of the individual’s continued employment.

The fact that the person tenders his or her resignation, or ceases to provide their services, must not prevent an allegation being followed up in accordance with these procedures. It is important that every effort is made to reach a conclusion in all cases of allegations bearing on the safety or welfare of children, including any in which the person concerned refuses to co-operate with the process. Wherever possible, the person should be given a full opportunity to answer the allegation and make their representations. All processes should be carried out even if the person does not co-operate. This includes recording of the allegation, giving the person opportunity to answer the allegation and reaching and recording a judgement about whether it can be regarded as substantiated on the basis of all information available. It may be difficult to reach a conclusion where an individual does not co-operate, and it may not be possible to apply any disciplinary sanctions if a person’s period of notice expires before the process is complete, but it is important to reach and record a conclusion wherever possible.

“Compromise agreements” by which a person agrees to resign, the school agrees not to pursue disciplinary action and both parties agree a form of words to be used in any future reference, will not prevent a through police investigation where that is appropriate. Nor can it override the statutory duty to make a referral to DBS where circumstances require that. Lincolnshire County Council will not agree a Compromise Agreement relating to Child Protection cases in any circumstances.

**Disciplinary Issues**

If an employee submits their resignation during a disciplinary process, the governors may accept that resignation. However, it is strongly advised that the disciplinary process continues to a hearing where the panel considers whether dismissal or a lesser warning would be the appropriate outcome. The individual will be invited to attend the hearing to make a written submission but cannot be compelled to do so. The hearing will follow procedure in the school’s disciplinary policy.

The disciplinary panel will record the outcome of the hearing and on the basis to this outcome the Authority will make a referral to the DBS for any cases relating to Child Protection and the Teaching Regulation Agency for other misconduct cases. Misconduct referrals should be made promptly within one month of the termination of employment and be accompanied by supporting information.

Where a termination decision cannot be made due to a resignation and lack of evidence, the school will decide, taking appropriate advice, whether a referral is appropriate. When a referral is made the individual will be informed in writing and will be requested not to apply for work within Lincolnshire County Council maintained school or childcare setting until a response has been received.

For information and queries on the Disclosure and Baring Service see the DBS policy.

For Teacher conduct cases, there is a form to complete and return to:

Teaching Regulation Agency

Cheylesmore House

5 Quinton Road,

Coventry,

CV1 2WT

misconduct.teacher@education.gov.uk

When making a referral to the Teaching Regulation Agency an employer will need to include the following information:

* Details of all relevant conduct by the teacher
* All relevant evidence regarding such conduct, and
* All relevant evidence submitted by the teacher.

Examples of the specific types of information that may be relevant are:

* Letter or notice terminating a teacher’s employment
* Statement of reasons for dismissal
* Employer’s records relating to the dismissal or any contemplated dismissal, including relating to the teacher’s conduct up to that point such as notes and minutes of meetings, interview notes and evidence supplied to or obtained by the employer.
* Employer’s letters, warnings or notices issued to the teacher, and the teacher’s replies or representations relating to it
* Any other statements, representations and evidence submitted by the teacher to the employer
* Letter of resignation

# Employee Guidance to Employment Investigations

**What is the purpose of the investigation?**

To determine the facts associated with the allegations. There are different possible outcomes from an investigation, namely that no further action is necessary, that the issues can be dealt with informally as management action, e.g. retraining, or that the issues are considered serious enough to warrant disciplinary consideration, in which case a formal Disciplinary Hearing will be convened.

**Who will undertake the investigation?**

In most cases employment investigations will be undertaken by a nominated manager who has received training in conducting investigations. The manager concerned will have had no prior involvement in the matter and will undertake an impartial and objective investigation.

Particular investigations, e.g. into alleged theft or fraud, may be undertaken by an investigator from the Council’s Counter Fraud and Investigation Team (CFIT).

Exceptionally, it may be felt appropriate for an external investigator to undertake an investigation.

Dependent upon the nature and seriousness of the alleged misconduct, there may be other, separate investigations undertaken at the same time as the employment investigation, e.g. allegations concerning an employee’s conduct in respect of a child may be the subject of a Safeguarding investigation. There may also be Police investigations.

**What is expected of me?**

School employees are expected to co-operate fully, openly and honestly with employment investigations, whether as the subject of the investigation or as a witness. They are required to attend any meetings, interviews and hearings. To not co-operate or provide false or misleading information may be considered misconduct.

Employees are also expected to observe strict confidentiality in respect of their involvement and not to openly discuss the investigation other than to obtain appropriate support, e.g. legal or trade union advice and guidance.

