

Staff Discipline Conduct and Grievance Policy

Shooters Hill Sixth Form College

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Accountability:	Governing Body
Responsibility:	Governing Body

1. Introduction

1.1 INTRODUCTION

Members of the public are entitled to expect the highest standards of conduct from local authority and academy employees and The Royal Borough of Greenwich has an obligation, as an employer, to inform its employees and those of its partners of the standards of conduct which are expected of them.

Current employment legislation requires employers to provide written information for their employees about disciplinary rules and procedures. This disciplinary procedure takes account of previous local good practice, Articles of Government, National Conditions of Service, ACAS Code of Practice on Disciplinary and Grievance, the ACAS Guide to Discipline and Grievance in the Workplace, common law and relevant legislation, including the Employment Act 2008 Employment Rights Act 1996, London Child Protection Procedures 2003, the Education Reform Act 1988, the Education (School Government) Regulations 1989 and the Education Act 2002.

Specific requirements of the various Acts, as mentioned above, provide that:

- Parties should seek to resolve issues informally
- Where formal action is necessary, employers should:
 - Deal promptly with issues
 - Act consistently
 - Conduct appropriate investigations
 - Inform the employee of the issues and allow them to put their case
 - Allow the employee to be accompanied and provide a right of appeal

- Principals will normally be expected to lead in determining initial dismissal decisions (IDD). Appeals against dismissal should then be heard by a panel of governors. Therefore, other than in exceptional circumstances the governing body should delegate the responsibility for the IDD to the Principal.
- dismissal and notice periods are effective from the date of the IDD with reinstatement should any appeal be successful.
- there should be a right of appeal to any formal disciplinary action (written warning, final written warning and dismissal).
- the Director of Children's Services (in practice The Royal Borough's Human Resources - HR) must be informed of any proceedings that may lead to an employee's dismissal. The Director is entitled, and will in most cases wish, to be represented at such a hearing. The Director must also be informed immediately of the suspension of any member of staff.
- following a decision to dismiss an employee, the college will formally notify the Director of Children's Services in writing, outlining the reasons.

1.2 RESPONSIBILITIES OF THE GOVERNING BODY

Governors assume, under legislation, significant responsibilities in relation to the discipline and dismissal of staff.

Key areas for which governors have both power and responsibility are:

- 1 the responsibility to ensure the fair handling of disciplinary procedures, specifically at the stages of hearing and appeal
- 2 the authority to suspend and reinstate a member of staff. The Principal has the power to suspend also, but only the governing body can reinstate
- 3 the authority to issue a warning or final warning, as a result of disciplinary action, whether on grounds of conduct or capability
- 4 the overall responsibility for all dismissals at the school. These responsibilities are expected to be delegated to the Principal. Please refer to **Appendix A – Governor Delegated Responsibilities**.

Governing bodies are most likely to be cited as respondents in any unfair dismissal, race or sex discrimination claims, at an Employment Tribunal.

The governing body must ensure that formal minutes of disciplinary and appeal hearings are always taken. Decisions of a hearing must be reported to the governing body at the next meeting following the exhaustion of the local disciplinary appeal procedure.

Detailed advice on the interpretation of the Education (School Government) Regulations 1989 Governors can be obtained from the Governors' Support team, who will refer matters to Corporate Finance, Human Resources or Legal Services for further advice, as appropriate.

1.3 PURPOSE

Rules and procedures are necessary for promoting orderly employment relations as well as ensuring the fairness and consistency of treatment for all employees. Rules set the standards of conduct and performance at work, procedures help ensure that the standards are adhered to and also provide a fair method of dealing with alleged failures to observe them.

Discipline should be seen as a way of helping and encouraging improvement amongst employees whose conduct or standard of work is unsatisfactory.

The purpose of this disciplinary procedure is to clarify the process that should be followed in situations where it has become evident that a teacher's conduct is of an unsatisfactory level or, for support staff, unsatisfactory conduct or performance (unless the school has formally adopted a capability for support staff).

Advice and guidance on the application of this disciplinary procedure can be obtained from Schools' HR.

1.4 SCOPE

This procedure applies equally to all employees for whom the governing body has responsibility in respect of discipline and capability procedure.

This procedure **does not** apply to the following:

- employees who are within a probationary period

- newly qualified teachers who are within their induction period
- capability concerns where separate capability procedures exist
- temporary and/or fixed term employees. The termination/expiry of their contract of employment is not covered by this procedure, however, normal disciplinary matters should be pursued through this procedure.
- agency workers
- redundancy
- ill health cases
- dismissal as a result of an employee becoming disqualified from undertaking his/her duties because of a statutory provision
- employees who have failed to pass the required pre-employment checks, e.g. Criminal Records Bureau (CRB), Independent Safeguarding Authority, Home Office and the Royal Borough.

1.5 PRINCIPLES

The principles of this disciplinary procedure are:

- when there is reason to believe that a teacher's conduct, or a support worker's conduct or performance (if appropriate), is of an unsatisfactory standard, matters will be dealt with as quickly as possible
- no formal disciplinary action will be taken against an employee until the case has been fully investigated and a disciplinary hearing has taken place
- suspension is not in itself a form of disciplinary action and may take place in cases of alleged gross-misconduct
- before any disciplinary action is taken against an employee the manager should satisfy himself/herself that disciplinary action is the most appropriate way of dealing with the issue. In many cases the matter may be dealt with satisfactorily in other ways e.g. counselling, informal discussion, training.
- at every stage in the procedure, the employee should be advised of the nature of the complaint against him/her and given the opportunity to state his/her case before any decision is made
- at all formal disciplinary hearings the employee has the right to be accompanied by a union representative or a work colleague also employed by the school/The Royal Borough, and to call witnesses if desired
- an employee will not be dismissed for a first instance of misconduct, except in the case of gross-misconduct
- employees have the right of appeal to any formal disciplinary warning, i.e. written warning, final written warning and dismissal
- no disciplinary action beyond an informal warning (or suspension from duty in the case of alleged gross-misconduct) will be taken against a shop steward, or other union representative, until the circumstances of the case have been discussed with a full-time

official of the union concerned

- it is implicit in this procedure that employees shall be given such support/training as appropriate to ensure that the duties of their post are carried out competently
- throughout this procedure, any reference to Principal, Director of Children's Services, governors or employee shall be construed as relating equally to other persons authorised to take such action
- throughout this procedure references to time limits relate to school working days

1.6 COUNSELLING

Counselling is an important means of maintaining good relationships between managers and employees, and should be used as an informal means of advising employees when there is concern regarding their conduct, or if applicable, their performance.

If an employee's conduct or performance is not of the required standard the manager should meet with the employee to agree how improvements can be made.

A record of this meeting should be kept on the employee's personal file.

1.7 RULES OF CONDUCT

Any organisation, as large and diverse as The Royal Borough, needs a code of conduct for its employees. The public rightly expects high standards from people employed by the school/Royal Borough and it is therefore essential that there are clearly understood rules governing relationships between the school/Royal Borough and the public/pupils. In summary, the following are an indication of the standards of conduct that the school/Royal Borough expects of its employees. This list should not be considered to be either exclusive or exhaustive.

Employees must:

- carry out their duties in a conscientious and professional manner
- comply with reasonable instructions, and legitimate policies and procedures
- act in a manner which is both respectful and considerate of others, i.e. will not unlawfully discriminate, victimise or harass
- observe the school's/The Royal Borough's Health & Safety Rules and must not act in any way which is detrimental to the health and safety of themselves, or others

For further information on the school's/The Royal Borough's conduct requirements please refer to:

- **Appendix B - Related Policies/Procedures/Guidelines**
- **Appendix C - Publication of Books, Articles and Communication with the Media**
- **Appendix D - General Rules of Conduct.**

1.7.1 Misconduct

Minor cases of misconduct or unsatisfactory performance are usually best dealt with informally. There will, however, be situations where matters are more serious or where an informal approach has been tried but is not working. If informal action does not bring about

the necessary improvement or the misconduct/unsatisfactory performance, is considered to be too serious to be classed as minor, formal disciplinary action should be considered.

1.7.2 Gross-Misconduct

The most serious breach of the School's/The Royal Borough's conduct requirements is referred to as gross-misconduct and may warrant dismissal without notice (summary dismissal).

Any action which is considered to be a fundamental breach of contract, or is so grave that the employee cannot be permitted to continue to be present at the place of work, may make the employee liable to immediate suspension but this suspension is not automatic (please refer to **2.2.1 Suspension**).

Below are some examples of offences which would be considered to be gross-misconduct. This list should not be considered to be either exclusive or exhaustive:

- 1.7.2.1 gross insubordination, for example, blatant and persistent refusal to obey a reasonable instruction
- 1.7.2.2 failure to observe the school's physical interventions policy and/or The Royal Borough's guidelines for the Use of Care and Control in Schools, e.g. administering corporal punishment or seriously ill-treating any person within the care of, or dealt with, by the school/The Royal Borough
- 1.7.2.3 physical assault, or fighting or any other sort of violence or aggression on another person
- 1.7.2.4 being under the influence of alcohol to such a degree that the individual is a danger to him/herself or to others
- 1.7.2.5 serious or willful breaches of safety rules in such a way that the individual endangers him/herself or others, including deliberate damage or misuse of safety equipment
- 1.7.2.6 inappropriate use of communications and information systems (e.g. Contact Point) whether computerised or manual, for purposes that seriously conflict with the school's/The Royal Borough's policy
- 1.7.2.7 improper disclosure of confidential or personal information about The Royal Borough, other employees or clients
- 1.7.2.8 theft of, or malicious damage to, property belonging to the school/The Royal Borough, its members, members of staff or the public
- 1.7.2.9 falsification of job applications
- 1.7.2.10 withholding of information during employment and/or relevant to a job application, e.g. any disciplinary action, criminal records, cautions or charges pending including having been subject to investigations under the auspices of child protection/safeguarding
- 1.7.2.11 unlawful discrimination and/or contravention of the School's/The Royal Borough's Equal Opportunities Policy, against any person e.g. on the grounds of

ethnicity, religion, sex, disability, age or sexuality. This rule applies equally to harassment and victimisation

- 1.7.2.12 publicly promoting ideas which contravene the School's/The Royal Borough's Equal Opportunities Policy, i.e. inciting racial hatred
- 1.7.2.13 falsification of documents, timesheets, or withholding relevant and essential information for financial or other personal gain, or for the gain of other persons
- 1.7.2.14 accepting bribes or attempting to bribe, or other corrupt/dishonest practices
- 1.7.2.15 taking control over clients' financial affairs such as acquiring Power of Attorney unless specifically authorised by the School/The Royal Borough
- 1.7.2.16 accepting or seeking to obtain loans of any kind (monies or articles) from clients or users of the School's/The Royal Borough's services without specific authority
- 1.7.2.17 abuse of any position of authority or improper use or attempted use of an official position for own private advantage, or for the private advantage of some other person
- 1.7.2.18 criminal offences committed outside or within the working environment that makes the employee unsuitable for their job role or for remaining in the School/The Royal Borough's employ. (Criminal charges or convictions outside of employment will not be treated as automatic reasons for dismissal.)
- 1.7.2.19 failure to comply with the arrangements applicable to the political restriction legislation.

