

DISCIPLINARY POLICY AND PROCEDURE

APPENDIX 2

PROTOCOL FOR DISCIPLINARY HEARING

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Consultation	

Introduction

The Chairperson will:

- Introduce those people present
- Confirm the allegations to be considered
- Explain the way in which the hearing will be conducted

Presentation of Management's Evidence

The Investigating Officer will introduce evidence relevant to the disciplinary allegations. Any witnesses called by the Investigating Officer will be:

- Questioned by the Investigating Officer
- Questioned by the employee and his/her representative
- Questioned by the Disciplinary Panel
- Questioned by the Investigating Officer to clarify any particular points but not to introduce new evidence.

At the conclusion of the Investigating Officer's submission he/she may be questioned by the employee and his/her representative and by the Disciplinary Panel.

Employee's Response

The employee and or representative may respond to the allegations and may introduce evidence in their defence. Any witnesses called by the employee and/or representative will be:

- Questioned by the employee and his/her representative
- Questioned by the Investigating Officer
- Questioned by the Disciplinary Panel
- Questioned by the employee and/or representative to clarify any particular points but not to introduce new evidence.

At the conclusion of the employee's/representative's submission he/she may be questioned by the Investigating Officer and by the Disciplinary Panel.

Summing-Up

The Investigating officer will be asked to sum up his/her case but not to introduce new evidence.

The employee and/or representative will be asked to sum up his/her response but not to introduce new evidence.

Decision

The Disciplinary Panel will adjourn in order to consider the case before giving a decision. The Panel must consider all the facts and decide what action to take, bearing in mind all the relevant factors which will include the following:

- the gravity of the offence
- whether the employee is subject to any current disciplinary warnings/sanctions
- the employee's general record.
- the Council's Disciplinary Procedure in relation to the likely penalty as a result of the particular misconduct
- the consequences to the school of the particular misconduct
- the penalty imposed in similar cases in the past

Conclusion of Disciplinary Hearing

When a decision has been reached, the Chairperson will draw up a statement setting out the panel's finding and decision. The disciplinary hearing will be reconvened and the employee and presenting officer informed of the panel's response to the evidence presented and the disciplinary sanction, if any, that is to be issued. Details of the appeals procedure will also be outlined.

All warnings and dismissals will be confirmed in a letter to the employee within 5 working days of the disciplinary hearing. The letter will state clearly:-

- The panel's conclusions in relation to the evidence presented.
- The nature and seriousness of any misconduct.
- The disciplinary sanction that is being issued, and where relevant any time limits involved.
- The standard of conduct expected in future and the likely consequences for the employee if this is not met.
- Any support to be provided by the to assist the employee.
- The way in which the employee may exercise his/her right of appeal against any disciplinary sanctions that has been issued.

Guidance Notes

Confidentiality

Hearings should not be conducted in public. Care must be taken over any announcement of the conclusion: any statement that is strictly necessary (including to the full Governing Body) should be confined to the outcome only, all participants in the hearing should exercise great caution over discussing the case in order to avoid prejudice.

Persons sitting on a Panel should have no personal connection with the employee, the presenter of the management case or witnesses since this might prejudice a fair hearing.

Role of the Local Authority Representative

In maintained schools where the Local Authority is the employer (that is Community and Voluntary Controlled (VC) schools), a representative of the Local Authority has the right to attend all proceedings where dismissal might be an outcome. In the case of schools where the Local Authority is not the employer (Voluntary Aided (VA), Foundation and Trust schools and Academies) a representative of the Local Authority can attend by invitation of the Governors.

The role of the Local Authority Representative (who will be someone from Schools Human Resources) is to give advice on procedure to the Panel.

Requests for Adjournment

The Panel may be asked by either side for an adjournment. They will need to assess the reasons for such a request and decide accordingly. Any reasonable request of this nature should not be refused.

Witnesses

In hearings, witnesses must withdraw as soon as questions to them are concluded. It may be necessary to recall them, otherwise they may be released.

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Note on the Protocol for the Appeal Hearing

In the case of appeals the employee's side will normally make the initial presentation and this will set out the grounds for appeal.

The response will then be made by the Headteacher/Manager

An appeal is not a re-run of the first hearing but is an opportunity for the employee to set out reasons why, in their view, the initial decision was inappropriate.

It will, of course, be necessary for the Governors' appeal panel to have access to all documentation from the first hearing and in some circumstances it may be appropriate for a representative of the first Governors panel to make an introductory presentation in order to summarise previous events and decisions taken.