**Who may be interviewed as part of the investigation?**

Normally employees under investigation and complainants will be interviewed. Additionally, individuals identified as witnesses, may be interviewed as part of the investigation process. Witnesses are expected to make themselves available for interview, to co-operate fully with the investigator and provide all the facts they are aware of, together with any supporting evidence. Witnesses may also be called (by either management or the employee under investigation) to attend any subsequent Disciplinary Hearing and will be expected to attend to provide evidence.

The employee under investigation will be provided with the opportunity to identify any potential witnesses in support of their explanations and the investigator will consider the need to interview these. Investigators will not normally interview individuals for the purpose of a character reference, unless there is good reason to do so.

**What if I am unable to attend an investigatory interview?**

The investigator will contact you to arrange with you your interview. Therefore, there should normally be no reason for non-attendance. However, employees unable to attend investigatory interviews due to sickness or some other reason (or their representative is unable to attend) may have the interview postponed. In such circumstances it will be rearranged as soon as practicable. In the case of prolonged absences, it may be decided to conduct the interview by telephone or by providing questions in writing. In the case of a minor witness it may be decided the evidence is not that important and the interview may not take place.

It should be noted that conducting an interview on the basis of submitting written questions and the receipt of written answers is a last resort. It is not an option automatically available to employees. If this option is chosen, the school reserves the right to clarify the answers provided by means of a face-to-face interview, where required and if practicable.

Whilst employees may feel “stressed” and anxious as a result of involvement in an investigation, issues will not be put on hold indefinitely awaiting an employee’s return to work. Employees may be referred to Occupational Health for advice and guidance on their ability to return to work and/or participation in the investigation.

**What support is available?**

School employees may have access to Lincolnshire County Council’s Counselling and Wellbeing Hub service where the school signs up for this service. (01522 555440)

The employee who is the subject of the investigation will also have a Support Officer identified. In some cases, if considered appropriate, other participants in the investigation, e.g. the complainant, may also have a Support Officer identified. At investigatory interviews, or disciplinary hearings, employees have the right to be accompanied – see below.

**Can I have someone to accompany me to the interview?**

The employee under investigation is entitled to be accompanied at an investigatory interview by either a school work colleague or recognised trade union officer/representative. There is generally no requirement for witnesses to be accompanied but they can also have a Council work colleague, recognised trade union officer/representative attend if they wish.

During an investigation interview the role of the hosen representative is as “silent support”. They should not take part in the interview other than to seek clarification of issues. They cannot answer questions on the employee’s behalf and will be bound by the same confidentiality requirements as the employee.

**As a witness can I refuse to be interviewed?**

All school employees are expected to co-operate fully with employment investigations. Failure to do so could be considered misconduct. The school accepts that it may be difficult and distressing for employees to go through the interview process and that some may be reluctant to co-operate for fear of reprisals. However, it is expected that employees will make themselves available for interview and disciplinary hearings if required.

The school will not tolerate victimisation of any individual for co-operating with an investigation. Any unfair treatment or unacceptable behaviour should be reported to the Head Teacher or raised with the investigator and may be dealt with as misconduct.

**Will I get a chance to give my side of the story?**

Employees under investigation will generally be interviewed towards the end of employment investigations. It is recognised that in some circumstances the employee under investigation may be anxious to provide information to the investigator early on in the investigation and therefore the employee can request an early interview. Any such request will be carefully considered by the investigator. Similarly, the investigator will consider whether it would be useful to interview the subject of the investigation early on in the investigation. It should be noted that if the employee who is the subject of the investigation is interviewed early it is likely that he/she will need to be interviewed again at the end of the process, for clarification purposes.

**What if I remember something important after my interview?**

The investigator will advise those who are interviewed that if they later remember something important which is not covered within the interview statement, they should contact the investigator and arrange a further meeting or telephone interview (subject to the timescales for completion of the investigation).

**What happens following the interview?**

Following their investigatory interview employees will be provided with a copy of the statement they have provided during the interview and invited to confirm this as a true and accurate record of the interview. The interviewee is entitled to a copy of the interview statement.

In some instances, particularly if further allegations of misconduct emerge, it may be necessary to interview individuals further.