2. Disciplinary Hearing

This section of the procedure outlines the process that should be followed when an individual's conduct or where appropriate, in the case of a support worker performance is unsatisfactory. In relation to performance, this procedure would only normally be entered into when counseling/coaching/training have failed to produce the standard of work required, or where circumstances warrant it.

2.1 ALLEGATIONS OF MISCONDUCT

If a complaint alleging misconduct against an employee is made, then the complaint should normally be received in writing. If initially given verbally, the person making the complaint should be expected to confirm the details in writing. Please refer to **Appendix E – Sample Allegations**.

Allegations of misconduct should be fully investigated, for full details please see below, **2.2 Investigating the Facts**.

In addition the DfE provides guidance on dealing with allegations against staff; please refer to **Appendix B – Related Policies / Procedures / Guidelines**.

2.2 INVESTIGATING THE FACTS

In advance of any formal disciplinary hearing, the circumstances of the case should be fully investigated by an appropriate person. In some situations it may be appropriate to seek an explanation from the employee before deciding to proceed with a formal investigation.

In cases of alleged or suspected child abuse the school's Child Protection Officer, and Schools' HR, must be informed immediately. For more information please refer to Section **5.2 – Special Cases, Child Protection**.

For full details on how to conduct an investigation, including who should carry out the investigation, please refer to **Appendix G - Conducting an Investigation**.

2.2.1 Suspension

In order for a full investigation to take place an individual may have to be suspended. The suspension of a member of staff is a neutral act and should only be used to enable a matter to be investigated, or in the interests of protecting children and/or staff. It is vitally important that the investigation is carried out as a matter of priority. Suspension is without prejudice to the outcome of the investigation.

At the time of suspension the employee must be asked to disclose any other employment with The Royal Borough or elsewhere, and if appropriate, be informed that the investigating officer will be notifying Schools' HR immediately. This may lead to the employee being suspended from other posts within The Royal Borough.

The necessity for the employee to remain suspended must be reviewed at regular intervals and where possible, lengthy periods of suspension must be avoided.

Whilst on suspension an employee:

- receives full pay
- must not discuss the detail of any allegations with any other member of staff, pupils or parents without the written express permission of the governing body/Principal.
- should refrain from any unnecessary contact with any person connected with the school/The Royal Borough which could compromise their position
- must be given the name of a contact within the school for maintaining communication during suspension. The named person should be agreed with the employee. The named contact is not to discuss any aspect of the case
- should book/take annual leave and report periods of sickness absence in the normal way except that this will be through their nominated school contact
- should be kept informed of relevant school matters, through provision of school newsletters, notes of meetings, new policies etc.
- should be contactable by telephone during normal school hours. However, most contact should be made in writing

A suspension checklist is attached at **Appendix F** together with model confirmatory letter at Appendix L1.

2.2.1.1 Authority to Suspend

Both the governing body and the Principal can suspend any staff employed or engaged to work at the school but only the governing body can lift the suspension. When imposing or

lifting a suspension the governing body must immediately inform the Principal, or vice versa and the Director of Children's Services via Schools' HR.

In the case of the governing body, in practice this function would either be undertaken by the chair of governors under urgency powers, or delegated to a governor or group of governors. This would avoid the governing body considering a suspension in full session and therefore avoid the possibility of undermining the impartiality of governors who may be required to consider matters at a later stage at either a disciplinary or appeal hearing.

In cases of alleged gross-misconduct by the Principal, the chair of the governing body or the chair of the governing body's disciplinary panel may suspend the Principal.

A suspension may only be ended by the governing body who must inform the Principal and the Director of Children's Services (Schools' HR) immediately.

2.3 ARRANGING A FORMAL DISCIPLINARY HEARING

Following a full investigation (please refer to **Appendix G - Conducting an Investigation**) if the investigating officer decides that there is a disciplinary case to answer then a disciplinary hearing should be arranged.

2.3.1 Authority to Conduct Disciplinary Hearings

It is vitally important to check, when arranging a disciplinary hearing that the person/s who are to conduct the hearing are authorised to do so. Authority to conduct disciplinary hearings is as follows:

2.3.1.1 Disciplinary Warnings

The Principal, and governing body where appropriate, have authority to conduct disciplinary hearings and to take disciplinary action in respect of a verbal warning, written warning and final written warning.

The governing body's disciplinary panel is responsible for taking all disciplinary action in respect of the Principal.

2.3.1.2 Dismissals

Principals will normally be expected to lead in determining initial dismissal decisions (IDD). Therefore, other than in exceptional circumstances the governing body should delegate the responsibility for conducting disciplinary hearings, which may result in dismissal, to the Principal. The Principal may involve other governors, or HR in the dismissal process, for example in hearing representations, but the final decision should be the Principal's.

The Principal will not conduct a disciplinary hearing, which may lead to dismissal, when:

- the governing body has not delegated responsibility for dismissal decisions
- they have been directly involved in and/or have carried out the investigation into the alleged misconduct of the employee
- they are related to or have any personal relationship with the employee
- the dismissal in question is that of the Principal

In any of these situations the dismissal hearing can be delegated to one or more governors who have not been involved in any previous action or decisions connected with the dismissal.

The Director of Children's Services (or his/her representative, normally Schools' HR) has the right to attend all disciplinary hearings, which may lead to an employee's dismissal.

Please refer to **Appendix A – Governor Delegated Responsibilities**.

2.3.1.3 Maintaining Impartiality

In order to ensure impartiality, those responsible for conducting a disciplinary hearing must not be directly involved in any particular incidents of alleged misconduct by the employee, or related to the employee or have any personal relationship with the employee.

Where a disciplinary hearing is being arranged the following persons should **not** be responsible for conducting the disciplinary hearing or be part of the disciplinary panel or in any other way be associated with the disciplinary decision:

- the investigating officer
- any of the employees who have advised/represented the complainant or the accused
- any of the witnesses

Where a disciplinary panel is used efforts should be made to ensure that the composition of the panel, in terms of ethnicity/sex etc., is appropriate to the circumstances. Please refer to **Appendix I - Appointment of Disciplinary and Appeal Panels** for guidance on the composition of disciplinary panels.

2.3.2 Who Should Attend a Formal Disciplinary Hearing

- **The hearing officer**, i.e. Principal, governor or disciplinary panel. The hearing officer will remain present throughout the hearing including the decision making stage.
- **The employee, and/or their representative, who may present their case.** The employee may be accompanied by their union representative or work colleague also employed by the School/The Royal Borough. The employee and/or their representative remain present throughout the hearing, but withdraw whilst the decision is made.
- **The person who will present management's case.** Wherever appropriate, management's case should be presented at the hearing by the investigating officer. This person shall not be a member of the disciplinary panel and will be present throughout the hearing, but shall withdraw whilst the decision is made.
- **The Director of Children's Services** (or his/her representative, normally School's' HR) has the right to attend any disciplinary hearing (and remain present) where an employee may be dismissed, and in any event, his/her advice must be sought before any decision to dismiss is made.
- **The Principal** is also entitled to attend any disciplinary hearing where an employee may be dismissed, although in practice the Principal will normally be expected to present management's case, and withdraw whilst the decision is taken.
- **HR** may attend (and remain present) the disciplinary hearing as advisor to the hearing officer. This person may also act as the representative of the Director of Children's Services.
- **Minute taker.** Arrangements should be made for minutes to be kept of the disciplinary hearing. This may be done either by a member of the disciplinary panel or by arranging for a minute taker to be present.
- **Witnesses.** A witness should only be present at the hearing during the time that he/she is actually giving evidence, or answering any questions. Please refer to

section **2.3.2.2 Witnesses** for further information. Witnesses may be accompanied at the hearing, by not more than one person, to give support or comfort. Such person will not be permitted to otherwise participate in the proceedings.

2.3.2.1 Employee's Right to be Accompanied

Employees have the right to be accompanied at formal disciplinary and appeal hearings. This right allows for one person only to accompany the employee and that person should either be:

- a union representative
- a work colleague also employed by the School/The Royal Borough

During the hearing the employee's companion should be allowed to address the hearing in order to:

- present the employee's case
- sum up the employee's case
- respond on the employee's behalf to any view expressed at the hearing but not to answer questions on the employee's behalf
- ask questions of their own

The companion can also confer with the employee during the hearing. It is good practice to allow the companion to participate as fully as possible in the hearing.

The companion has no right to answer questions on the employee's behalf or to address the hearing if the employee does not wish it, or to prevent management from explaining their case.

The employee retains the responsibility for arranging their companion's attendance. If the employee's companion is unable to attend on a proposed date, the employee/their companion can request an alternative date, so long as it is within 5 working days of the original proposed date. For more information please refer to section **2.4 Postponing a Formal Disciplinary Hearing**.

2.3.2.2 Witnesses

All employees have a duty to co-operate with all disciplinary enquiries, and may be required to attend disciplinary/appeal hearings as necessary.

All persons who are invited or required to attend a disciplinary or appeal hearing as witnesses should:

- receive 'reasonable' out-of-pocket expenses (e.g. fares) for attending the meeting. (This provision shall apply equally to all witnesses, being either employees or non-employees)
- wherever possible, be granted compensatory time off for the hours spent in attending the meeting (unless they would have otherwise been on duty at the time of the meeting). In the case of teachers such attendance will be regarded as non-contact directed time.

Any compensatory time off shall be taken at a time which is mutually acceptable to the Principal and the employee concerned.

It is recognised that the above facilities can be abused and misunderstandings can occur if they are not effectively controlled (e.g. witnesses could be required to travel considerable distances to a hearing if on holiday at the time). The Principal (or his/her representative) is therefore responsible for approving 'reasonable' expenses prior to the hearing.

The employee may call their own witnesses to the disciplinary hearing, however, the employee retains the responsibility for arranging their witnesses' attendance.

Witnesses may be accompanied at the hearing, by not more than one person, to give support or comfort. Such persons will not be permitted to otherwise participate in the proceedings; the employee also retains the responsibility for arranging their attendance.

2.3.3 Instruction to Attend a Formal Disciplinary Hearing

The employee against whom disciplinary proceedings are being taken should be given, or sent, a written instruction to attend a formal disciplinary hearing. The written instruction should give the employee at least 5 days' notice of the hearing, and the letter should contain:

- an instruction to attend the hearing and notification of the date, time, place and who the hearing officer will be
- the reasons for the hearing (i.e. details of unsatisfactory work or conduct)
- the right of the individual to be accompanied at the hearing by his/her union representative/work colleague also employed by the School/The Royal Borough, and to call witnesses if desired.

The letter should include (please refer to **Appendix G – Conducting an Investigation**):

- the Investigation Report, if produced
- copies of any documentary evidence management will be presenting at the hearing
- a copy of the disciplinary procedure
- witness statements/interview notes whether or not such witnesses will attend the disciplinary hearing

The letter should request that the employee provides copies of any documentary evidence, they intend to present at the hearing, to the hearing officer prior to the hearing date. This letter should be sent under the signature of the Principal, governor or the chair of the disciplinary panel, as appropriate.

2.4 POSTPONING A FORMAL DISCIPLINARY/APEAL HEARING

An employee who cannot attend a formal disciplinary/appeal hearing should, whenever possible, inform the hearing officer in advance.

If the employee fails to attend through circumstances outside of their control, and unforeseeable at the time the meeting was arranged (e.g. illness), the hearing officer should arrange another meeting. The hearing may proceed in the employee's absence if they fail to attend the re-arranged meeting without good reason.

If an employee's companion cannot attend on a proposed date, the employee and their companion can suggest another date so long as it is reasonable and is not more than 5 working days after the date originally proposed. This 5 day time limit may be extended by

mutual agreement.

2.5 CONDUCTING A DISCIPLINARY HEARING

The purpose of the disciplinary hearing, informal or formal, is to decide whether disciplinary action is justified or not.

At the disciplinary hearing:

- management should clearly explain the allegations that have been made against the employee using the evidence gathered through the investigation calling any witnesses, and/or presenting written statements/documents as necessary to support their case
- the employee should be allowed to set out their case, calling any witnesses, and/or presenting written statements/documents as necessary to support their case and answer the allegations made against them
- following these presentations the hearing officer will decide if disciplinary action is warranted

Please refer to **Appendix J – Conducting a Formal Disciplinary Hearing** for a full guide to conducting a formal disciplinary hearing.

3. Disciplinary Action

When considering the circumstances of a case the hearing officer, having considered the advice of the Director of Children's Services if present, must decide whether the allegations against the employee are proven, and if so what action should be taken.

In deciding whether the allegations are proven, there will be no difficulty when the facts clearly establish this. However, where the facts are in dispute, a decision may need to be taken on the balance of probability. If it is decided that the allegations are not proven, any written reference to the allegations should be expunged from the employee's personal file.

If it is decided that the allegations are proven, consideration should be given to the following when deciding what action should be taken:

- whether disciplinary action should be taken, or whether the case would be more appropriately dealt with in another way (e.g. counseling or a medical referral)
- if the proposed action is the same as those issued in similar cases in the past. This does not mean that similar offences will always call for similar disciplinary action; each case must be considered on its merit and any relevant circumstances taken into account
- whether any special circumstances, mitigation, exists which might make it appropriate to lessen the severity of the action
- the employee's disciplinary record, position, length of service
- whether the proposed action is reasonable in view of all the circumstances

After considering all of the above the hearing officer must decide on the necessary course of action. The following is an explanation of the different stages of disciplinary action. The

level of disciplinary action will depend on the seriousness of the offence and may not necessarily follow the stages as listed.

3.1 Informal Disciplinary Action

3.1.1 Verbal Warning

A verbal warning is for cases of minor infringements and constitutes the first step of the disciplinary procedure.

The verbal warning will state:

- details of the complaint
- the improvement or change in behaviour required and the timescale, if appropriate, allowed for this
- the likely outcome if the improvement is not made
- that there is no right of appeal

The verbal warning is not confirmed to the employee in writing but a record will be kept on their personal file, but it will be disregarded for disciplinary purposes after 6 months' satisfactory conduct or performance, as applicable.

3.2 Formal Disciplinary Action

3.2.1 Written Warning

If the infringement is regarded as more serious or there is a continued failure to improve following a verbal warning then a written warning may be issued.

The written warning will state:

- details of the complaint
- the improvement or change in behaviour required and the timescale, if appropriate, allowed for this
- the likely outcome if the improvement is not made
- the right to appeal, including how to make that appeal and to whom

The written warning will be confirmed to the employee in writing and a record kept but it will be disregarded for disciplinary purposes after 12 months' satisfactory conduct or performance, as applicable.

3.2.2 Final Written Warning

Where there is a failure to improve in the timescales specified in a previous warning or where the infringement is sufficiently serious a final written warning may be issued.

The final written warning will state:

- details of the complaint
- the improvement or change in behaviour required and the timescales, if appropriate, allowed for this improvement
- a warning to the individual that failure to improve or modify behaviour may lead to dismissal

- the right to appeal, including how to make that appeal and to whom

The final written warning will be confirmed to the employee in writing and a record kept but it will be disregarded for disciplinary purposes after 24 months' satisfactory conduct or performance, as applicable.

3.2.3 DISMISSAL

Following a final written warning if the individual's behaviour or performance still fails to improve or the infringement is considered to be gross-misconduct then the final step is dismissal.

The dismissal will state:

- the reasons for the dismissal
- the date on which the employment contract will be terminated
- the notice period, as appropriate
- the right to appeal, including how to make that appeal and to whom

The dismissal will be confirmed to the employee in writing.

3.2.3.1 Gross-Misconduct

If, following a formal disciplinary hearing, an employee is found to have committed gross-misconduct, the employee will normally be summarily dismissed.

The summary dismissal will state:

- the reasons for the dismissal
- the date on which the employment contract will be terminated, i.e. the date of the hearing or the decision
- that there is no right to notice
- the right to appeal, including how to make that appeal and to whom

The dismissal will be confirmed to the employee in writing.

If an employee is found not guilty of gross-misconduct, but guilty of a less serious misconduct, a lower level of disciplinary action may be taken against the employee.

3.2.3.2 Employees who hold more than one job with the School/The Royal Borough

The School/The Royal Borough is entitled to dismiss from its service any employee following a disciplinary hearing. Where the misconduct relates to a particular job, the employee will be dismissed from that job. If the employee holds more than one job with the School/The Royal Borough, consideration will need to be given as to whether the misconduct makes them unsuitable for any or all of the remaining jobs.

3.3 WRITTEN NOTIFICATION OF DISCIPLINARY ACTION

Except in the case of a verbal warning, details of any disciplinary action must be confirmed in writing to the employee. A series of model letters are appended to these procedures. Please refer to **Appendix L – Model Letters**.

The written notification should contain:

- the hearing date and names of all persons present
- the way(s) in which the employees work or conduct is unsatisfactory. This must be fully explicit, and where relevant state the dates/times etc. of offences
- details of any previous live warnings

- the disciplinary action imposed and how long it will last
- the consequences of any further misconduct
- the individual's right to appeal, including to whom and by when

The letter should be sent under the signature of the person who conducted the hearing (or chair of the disciplinary panel as appropriate) and sent to the individual as soon as possible after the hearing. Copies should be sent to the person presenting management's case and the employee's companion.

3.3.1 Written Notification of Dismissal

Where the Principal, or chair of the disciplinary panel, decides that the employee should be dismissed from the school they shall, in addition, notify Schools' HR if not already notified, outlining the reasons.

The Principal, or chair of the disciplinary panel shall, within 14 days of the date of the decision, inform the employee in writing that:

- he/she will be dismissed with due notice or
- he/she will be dismissed with no notice, i.e. summary dismissal, including confirmation of the dismissal by the Director of Children's Services.

The effective date of any dismissal will be in the letter confirming the decision from the School (see **Appendix L, Model Letters 9-10**).

The School will inform the People Centre of the employee's termination date and notice entitlement.

If a subsequent appeal reverses the dismissal decision the withdrawal from School or the termination notice must be rescinded.

Letters relating to dismissal will preferably be delivered by hand, or where this is not practical, by recorded delivery.

4. Rights of Appeal

4.1 RIGHT OF APPEAL

Employees have the right of appeal against any formal disciplinary action, i.e. written warning, final written warning and dismissal.

An employee wishing to exercise his/her right of appeal is required to notify the clerk to the governing body in writing within 10 days of receipt of the letter informing him/her of the disciplinary action and stating the grounds on which the appeal is made.

4.2 GROUNDS FOR APPEAL

It is not intended that an appeal hearing will constitute a re-hearing of the case, but that the details of the earlier proceedings shall be put before the appeal panel and the person who issued the original disciplinary action, i.e. Principal or chair of the disciplinary panel and the employee shall make submissions.

All appeals must itemise the grounds upon which the appeal is made and the details of those grounds, relating to one or more of the following:

- the findings are not disputed but the disciplinary action was too harsh (with details)
- the findings are disputed (with details) and the disciplinary action was too harsh
- the disciplinary action was inconsistent with formal disciplinary action taken in a similar case (with details including name of comparator)
- the investigation was incomplete (with details)
- the employee was not given a fair hearing (with details)
- new evidence has materialised since the disciplinary hearing was conducted (with details)
- the employee did not have all the information or documentation that was relied upon at the original hearing
- the disciplinary procedure was breached which had a material effect upon the formal decision at the earlier stage (with details)

The requirement to itemise the grounds of appeal is not intended to be restrictive but to establish the employee's concerns so that attention can be directed to those concerns.