# Disciplinary Panel Opening Script

This is an outline script for a disciplinary panel. This does not have to be spoken word for word, but helps to illustrate how to conduct the hearing:

|  |  |
| --- | --- |
| Structure | Sample talking points |
| Introduce those present to the employee (and their companion/representative) and roles | **Opening:** Thank you for attending todays Disciplinary Hearing, my name is… and I am Chair of the Disciplinary Panel today, with me are ………**Employee Representative:** You were aware of your right to be accompanied to the meeting and {name} is here as your representative / or you have chosen not to be*NB: If the employee is unaccompanied, checks that the employee is happy to proceed without representation and makes a note to that effect.* **Note taker:** {Name} is here to take notes of the hearing but will not be involved in the decision process, also whilst we endeavour to capture full notes and key action points, notes will not be verbatim. |
| Explain recording authority for hearing  | I would like to start by remaindering you that electronic, audio or video recording by any device of the hearing will not be permitted. ORI would like to start by stating that we have received a request from the minute taker to record this hearing in order to aid the production of minutes. This will be recorded in Microsoft Teams. Are there any objections to this? ………. Please note all other recordings are strictly prohibited. |
| Confirm that the employee understands why they are here and potential outcomes of the meeting | It is the Panels role to review the allegation against you which is …………. We will consider the evidence and determine whether the allegation is proven, partially proven or not proven. If it is found that the allegation is proven or partially proven the Panel will then consider an appropriate sanction in accordance with the Disciplinary Policy which ranges from Informal Management Action to Summary Dismissal for Gross Misconduct. |
| Confirm the employee has received the disciplinary pack of papers. | Can you please confirm that you have received the full pack of management papers for this hearing? |
| Explain the role of the companion/representative (if accompanied) |  I note that you have brought {name} with you as your representative. Thank you for joining us, I would just like to take a moment to clarify your role in these proceedings. You are permitted to address the hearing; to put and sum up [employee’s} case; and confer with {employee} during the hearing.You will not, however, have the right to answer questions on {employee’s} behalf, address the hearing if {employee} does not wish it or be able to prevent {employee} from explaining their case.Please note that both parties will have a right to request an adjournment during the hearing. |
| Explain how the meeting will be conducted and confirm the position as regards witnesses | **Outline:** The hearing will follow the running order which was issued as part of the pack for the hearing. Each party will have an opportunity to present their case in turn, starting with the Management Representative / Investigating Officer, and each party will have an opportunity to ask questions when directed by me.*If Applicable explain;* <enter name> will be undertaking the dual roles of Management Representative and Investigating Officer. They will present their cases combined meaning that points 4, 5, 6 and 7 are removed from the running order.*Confirm Either;*There are no witnesses being called from either party during today’s hearing therefore points 11, 12, 13, 14, 18, 19, 20 and 21 are removed from the running order.*OR*We have received notification that the following witnesses are being called by management/the employee *(delete as appropriate)* …………. They will each be called into the hearing separately at the relevant part of the running order and will exit once questioning of them is complete. Following the hearing: We will adjourn and will confirm the decision of the panel as soon as possible.Are there any questions regarding the procedure for the hearing? |
| Explain confidentiality obligations | **Clarify:** Just before we begin, I must make you aware that all information discussed as part of this meeting must be treated confidentially and you are only able to discuss details of the meeting with your appointed representative. Equally we will not share any information we discuss with anyone other than those who are involved in the process. |

# Support Officer Guidance

Being the subject of an investigation, particularly one with possible disciplinary consequences, can be daunting and stressful for an employee, especially in circumstances where the employee concerned has been suspended from work. For the employee who has not been suspended from work it can also be a difficult and stressful time.

Recognising the above, the role of a Support Officer is to provide support to employees under investigation. In cases where an employee has not been suspended from work, the Head Teacher may be able to carry out the Support Officer role, i.e. keep the employee aware of progress with the investigation. However, this is likely to be the exception rather than the norm and thought must be given to what is the best arrangement in a particular case.

It can also be difficult for the employee who raised the issue being investigated, e.g. who may have submitted a complaint. Therefore, it is good practice to decide whether or not it is also appropriate to identify an individual to support other affected employees. In the case of an employee who has submitted a complaint, for example, there is provision for such a person to be allowed time off from work if this is considered appropriate. In such an event it may also be considered appropriate to identify a Support Officer for the employee concerned.

As Support Officers are most commonly used where employees are suspended from work, the following guidance concentrates on this situation. However, the guidance illustrates the Support Officer role for application in other circumstances, as identified above.

**The Role**

At the time of suspension from work, the suspended employee is provided with the name and contact details of a nominated Support Officer, as part of the written confirmation of the suspension. The employee is asked if they have any objections to the nomination as it is important the employee feels comfortable with this individual.

The role provides support to the suspended employee primarily (but not exclusively) during the investigation. This support does not include the provision of advice (or opinion) to the employee on the matter under investigation and/or assistance with the preparation of the employee’s case.

The Support Officer role is additional to the other support facilities available to suspended employees. These include access to the Council’s confidential Counselling and Wellbeing Hub service (if subscribed to) and any support arrangements employees may arrange themselves; notably trade union support.