4.3 ARRANGING THE APPEAL HEARING

Following receipt of a written request for an appeal the chair of the governors' appeal panel will check that:

- there are clear grounds for appeal
- the appeal has been received within the designated 10 days of the date of the letter informing of the disciplinary action

If the appeal meets these criteria the chair of the governors' appeal panel should arrange the appeal hearing. If not, then the chair of governors' appeal panel should inform the employee, in writing, that the appeal will not be heard and the reasons for this.

4.3.1 Authority to Conduct an Appeal Hearing

Appeals must be heard by a panel of governors. The panel should be made up of at least 3 governors, who have not been involved in the disciplinary decision to which the appeal relates.

Wherever possible, arrangements should be made to ensure that the composition of the panel, in terms of ethnicity/sex etc., is appropriate to the circumstances. Please refer to **Appendix I - Appointment of Disciplinary and Appeal Panels** for a full guide to the composition of disciplinary panels.

4.3.2 Notification of Appeal Hearing

The employee must be given at least 5 days' notice in writing of the date of the appeal hearing. He/she must be sent a letter which should contain:

- the date, time and place of the appeal hearing
- the right of the individual to be accompanied by his/her union representative/work colleague also employed by the School/The Royal Borough, and to call witnesses if desired

4.3.3 Who Should Attend the Appeal Hearing

- **The appeal panel** remain present throughout the hearing including the decision making stage.
- **The employee** and their union representative/work colleague also employed by the School/The Royal Borough remain present throughout the hearing, but withdraw whilst the decision is taken. For further information please see section **2.3.2.1. Employee's Right to be Accompanied**.
- **The Principal/chair of disciplinary panel (who issued the disciplinary action)**. This person will present management's case, they shall not be a member of the appeal panel and will be present throughout the hearing, but shall withdraw whilst the decision is taken.
- **The Director of Children's Services** (or his/her representative, normally HR) has the right to attend any appeal hearing following a dismissal will remain present throughout the hearing.
- **HR**. A representative of Schools' HR may attend the appeal hearing as advisor to the appeal panel. This person may also act as the representative of the Director of Children's Services will remain present throughout the hearing.
- **Minute taker**. Arrangements should be made for minutes to be kept of the appeal hearing. This may be completed by either a member of the appeal panel or by arranging for a minute taker to be present.
- **Witnesses**. A witness should only be present at the hearing during the time that he/she is actually giving evidence, or answering any questions. Please refer to section **2.3.2.2 Witnesses** for further information.

Witnesses must only be called to an appeal hearing if their evidence relates to the appellants grounds for appeal, not to the original charge of misconduct. Please refer to section **4.4 New Evidence**.

4.4 NEW EVIDENCE

It is not intended that an appeal hearing will constitute a re-hearing of the case, therefore, it would be inappropriate to accept any new evidence in relation to the original charge of misconduct/performance, in the form of documents or witnesses, unless either party did not have, nor could reasonably be expected to have, been aware of such evidence at the original disciplinary hearing. For further advice please contact from the Schools' HR Team.

The School (and The Royal Borough if appropriate) should give the appellant reasonable access to information if it is material to the appeal, unless it is of a confidential or personal nature.

4.5 POSTPONING THE APPEAL HEARING

The appeal hearing will take place on a date determined by the chair of the appeal panel.

An employee who cannot attend an appeal hearing should inform the chair of the appeal panel in advance, whenever possible.

If the employee fails to attend through circumstances outside of their control, and unforeseeable at the time the meeting was arranged (e.g. illness), the chair of the appeal panel should arrange another meeting.

The appeal hearing may proceed in the employee's absence if they fail to attend the re-arranged meeting without good reason. If an employee's companion cannot attend on a proposed date, the employee and their companion can suggest another date so long as it is reasonable and is not more than 5 working days after the date originally proposed by the chair of the appeal panel. This 5 day time limit may be extended by mutual agreement.

4.6 CONDUCTING THE APPEAL HEARING

The purpose of the appeal hearing is to decide whether the disciplinary action issued was justified or not.

At the appeal hearing the employee should clearly explain their reasons for appeal calling any witnesses, and/or presenting written statements/documents as necessary to support their case.

The Principal/chair of disciplinary panel should then be allowed to set out their case, calling any witnesses, and/or presenting written statements/documents as necessary to support their case and justify their decision to issue the disciplinary action.

The appeal panel's decision is final and will be one of the following:

- not to uphold the appeal and the previous decision is confirmed
- to uphold the appeal and the disciplinary action is reduced
- to uphold the appeal and that no disciplinary action is warranted, and all records will be expunged from the employee's file (unless a child protection case, refer to 5.2)

Please refer to **Appendix K – Conducting an Appeal Hearing** for a full guide to conducting the appeal hearing.

4.7 WRITTEN NOTIFICATION OF APPEAL HEARING DECISION

Following an appeal hearing the decision should be confirmed to the employee, in writing. A series of model letters are appended to these procedures. Please refer to **Appendix L – Model Letters**.

The written notification should contain:

- the hearing date and names of all persons present
- details of the disciplinary action to which the appeal relates
- details of the employee's grounds for appeal
- the decision of the appeal panel
- confirmation that the appeal panel's decision is final

The letter should be sent over under the signature of the chair of the appeal panel and sent to the individual as soon as possible following the hearing.

5. Special Cases

5.1 ROYAL BOROUGH EMPLOYEES – CRIMINAL OFFENCES

Where there are reasonable grounds to suspect that a criminal offence has been committed, The Royal Borough has a duty to notify the Police. The Police may at their discretion pursue the matter, and where appropriate, bring a prosecution against the individual(s) concerned.

The Financial Regulations for schools with delegated budgets require that every Principal shall notify the Director of Children's Services in conjunction with Corporate Finance immediately of any circumstances which may suggest the existence of irregularity affecting cash, stores or other property of The Royal Borough, and of any loss by any means whatsoever of cash, stores or other property belonging to The Royal Borough.

Where there are reasonable grounds to suspect that a criminal offence has been committed, the Principal shall have the responsibility for notifying the Police, if appropriate, after consultation with the Director of Children's Services. If the offence in any way involves suspected child abuse then the school's 'designated person for child protection', the Local Authority Designated Officer (LADO) and Schools' HR, must be informed immediately (see paragraph 5.2 below).

Once a decision has been taken to notify the Police, it is important that they are notified as soon as possible, since undue delay is likely to cause them problems when pursuing their enquiries.

If the matter is not referred to the Police, the Principal should still discuss the circumstances of the case with the Director of Children's Services to decide on an appropriate course of action.

Where a Principal becomes aware of action being taken by the Police against an employee for a criminal offence outside her/his employment, consideration should be given as to whether the alleged offence is one that makes the individual unsuitable for her/his type of work or unacceptable to other employees. The circumstances of the case should be discussed with the Director of Children's Services to decide on an appropriate course of action.

All employees are expected to co-operate in any criminal investigations.

5.2 CHILD PROTECTION

Cases of alleged or suspected child abuse involving harm to pupils, or any case in which children are involved, should be progressed in accordance with the guidelines set out in the DCSF document 'Working Together to Safeguard Children – a guide to inter-agency working to safeguard and promote the welfare of children 2010' – specifically Appendix 5 (Procedures for Managing Allegations Against People who Work with Children). Guidance is also available

from the comprehensive DCSF document 'Safeguarding Children and Safer Recruitment in Education 2007' (Chapter 5), and the Safer Recruitment training offered by The Royal Borough.

This guidance should be followed in respect of any allegation that a person who works with children has:

- behaved in a way that has harmed a child, or may have harmed a child;
- possibly committed a criminal offence against or related to a child;
- behaved towards a child or children in a way that indicates they are unsuitable to work with children.

The procedure for dealing with child protection cases requires the involvement of the Local Authority Designated Officer (LADO), and possibly the Police, and will always take precedence over the school's disciplinary procedure.

If there is a concern or allegation that a child is being, or has been, harmed then the Principal must be informed or, in their absence, the School's designated person for child protection. The LADO must also be informed. If the concern or allegation is about the Principal, then the chair of governors must be informed. It is important that no contact is made with the employee until the concern or allegation has been discussed with the LADO. In addition, HR are available to advise the School as appropriate and offer support regarding disciplinary or employment issues.

The LADO in consultation with the Principal, Schools' HR and possibly the Police will determine what action needs to be taken. If it is agreed that the concern or allegation relates to a child protection matter then a strategy meeting will be held. Any subsequent action, which needs to be taken by the school, will be dependent on the outcome of a strategy meeting to which the school will be invited.

Should an employee be disciplined for an issue relating to child protection then the warning, as with other disciplinary warnings, will be disregarded for disciplinary purposes when the 'life' of the warning has expired. However, the warning, details of the allegation and the investigation will always remain on the employee's personal file and will be mentioned if The Royal Borough/school is later requested to provide a reference for that employee.

Should an employee be dismissed for an issue relating to child protection then details of the allegation(s), the investigation and the decision of the disciplinary panel will be passed to the Independent Safeguarding Authority for consideration of barring the person from future employment with children.

Should an employee resign before a disciplinary investigation or hearing has been completed the disciplinary process will continue through to a conclusion even if this means it is completed after the employee has actually left The Royal Borough. Should a disciplinary hearing conclude that had the employee remained in employment he/she would have been dismissed then details of the allegations, the investigation and the decision of the

disciplinary panel will be passed to the Independent Safeguarding Authority for consideration of barring the person from future employment with children.

5.3 PROBATIONERS – OTHER THAN TEACHERS

This disciplinary procedure does not apply where employees are within a probationary period.

The probationary period is a trial period. Regular monitoring of performance and conduct should take place during this period, and warnings given where appropriate.

A probationary employee who is found to be unsatisfactory may be dismissed by the Principal giving the appropriate period of notice and right of appeal.

However, an employee who satisfactorily completes her/his probationary period will thereafter have applied to her/him the School's disciplinary procedure in the event of any misconduct.

5.4 THE ASSESSMENT OF NEWLY QUALIFIED TEACHERS

Newly qualified teachers are subject to DfE induction arrangements as prescribed in regulation 13 of the Education (Induction Arrangements for School Teachers) (England) Regulations 1999.

APPENDIX A – GOVERNOR DELEGATED RESPONSIBILITIES

In line with the School Staffing Regulations 2003 the Governing Body of Shooters Hill Sixth Form College have considered the delegation of responsibility for the initial decision to dismiss staff.

The Governing Body's decision is as follows:

The Governing Body has delegated responsibility for staff dismissals to the Principal.

Signed: _____

Date: _____

Chair of Governors School

APPENDIX B – RELATED POLICIES/PROCEDURES/GUIDELINES INCLUDING MEDIA COMMUNICATION

Full details of the School's/The Royal Borough's policies and procedures are available from the School office. However, specific reference may need to be made to the following:

- The School's/The Royal Borough's rules relating to communication with the media and publication of articles and books is set out in **Appendix C - Publication of Books, Articles and Communication to Newspapers**.
- The DfE provides guidance on the use of force to control and restrain pupils (as per Section 550A of the Education Act 1996). These guidelines give guidance to the level of force, which would be considered to be reasonable in the circumstances, for the purpose of preventing the pupil from committing any offence, causing personal injury to any person, including the pupil him/herself, or damage to property, or engaging in behaviour prejudicial to the maintenance of good order and discipline. If you require any further copies please call the Educational Psychology Service on 020 8921 4800.

The DfE have also produced the following guidance documents:

- Dealing with Allegations of Abuse against Teachers and other Staff - Guidance for Local Authorities, Principals, School Staff, Governing Bodies and Proprietors of Independent Schools.(This guidance replaces Chapter 5 of Safeguarding Children and Safer Recruitment in Education.)
- Working Together to Safeguard Children: A guide to inter-agency working to safeguard and promote the welfare of children
- Safeguarding Children and Safer Recruitment in Education - 2006

A copy of these documents can be obtained from the DfE Internet site;
www.education.gov.uk.

Any enquiry from a newspaper or other source of publication seeking information about The Royal Borough or any of its affairs should immediately be directed to The Royal Borough's Communications Service.

Employees (apart from Principals – see paragraph below) must not, except with the explicit authority of The Royal Borough's Communication Service make any communication with the media, which identifies them as employees of The Royal Borough; unless they make clear they are speaking in a private capacity.

The purpose of this rule is to avoid any misunderstandings on the part of the general public as to whether or not any particular communication has the authority of The Royal Borough.

Therefore, school based employees must not, singly or jointly, make any communication with, or make available any written information to, a newspaper or other source of

publication without the permission of the Principal. Prior to giving this permission the Principal should consult The Royal Borough's Communications Service. Should the Principal wish to communicate with the media, as above, they should first seek advice from the chair of governors, or in his/her absence, The Royal Borough's Communications Service.

If permission is given, employees must ensure the accuracy of the information they supply and must adhere to any procedures applying to publication for their area of work.

In publications that are concerned with purely technical or scientific matters, where The Royal Borough's affairs are not discussed, employees are at liberty to write and publish books or articles on those matters, and, if they so wish to, indicate that they are connected to The Royal Borough. Where a connection with The Royal Borough is mentioned, employees must ensure that a statement appears in a prominent position in such publications to the effect that The Royal Borough accepts no responsibility for the author's opinion or conclusion. Clearance to contribute to the publication should be sought from The Royal Borough's Communications Service and a draft of a proposed article should be submitted to The Royal Borough's Communications Service prior to submission to the publication.

Where an employee is proposing to participate in any media broadcast in which mention is to be made of The Royal Borough or any The Royal Borough affairs, the employee must ensure that they have authority from their Principal (who must consult the Communications Service in respect of the script of the broadcast before giving a decision) or in the case of the Principal, they should seek advice from the chair of governors, or in his/her absence, The Royal Borough's Communications Service.

The above conditions shall not prevent an official of a union, who is an officer or employee of The Royal Borough, from making any communication to the newspapers, radio or television in his/her capacity as a union representative.

APPENDIX C – PROCEDURES FOR MANAGING ALLEGATIONS – extract from DCSF document ‘Working Together to Safeguard Children (a guide to inter-agency working to safeguard and promote the welfare of children 2010’-)

Scope

1. The framework for managing cases set out in this guidance applies to a wider range of allegations than those in which there is reasonable cause to believe a child is suffering, or is likely to suffer, significant harm. It also caters for cases of allegations that might indicate that s/he is unsuitable to continue to work with children in their present position, or in any capacity. It should be used in respect of all cases in which it is alleged that a person who works with children has:

- behaved in a way that has harmed a child, or may have harmed a child;
- possibly committed a criminal offence against or related to a child; or
- behaved towards a child or children in a way that indicates s/he is unsuitable to work with children.

2. There may be up to three strands in the consideration of an allegation:

- a police investigation of a possible criminal offence;
- enquiries and assessment by children’s social care about whether a child is in need of protection or in need of services; and
- consideration by an employer * of disciplinary action in respect of the individual.

3. Some cases will also need to be referred to the ISA for consideration of including the person on the ISA barred lists, or for consideration by professional bodies or regulators.

Supporting those involved

4. Parents or carers of a child or children involved should be told about the allegation as soon as possible if they do not already know of it (subject to paragraph 15 below). They should also be kept informed about the progress of the case, and told the outcome where there is not a criminal prosecution. That includes the outcome of any disciplinary process.

NB. The deliberations of a disciplinary hearing, and the information taken into account in reaching a decision, cannot normally be disclosed, but those concerned should be told the outcome.

* For convenience the term employer is used throughout this guidance to refer to organisations that have a working relationship with the individual against whom the allegation is made. That includes organisations that use the services of volunteers, or people who are self employed, as well as service providers, voluntary organisations, employment agencies or businesses, contractors, fostering services, regulatory bodies such as Ofsted in the case of childminders, and others that may not have a direct employment relationship with the individual, but will need to consider whether to continue to use the person's services, or to provide the person for work with children in future, or to deregister the individual. N.B. In some circumstances the term 'employer' for these purposes will encompass more than one organisation. For example, where staff providing services for children in an organisation are employed by a contractor, or where temporary staff are provided by an agency. In those circumstances both the contractor or agency, and the organisation in which the accused individual worked will need to be involved in dealing with the allegation.

5. In cases where a child may have suffered significant harm, or there may be a criminal prosecution, children's social care, or the police as appropriate, should consider what support the child or children involved may need.

6. The employer should also keep the person who is the subject of the allegations informed of the progress of the case, and arrange to provide appropriate support to the individual while the case is ongoing (that may be provided via occupational health or employee welfare arrangements where those exist). If the person is suspended the employer should also make arrangements to keep the individual informed about developments in the workplace. As noted in paragraph 16, if the person is a member of a union or professional association s/he should be advised to contact that body at the outset.

Confidentiality

7. Every effort should be made to maintain confidentiality and guard against publicity

while an allegation is being investigated/considered. In accordance with Association of Chief Police Officers guidance, the police will not normally provide any information to the Press or media that might identify an individual

who is under investigation, unless and until the person is charged with a criminal offence (In exceptional cases where the police might depart from that rule, for example, an appeal to trace a suspect, the reasons should be documented and partner agencies consulted beforehand). The system of self-regulation, overseen by the Press Complaints Commission, also provides safeguards against the publication of inaccurate or misleading information.

Resignations and ‘compromise agreements’

8. The fact that a 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 representations about it, but the process of recording the allegation and any supporting evidence, and reaching a judgement about whether it can be regarded as substantiated on the basis of all the information available should continue even if that cannot be done or the person does not co-operate. It may be difficult to reach a conclusion in those circumstances, 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.

9. By the same token so called ‘compromise agreements’ by which a person agrees to resign, the employer agrees not to pursue disciplinary action, and both parties agree a form of words to be used in any future reference, must not be used in these cases. In any event, such an agreement will not prevent a thorough police investigation where appropriate. Nor can it override an employer’s statutory duty to make a referral to the Independent Safeguarding Authority where circumstances require that.

Record keeping

10. It is important that employers keep a clear and comprehensive summary of any allegations made, details of how the allegation was followed up and resolved, and details of any action taken and decisions reached, on a person’s confidential personnel file and give a copy to the individual. Such information should be retained on file, including for people who leave the organisation, at

least until the person reaches normal retirement age or for 10 years if that will be longer. The purpose of the record is to enable accurate information to be given in response to any future request for a reference. It will provide clarification in cases where a future Criminal Records Bureau Disclosure reveals information from the police that an allegation was made but did not result in a prosecution or a conviction. And it will prevent unnecessary re-investigation if, as sometimes happens, allegations re-surface after a period of time.

Timescales

11. It is in everyone's interest to resolve cases as quickly as possible consistent with a fair and thorough investigation. Every effort should be made to manage cases to avoid any unnecessary delay. Indicative target timescales are shown for different actions in the summary description of the process. Those are not performance indicators: the time taken to investigate and resolve individual cases depends on a variety of factors including the nature, seriousness, and complexity of the allegation, but they provide useful targets to aim for that are achievable in many cases.

Oversight and monitoring

12. Local Safeguarding of Children Board member organisations, county level and unitary local authorities, and police forces should each have officers who fill the roles described in paragraphs 6.35 and 6.36.

13. Other employers' procedures should identify a senior manager within the organisation to whom allegations or concerns that a member of staff or volunteer may have abused a child should be reported, and should make sure that all staff and volunteers know who that is. The procedures should also identify an alternative person to whom reports should be made in the absence of the named senior manager, or in cases where that person is the subject of the allegation or concern, and include contact details for the local authority designated officer responsible for providing advice, liaison, and monitoring the progress of cases to ensure that they are dealt with as quickly as possibly consistent with a fair and thorough process.

Initial considerations

14. Procedures need to be applied with common sense and judgement. Some allegations will be so serious as to require immediate referral to children's social

care and the police for investigation. Others may be much less serious and at first sight might not seem to warrant consideration of a police investigation, or enquiries by children's social care. However, it is important to ensure that even apparently less serious allegations are seen to be followed up, and that they are examined objectively by someone independent of the organisation concerned. Consequently, the local authority designated officer should be informed of all allegations that come to the employer's attention and appear to meet the criteria in paragraph 1, so that s/he can consult police and social care colleagues as appropriate. The local authority designated officer should also be informed of any allegations that are made directly to the police (which should be communicated via the police force designated officer) or to children's social care.

15. The local authority designated officer should first establish, in discussion with the employer, that the allegation is within the scope of these procedures, see paragraph 1, and may have some foundation. If the parents/carers of the child concerned are not already aware of the allegation, the designated officer will also discuss how and by whom they should be informed. In circumstances in which the police or children's social care may need to be involved, the local authority officer should consult those colleagues about how best to inform parents. However, in some circumstances an employer may need to advise parents of an incident involving their child straight away, for example if the child has been injured while in the organisation's care and requires medical treatment.