The Support Officer will contact the employee to ascertain if they require any information about the process and ask if they wish to maintain regular contact or be available to answer any questions as they might arise. The Support Officer should maintain a record of the contact with the employee.

The Support Officer will be an appropriate person, as identified by management and must not be connected to the investigation or the suspended employee. The Support Officer would not be in attendance at any investigation interview or subsequent hearing.

Should the matter under investigation progress to a formal Disciplinary Hearing, the Support Officer will not be permitted to provide support to the employee concerned, at a hearing. Only an employee’s recognised trade union officer/representative or School work colleague will be allowed to provide support at such times.

## FREQUENTLY ASKED QUESTIONS

**Question:**

**What if the employee refuses to attend or leaves during a disciplinary hearing?**

**Answer:**

If you can speak to them directly, it is important to explain that they cannot avoid the issue by refusing to attend.

Should they continue to refuse, you will need to write to the, with the support of your HR representative, creating a further opportunity to meet but will make it clear that the hearing will be held in their absence should they choose not to attend. In this instance, you will confirm the outcome of the disciplinary hearing in writing.

**Question:**

**What if the employee immediately goes off sick?**

**Answer:**

If sickness or other absence prevents an employee attending a disciplinary hearing it may be postponed and re-arranged within 5 days or as soon as practicable.

Employees will be advised at that time that if they fail to attend the re-arranged hearing, then their case and/or representation may be considered by management in their absence, based on the written submissions. Always seek advice from your HR representative if this occurs. They may recommend that you seek a referral to Occupational Health for them to advise if an employee is fit to attend a hearing.

**Question:**

**What if the employee wants someone else to act on their behalf?**

**Answer:**

This is not acceptable, apart from in exceptional circumstances, for example, a reasonable adjustment for a disabled employee, or if the employee is under the age of 18. In the first instance, you must find out why the request has been made and then contact the HR representative for advice before refusing the request.

**Question:**

**What if the employee wants to bring a witness to the disciplinary hearing who is not a school employee or an approved Trade Union representative / official?**

**Answer:**

You should explain to the employee that this is an internal School procedure, and these are the only companions who are accepted. If you find yourself in this situation, seek advice from the HR representative.

Please remember, if an employee is under the age of 18, they are entitled to be accompanied by a parent or legal guardian.

**Question:**

**If the employee brings a Trade Union representative, how do I know they are Union approved?**

**Answer:**

On request, the Trade Union representative must be able to provide evidence of their Trade Union status, and confirmation that they are qualified through their Union to represent an employee.

**Question:**

**What if the employee says something unexpected during the disciplinary hearing or brings new evidence?**

**Answer:**

In this instance, you may adjourn the hearing in order to consider what to do or seek advice. Assess how long you will need to consider the new information and adjourn. Inform the employee of your intention. Remember, you can adjourn the meeting to another day if necessary.

**Question:**

**What if the employee becomes very upset or the situation becomes heated?**

**Answer:**

In both cases, adjourn and allow things to cool down. Agree to reconvene at a mutually convenient time. If the employee uses inappropriate language or displays abusive/aggressive body language, then you should remind them that this behaviour is considered to be inappropriate and if they continue to display such behaviour, then the school may seek to discuss this matter with them within the school’s disciplinary procedures.

The note taker should ensure they record this conversation and the behaviour they have observed.

**Question:**

**What if the employee refuses to answer any of the questions?**

**Answer:**

You should remind the employee that it is important they answer all questions as honestly as possible, as you will be using the information provided during the hearing to determine the facts. Refusing to answer any questions presented to them at will not halt or delay the decision-making process, and you will have to make a decision based on the information you do have.

**Question:**

**What if the employee raises issues about other employees, which could potentially be viewed as gross misconduct?**

**Answer:**

You will need to obtain as much information from the employee on the issues raised and inform them that these matters will be investigated. This may or may not affect the matter you are dealing with the employee about

**Question:**

**What if the employee raises unrelated concerns during the disciplinary hearing?**

**Answer:**

Your role as the disciplining manager is to control the disciplinary hearing to ensure it remains focused on the main purpose of the meeting, as presented at the start.

If new concerns are introduced, you need to question the employee to explain the relevance of the information to the disciplinary hearing.

If they are unrelated, then you inform the employee of this and continue. If they are matters that may need looking into separately, advise the employee of this, including referring them to the grievance procedure if relevant, and continue with your investigation / hearing.

**Question:**

**What if the employee refuses to sign the notes?**

**Answer:**

If the employee refuses to sign the notes, then you should make reference to this on the notes, and you and your note taker should sign them.

You should explain to the employee that you will be using the notes in order to reach a decision, and refusing to sign the notes will not hinder this process.