16. The employer should inform the accused person about the allegation as soon as possible after consulting the local authority designated officer. However, where a strategy discussion is needed, or it is clear that police or children's social care may need to be involved, that should not be done until those agencies have been consulted and have agreed what information can be disclosed to the person. If the person is a member of a union or professional association s/he should be advised to seek support from that organisation.

17. If there is cause to suspect a child is suffering or is likely to suffer significant harm, a strategy discussion should be convened in accordance with paragraph 5.56. NB. In these cases the strategy discussion should include a representative of the employer (unless there are good reasons not to do that), and take

account of any information the employer can provide about the circumstances or context of the allegation.

18. In cases where a formal strategy discussion is not considered appropriate because the threshold of 'significant harm' is not reached, but a police investigation might be needed, the local authority designated officer should nevertheless conduct a similar discussion with the police, the employer, and any other agencies involved with the child to evaluate the allegation and decide how it should be dealt with (NB. The police must be consulted about any case in which a criminal offence may have been committed). Like a strategy discussion that initial evaluation may not need to be a face to face meeting. It should share available information about the allegation, the child, and the person against whom the allegation has been made, consider whether a police investigation is needed and, if so, agree the timing and

conduct of that. In cases where a police investigation is necessary the joint evaluation should also consider whether there are matters which can be taken forward in a disciplinary process in parallel with the criminal process, or whether any disciplinary action will need to wait completion of the police enquiries and/or prosecution.

19. If the complaint or allegation is such that it is clear that investigations by police and/or enquiries by children's social care are not necessary, or the strategy discussion or initial evaluation decides that is the case, the local authority designated officer should discuss next steps with the employer. In those circumstances options open to the employer will range from taking no further action to summary dismissal or a decision not to use the person's services in future. The nature and circumstances of the allegation and the evidence and information available will determine which of the range of possible options is most appropriate.

20. In some cases further investigation will be needed to enable a decision about how to proceed. If so, the local authority designated officer should discuss with the person's employer how and by whom the investigation will be undertaken. That should normally be undertaken by the employer. However in some circumstances appropriate resources may not be available in the employer's organisation or the nature and complexity of the allegation might point to the employer commissioning an independent investigation.

Suspension

21. The possible risk of harm to children posed by an accused person needs to be effectively evaluated and managed – in respect of the child(ren) involved in the allegations, and any other children in the individual’s home, work or community life. In some cases that will require the employer to consider suspending the person. Suspension should be considered in any case where there is cause to suspect a child is at risk of significant harm, or the allegation warrants investigation by the police, or is so serious that it might be grounds for dismissal. People must not be suspended automatically, or without careful thought. Employers must consider carefully whether the circumstances of a case warrant a person being suspended from contact with children until the allegation is resolved. NB. Neither the local authority, the police, nor children’s social care can require an employer to suspend a member of staff or a volunteer. The power to suspend is vested in the employer alone.

However, where a strategy discussion or initial evaluation discussion concludes that there should be enquiries by children’s social care and/or an investigation by the police, the local authority designated officer should also canvass police/children’s social care views about whether the accused member of staff needs to be suspended from contact with children, to inform the employer’s consideration of suspension.

Monitoring progress

22. The local authority designated officer should regularly monitor the progress of cases either via review strategy discussions or by liaising with the police and/or children’s social care colleagues, or the employer as appropriate. Reviews should be conducted at fortnightly or monthly intervals depending on the complexity of the case.

23. If the strategy discussion or initial evaluation decides that a police investigation is required, the police should also set a target date for reviewing the progress of the investigation and consulting the Crown Prosecution Service (CPS) to consider whether to charge the individual, continue to investigate or close the investigation. Wherever possible that review should take place no later than four weeks after the initial action meeting. Dates for subsequent reviews, at fortnightly or monthly intervals, should be set at the meeting if the investigation continues.

Information sharing

24. In the initial consideration at a strategy discussion or joint evaluation the agencies concerned, including the employer, should share all relevant information they have about the person who is the subject of the allegation, and about the alleged victim.

25. Wherever possible the police should obtain consent from the individuals concerned to share the statements and evidence they obtain with the employer, and/or regulatory body, for disciplinary purposes. That should be done as the investigation proceeds rather than after it is concluded. That will enable the police and CPS to share relevant information without delay at the conclusion of their investigation or any court case.

26. Children's social care should adopt a similar procedure when making enquiries to determine whether the child or children named in the allegation is in need of protection or services so that any information obtained in the course of those enquiries which is relevant to a disciplinary case can be passed to the employer or regulatory body without delay.

Action following a criminal investigation or a prosecution

27. The police or the CPS should inform the employer and local authority designated officer straightaway when a criminal investigation and any subsequent trial is complete, or if it is decided to close an investigation without charge, or not to prosecute after the person has been charged. In those circumstances the local authority designated officer should discuss with the employer whether any further action is appropriate and, if so, how to proceed. The information provided by the police and/or children's social care should inform that decision. Action by the employer, including dismissal, is not ruled out in any of those circumstances. The range of options open will depend on the circumstances of the case and the consideration will need to take account the result of the police investigation or trial, as well as the different standard of proof required in disciplinary and criminal proceedings.

Action on conclusion of a case

28. If the allegation is substantiated and the person is dismissed or the employer ceases to use the person's services, or the person resigns or otherwise ceases to provide his/her services, the local authority designated officer should discuss with the employer whether a referral to the Independent Safeguarding Authority is required, or advisable, and the form and content of a referral. A referral must always be made if the employer thinks that the individual has harmed a child or poses a risk of harm to children. Also, if the person is subject to registration or regulation by a professional body or regulator, for example by the General Social Care Council, General Medical Council, Ofsted etc. the designated officer should advise on whether a referral to that body is appropriate.

29. If it is decided on the conclusion of the case that a person who has been suspended can return to work the employer should consider how best to facilitate that. Most people will benefit from some help and support to return to work after a very stressful experience. Depending on the individual's circumstances, a phased return and/or the provision of a mentor to provide assistance and support in the short term may be appropriate. The employer should also consider how the person's contact with the child or children who made the allegation can best be managed if they are still in the workplace.

Learning lessons

30. At the conclusion of a case in which an allegation is substantiated the employer should review the circumstances of the case to determine whether there are any improvements to be made to the organisation's procedures or practice to help prevent similar events in the future. This should include issues arising from any decision to suspend a member of staff, the duration of the suspension and whether or not suspension was justified.

Action in respect of unfounded or malicious allegations

31. If an allegation is determined to be unfounded or malicious, the employer should refer the matter to children's social care to determine whether the child concerned is in need of services, or may have been abused by someone else. In the rare event that an allegation is shown to have been deliberately invented or malicious, the police should be asked to consider whether any action might be appropriate against the person responsible.

Summary of Process

Allegation made to employer

32. The allegation should be reported to the senior manager identified in the employer's procedure immediately unless that person is the subject of the allegation in which case it should be reported to the designated alternative.

33. If the allegation meets any of the criteria set out in paragraph 1 the employer should report it to the local authority designated office within 1 working day.

Allegation made to the police or children's social care

34. If an allegation is made to the police, the officer who receives it should report it to the force designated liaison officer without delay and the designated liaison officer should in turn inform the local authority designated officer straight away. Similarly if the allegation is made to children's social care the person who receives it should report it to the local authority designated officer without delay.

Initial consideration

35. The local authority designated officer will discuss the matter with the employer and where necessary obtain further details of the allegation and the circumstances in which it was made. The discussion should also consider whether there is evidence/information that establishes that the allegation is false or unfounded.

36. If the allegation is not patently false and there is cause to suspect that a child is suffering or is likely to suffer significant harm, the local authority designated officer will immediately refer to children's social care and ask for a strategy discussion to be convened straight away. In those circumstances the strategy discussion should include the local authority designated officer and a representative of the employer.

37. If there is not cause to suspect that 'significant harm' is an issue, but a criminal offence might have been committed, the local authority designated officer should immediately inform the police and convene a similar discussion to decide whether a police investigation is needed. That discussion should also involve the employer.

Action following initial consideration

38. Where the initial evaluation decides that the allegation does not involve a possible criminal offence it will be dealt with by the employer. In such cases, if the nature of the allegation does not require formal disciplinary action, appropriate action should be instituted within three working days. If a disciplinary hearing is required and can be held without further investigation, the hearing should be held within 15 working days.

39. Where further investigation is required to inform consideration of disciplinary action the employer should discuss who will undertake that with the local authority designated officer. In some settings and circumstances it may be appropriate for the disciplinary investigation to be conducted by a person who is independent of the employer or the person's line management to ensure objectivity. In any case the investigating officer should aim to provide a report to the employer within 10 working days.

40. On receipt of the report of the disciplinary investigation, the employer should decide whether a disciplinary hearing is needed within two working days, and if a hearing is needed it should be held within 15 working days.

41. In any case in which children's social care has undertaken enquiries to determine whether the child or children are in need of protection, the employer should take account of any relevant information obtained in the course of those enquiries when considering disciplinary action.

42. The local authority designated officer should continue to liaise with the employer to monitor progress of the case and provide advice/support when required/requested.

Case subject to police investigation

43. If a criminal investigation is required, the police will aim to complete their enquiries as quickly as possible consistent with a fair and thorough investigation and will keep the progress of the case under review. They should at the outset set a target date for reviewing progress of the investigation and consulting the CPS about whether to proceed with the investigation, charge the individual with an offence, or close the case. Wherever possible that review should take place no later than four weeks after the initial evaluation, and if the decision is to continue to investigate the allegation dates for subsequent reviews should be set at that point (it is open to the police to consult the CPS about the evidence that will need to be obtained in order to charge a person with an offence at any stage).

44. If the police and/or CPS decide not to charge the individual with an offence, or decide to administer a caution, or the person is acquitted by a Court, the police should pass all information they have which may be relevant to a disciplinary case to the employer without delay. In those circumstances the employer and the local authority designated officer should proceed as described in paragraphs 37–41 above.

45. If the person is convicted of an offence the police should also inform the employer straight away so that appropriate action can be taken.

Referral to the Independent Safeguarding Authority

If the allegation is substantiated and on conclusion of the case the employer dismisses the person or ceases to use the person's services, or the person ceases to provide his/her services, the employer should consult the local authority designated officer about whether a referral to the Independent Safeguarding Authority and/or to a professional or regulatory body is required. If a referral is appropriate the report should be made within one month. A referral must always be made if the employer thinks that the individual has harmed a child or poses a risk of harm to children.

APPENDIX D – GENERAL RULES OF CONDUCT

1. Introduction

The purpose of this document is to give examples of the School's/The Royal Borough's general rules of conduct. This list should not be considered to be either exclusive or exhaustive.

Any employee who fails to observe the School's/The Royal Borough's conduct requirements or in any other way commits a breach of discipline will be liable to disciplinary action. Such action will be taken in accordance with the School's Disciplinary Procedure.

2. Examples of general conduct rules

- 2.1 All employees should be aware that the School/The Royal Borough exists primarily to serve the public and should be courteous to the public at all times.
- 2.2 Employees must carry out their duties in a conscientious manner, and must not wilfully neglect their duties nor cause any waste of time or productivity.
- 2.3 All employees must comply with legitimate instructions, procedures and codes of conduct.
- 2.4 Employees must not unlawfully discriminate, nor discriminate in contravention of the School's/The Royal Borough's policy, against any person with whom they come into contact in carrying out their work, e.g. on the grounds of race, religion, sex, disability, age or sexuality. This rule applies equally to harassment and victimisation.
- 2.5 Employees must not bully any person with whom they come into contact in carrying out their work.
- 2.6 Employees must not undertake any acts within or outside the workplace that are in conflict with their specific job role/purpose, bring the School/The Royal Borough into disrepute or render them unacceptable to the School/The Royal Borough such as destroying trust and confidence between them and the School/The Royal Borough (e.g. domestic violence).
- 2.7 Employees must not accept any bribe or indulge in any corrupt or improper practice.
- 2.8 Employees must not abuse any position of authority or improperly use or attempt to use their official position for their own private advantage, or for the private advantage of any other person.

- 2.9 Employees must not inappropriately, and without the Principal's authority, release any information concerned with the School's/The Royal Borough's affairs to the press and/or public, or by way of books or articles or to any organisation including one that is funded by the School/The Royal Borough. Prior to giving this authority the Principal must consult with The Royal Borough's Communication Service.
- 2.10 Employees must not falsify, destroy or otherwise alter any document, timesheet, etc. to gain benefit or financial advantage for her/himself or others.
- 2.11 Unless specifically authorised by the Principal, employees must not seek to obtain or accept loans of any kind (monies or articles) from clients or contractors with whom the employee comes into contact through work or users of School/The Royal Borough services. For further information please refer to the appropriate Financial Regulation for the School.
- 2.12 Employees must not take control over the financial affairs of anyone either employed or connected with the School/The Royal Borough in any way, such as acquiring Power of Attorney unless specifically authorised by the Principal. For further information please refer to the appropriate Financial Regulation for the School.
- 2.13 Employees who are under investigation by the Police in relation to an allegation that they have committed a criminal act, or who have accepted a caution or have been charged in a criminal case, must disclose this to The Royal Borough where required to do so.
- 2.14 Employees must not engage in unauthorised employment during hours when contracted to work for the School/The Royal Borough, nor engage in employment during off-duty hours that is detrimental either to the post-holder's ability to carry out their duties, or to the interests of the School/The Royal Borough, or which results in them working excessive hours and placing themselves and/or service users at risk.
- 2.15 Employees must observe confidentiality of personal information relating to others in compliance with the Data Protection legislation.
- 2.16 Employees must not misuse the School's/The Royal Borough's communications or information systems as outlined in The Royal Borough's Internet and E-Mail Acceptable Use Policy. (The School/The Royal Borough monitors use of its communications systems to detect misuse and any unauthorised expenditure incurred will be deducted from the employee's pay).
- 2.17 Employees must not incur any unauthorised expense for which the School/The Royal Borough is liable.
- 2.18 Employees must show due respect for the School's/The Royal Borough's property, equipment, machinery, transport, etc. No employee shall wilfully cause any waste, loss or damage to the property of the School/The Royal Borough or remove it without authority or use it in any manner other than that prescribed or authorised.
- 2.19 In respect of work-related matters: Unless specifically authorised by the Principal, employees must not bring any complaint or make any representation or personal appeal, written or oral, directly or indirectly, to individual Members of The Royal

Borough (work related matters should be raised in accordance with the School Grievance Procedure).

- 2.20 Employees must adhere to working time arrangements and observe punctuality when reporting for duty (unless permitted to do otherwise). An employee who is unable to comply with the arrangements must notify the appropriate person as soon as is practicable, and explain the reason for lateness etc.
- 2.21 Employees unable to report for duty because of sickness must comply with the requirements for notification of sickness absence, and the submission of medical certificates (as appropriate) in accordance with the appropriate scheme of conditions of service or school rules.
- 2.22 Employees must observe the provisions of the School's/The Royal Borough's Policy on Smoking, and are prohibited from smoking in designated non-smoking areas.
- 2.23 Employees must observe Safety Rules and Codes of Practice for Safety, and use appropriate safety clothing and equipment as required.
- 2.24 Whilst on duty, no employee should be under the influence of alcohol or drugs to a degree that causes inability to perform work satisfactorily or safely. Employees must observe the provisions of the school's/The Royal Borough's Drugs and Alcohol Policy.
- 2.25 Every employee whilst at work is expected to observe appropriate standards of dress and conduct and to observe the School's/The Royal Borough's dress codes where applicable.

APPENDIX E – SAMPLE ALLEGATIONS	
	<p>That your attendance record has been unsatisfactory in that since (date) you have been late on x occasions as set out below:-</p>
	<p>That on (date) you failed to carry out a reasonable and proper instruction given to you by (name). Specifically:-</p>
	<p>That on (date) an incident occurred in which it is alleged that you were offensive and abusive to a member of the public. Specifically:-</p>
	<p>That on (date) you were found to under the influence of alcohol to such a degree that you were unable to carry out your duties satisfactorily. Specifically:-.....</p>
	<p>That on (date)/over a period of days from.... to....) you breached The Royal Borough’s Code of Practice on Discrimination/Bullying. Specifically:-.....</p>

	<p>That, despite appropriate assistance being provided to you, you have not</p> <p>attained/maintained a level of performance that is appropriate to the job you are employed to undertake. Specifically, the details of the assistance provided and the lack of appropriate performance are as follows.....</p>
	<p>That your attendance record has been unsatisfactory in that since (date) you have been absent without authority on x occasions, as set out below:-</p>
	<p>That on (date) you were involved in an incident with another member of staff (name), where it is alleged that you physically assaulted him, causing injury to his eye. Specifically:-</p>
	<p>That on (date) you assaulted a child in your care (name), by smacking the child on the face, causing considerable distress to the child. Specifically:-</p>
	<p>That you have seriously and willfully neglected your duties. Specifically:-.....</p>

	<p>That on (date) you stole property belonging to the school/The Royal Borough. Specifically:-</p>
	<p>That on (date) you dishonestly claimed payment for hours/petty cash to which you were not entitled. Specifically:-</p>
	<p>That you have failed to comply with the requirements of The Royal Borough's Sick Pay Scheme. Specifically:-.....</p>

APPENDIX F – SUSPENSION CHECKLIST

Certain allegations of disciplinary offences or concerns raised about individuals are so grave that they may require immediate suspension from duty.

Such circumstances may include the following:

- i) A full investigation is required, and it is thought that the individual is likely to impede the process if they remain at work.
- ii) If a person is incapable of remaining at work, as they present a risk to themselves or others e.g. threatening behaviour.
- iii) Where relationships have broken down or there are risks to The Royal Borough's property.
- iv) Potential Gross Misconduct issues
- v) In cases of child protection allegations

In instances where suspension is being considered, the Principal/governing body should, where practical, consult Schools' HR first. Possible alternatives to suspension, e.g. change of work location or duties, should be considered before a decision to suspend is taken.

Prior to a preliminary investigation, depending on when the facts emerge to form a management view that the issues are sufficiently serious to justify suspension, the employee should be called to a meeting and the following explained:

- A number of extremely serious concerns have arisen, relating to an incident.
- Briefly outline the content of the allegations/concerns and wherever practical the reasons for suspension.
- Give the employee an opportunity to make an initial brief response and answer any questions as appropriate relating to the process.
- Explain that although further investigations will need to be conducted and that allegations have not been finalised, the concerns as indicated so far amount to potential gross misconduct (where applicable – see iv) above).
- Advise the employee that as a precautionary measure and pending further investigations they are to be formally suspended from duty with immediate effect.

- State that the suspension is without prejudice to his/her position at The Royal Borough/School and not a disciplinary sanction in itself.
- Tell the employee that they will receive normal pay during suspension.
- Explain that if at any stage during or at the end of the investigation, it is considered that the suspension should be lifted, they will be informed immediately.
- Tell the employee that during suspension they must not attend for duty, visit the work place or any of The Royal Borough's/other Schools establishments or make contact with any member of staff without prior permission of a nominated manager/Principal.
- Tell the employee that they must make themselves available for any meeting which will be arranged as part of the investigation. This will be undertaken by an Investigating Officer.
- Inform the employee that if the matter proceeds to a hearing under The Royal Borough's/School's disciplinary procedure, they will be given prior notice (minimum 5 days) of the date, time and place of that hearing and information about the matter or matters to be considered at the hearing.
- Give the employee a copy of The Royal Borough's/School's disciplinary procedure and state that they will have a full opportunity to respond to all the allegations and be represented throughout the process by their trade union representative or a fellow worker also employed by The Royal Borough.
- Ask the employee to disclose any other employment with The Royal Borough/other Schools as this may lead to the employee being suspended from other posts within The Royal Borough/School (This could be checked on Oracle in advance also).
- Ask the employee to hand over keys/entry passes to The Royal Borough/School premises.
- Ask the employee whether they have any The Royal Borough/School equipment e.g. phones, laptops or documentation at their home addresses which is necessary for The

Royal Borough to have returned during their suspension, and agree arrangements for immediate return of all such items.

- Emphasise the need for strict confidentiality in this matter.

- State that suspension will be confirmed in writing. The suspension should be confirmed in writing as soon as possible following the meeting. The letter should outline the allegations/concerns, the date the suspension took effect, the conditions of suspension and state that a full investigation will follow, giving the name and contact details of the Investigating Officer and designated contact person.

- Ask the employee if they fully understood what has been said to them.

- Report any suspension to the Director of Children's Services.

APPENDIX G – CONDUCTING AN INVESTIGATION

1. Introduction

The purpose of this document is to provide guidance in conducting an investigation when it is either suspected or alleged that an employee has breached the School's/The Royal Borough's policies or procedures and, if proven to be true, would warrant disciplinary action.

The DfE issue a guidance document on dealing with allegations against staff; Dealing with Allegations of Abuse against Teachers and other Staff - Guidance for Local Authorities, Principals, School Staff, Governing Bodies and Proprietors of Independent Schools. A copy can be obtained from HR or direct from the Department for Education's Internet site; www.education.gov.uk.

In cases of alleged or suspected child abuse the school's Child Protection Officer, and HR, must be informed immediately. For more information please refer to Section **5.2 – Special Cases, Child Protection**.

In cases where the incident could potentially be a criminal offence the Police, and Schools' HR, must be informed immediately. If this is the case the School should take no further action until it is clear whether the Police will be proceeding with the case, or not.

For further guidance or support on conducting an investigation please contact the Schools' HR Team.

Please substitute chair of governors, where the document states Principal, if it is the Principal who is being investigated or if not appropriate for the Principal to investigate.

2. Commencing the Investigation

When a potential disciplinary matter arises, the Principal should arrange for the necessary investigations to be conducted to establish the facts promptly before memories of events fade and to avoid any undue stress on the employee concerned.

If the allegation is either a child protection issue or a potential criminal offence either the Child Protection Officer or the Police will direct the school on what action may be taken. Any other potential disciplinary matter will need to be investigated by the School.

When deciding how the investigation should be carried out there are a number of issues the Principal should consider, such as:

- **The level of alleged misconduct**

Employees are normally suspended if the allegation is of gross-misconduct. Please refer to the School's Disciplinary Procedure section **2.2.1 Suspension**.

- **The type of alleged misconduct**

The way the misconduct was reported/discovered, and the type of misconduct, may raise concerns over confidentiality which may affect the information which is released to the employee

- **The investigating officer**

- this will not be the person who will hear any subsequent disciplinary hearing
- this will be a person with the appropriate training and/or is competent in conducting investigations, e.g. Principal, deputy Principal, other member of the senior management team or governor.
- In certain circumstances it may be appropriate for the investigator to be someone independent of the school; Schools' HR can provide advice on this.
- If the investigating officer is to be a member of staff then they must be at an appropriate level of seniority to the person they are investigating.
- Schools' HR can provide guidance and support to the investigating officer.

3. The degree of investigation necessary

The investigation must always be thorough but not all cases will require the same degree of input. The complexity and severity of the misconduct will determine the degree of investigation needed, ranging from:

- a short investigation where the issues are relatively straightforward, e.g. an investigation relating to an employee's time-keeping
- a lengthy investigation where the issues concerned are of a complex nature, e.g. where a number of serious complaints have been received from parents/pupils
- the investigation will be considerably simpler where the employee accepts the allegations made against them

4. Informing the Employee

Prior to an investigation being conducted the individual must be informed.

As soon as possible the Principal or investigating officer, as appropriate, must arrange to meet with the employee. During the meeting the employee should be informed that:

- an allegation of misconduct has been made, giving the details as they are known at that time
- the allegation is to be investigated, in accordance with this guidance document, and by whom

- they have the right to respond to the allegation and an investigative interview will be arranged for them to do so
- the purpose of the investigation is to determine if there is a disciplinary case to answer and if a disciplinary hearing should be arranged
- they must not discuss the detail of the allegation with any other member of staff, pupil or parent without the express permission of the Principal
- they can be accompanied by a union representative or work colleague at any investigative meetings. If the employee is intending to be represented by the union they should be encouraged to make contact with them as soon as possible

The details of this meeting should be confirmed to the employee in writing and ideally the date of the employee's interview (at least 5 days' notice should be given) should be included. A copy of this guidance document should be included so that the employee is clear on how the investigation will be completed and what to do if they have a complaint.

5. Documenting the process

It is essential that the investigation process is documented as it develops to show the steps taken by the investigating officer, e.g. how the complaint came about, the effort made to obtain access to witnesses, any advice obtained etc. This information, along with witness interview notes/statements and any documentary evidence should be retained as it will form the basis of management's case at the disciplinary hearing, should one be necessary.

6. Interviewing the employee

As soon as possible the employee must be interviewed.

Details of the interview should have been confirmed to the employee in the letter confirming the investigation, see point 4.

Notes of the interview should be made, signed by the employee, the investigating officer and the employee's companion as confirmation of their accuracy and retained confidentially.

7. Witnesses

As part of the investigation, all those who are thought to have relevant evidence should be asked to provide this, including pupils, parents and members of the public.

7.1 Witnesses who are children

If the investigation requires that children are to be interviewed these should be completed as soon as possible. Children may only be interviewed with either their parent present or with their parent's written consent. Where several children/pupils are involved they should be interviewed individually and not collectively.

Child witnesses are not normally required to attend a disciplinary hearing, therefore, as the employee will not have the opportunity to cross-examine them in the hearing, their

evidence should be taken, prior to the disciplinary hearing, in the presence of the employee's representative.

Notes of each interview should be made, signed by the investigating officer and the employee's representative, if they attend, and retained confidentially.

7.2 Witnesses who will not attend a later disciplinary hearing

All employees of the School/The Royal Borough have a duty to co-operate with disciplinary enquiries, and are required to attend disciplinary hearings as necessary. However, there may be circumstances, such as holidays, which prevent them from attending the hearing. In addition, in the case of pupils, parents or members of the public, it might be either inappropriate that they attend or they may be unable/unwilling to.

In a situation where a witness will not be attending the disciplinary hearing their evidence should be taken, prior to the disciplinary hearing and, when possible, in the presence of the employee's representative.

Following the interview the witness, the investigating officer and the employee representative should sign the notes (unless there are special circumstances that make this impracticable) as confirmation of their accuracy and retained confidentially.

A copy of any interview notes/statements, of witnesses who will not be attending the disciplinary hearing, will be provided to the employee prior to the disciplinary hearing.

7.3 Witnesses who will attend a later disciplinary hearing

Witnesses who are able to attend the disciplinary hearing should be interviewed and notes taken, but this does not need to be in the presence of the employee's representative as the employee will be given the opportunity to cross-examine such witnesses at the disciplinary hearing.

A copy of any interview notes/statements, of witnesses who will be attending the disciplinary hearing, will be provided to the employee prior to the disciplinary hearing.

8. The investigating officer's consideration of the facts

In deciding whether there is a disciplinary case to answer the investigating officer's consideration should include the following factors:

- the manner in which the suspicion/allegation was raised
- any explanation offered by the employee concerned when interviewed
- information gleaned from any interviews or documents considered

- whether there may be an inappropriate motive on the part of a person who reported the matter
- any known information as to mitigating circumstances that may affect the decision to instigate disciplinary proceedings or affect the stage at which such proceedings may be instigated
- any advice given by Schools' HR

9. Concluding the Investigation

When the investigating officer has concluded whether there is a disciplinary case to answer the Principal or the Chair of Governors, as appropriate, should make the necessary arrangements. If the conclusion is that there is a disciplinary case to answer then the hearing officer should arrange a disciplinary hearing, if not then they must inform the employee, in writing that no further action will be taken. A copy of this letter should be kept by the Principal.

For guidance on arranging a formal disciplinary hearing please refer to the Disciplinary Procedure section **2.3 Arranging a Formal Disciplinary Hearing**.

10. Complaint against the investigating officer which arises during the investigation

Should the employee complain (in writing) during the investigation, alleging that the investigating officer has not conducted the investigation in line with this guidance document, the investigation may be suspended for a short period. At which time the Chair of Governors will nominate an appropriate person to consider the specific allegation. That person's decision would be final. Should such consideration take place and the allegation is proven, another investigating officer would be brought in to investigate the original issue.

APPENDIX H– DISCIPLINARY INVESTIGATION REPORT TEMPLATE

<p>Disciplinary Investigation Report</p> <p>Date:</p>	<p>Report Author</p> <p>First- Last- title</p>
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<p>Employee name</p> <p>Employee Job Title</p>	<p>School</p>
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1. Terms of Reference

1.1 Explanation of scope of report – i.e. in accordance with the School’s Disciplinary Procedure

2. Background summary

2.1 Where do they work, job title, grade, nature of what work they do, and for how long.

2.2 The manner in which the suspicion/allegation/complaint was raised.

2.3 Summary of the incident.

2.4 What date did the incident(s) occur.

3. Evidence

3.1 This is the main body of the report.

3.2 Facts gleaned from any documents considered.

3.3 Facts gleaned from any interviews.

- 3.4 Whether there may be an inappropriate motive on the part of a person who reported the matter.
- 3.5 Are there witnesses? Who are they? Where do they work, job title, grade.
- 3.6 What did the witnesses observe (i.e. saw or heard for themselves)?
- 3.7 Strictly **do not** include volume information, such as interview notes or other reference material within this section. That type of documentation should form part of the Appendices (section 7).

4. Employee response

- 4.1 Any explanation offered by the employee concerned when interviewed and their response to evidence put to them.
- 4.2 Any known information as to mitigating circumstances that may affect the decision to instigate disciplinary proceedings.

5. Conclusions

- 5.1 What have you concluded based on the evidence gathered?
- 5.2 Any previous relevant warning issued that is unexpired.

6. Recommendations

- 6.1 State whether based on the evidence you believe that a breach of the School's rules of conduct has probably happened and accordingly that there is a 'case to answer'.

- 6.2 If this is the case, you would normally recommend that a formal disciplinary hearing be arranged to consider the evidence and for a decision to be made.

7. Appendices

Appendix A - The investigative process should be documented as it develops, to show the steps taken by the investigating officer, e.g. how the complaint came about, the effort made to obtain access to witnesses, any advice obtained. It may be necessary to rely on such information following the investigation. List documentary reference material as appendices here e.g. attach material that backs up the evidence e.g. interview notes, documents.

Appendix B - Only include appendices that are **specifically referred to within the main body of this report.**

APPENDIX I – APPOINTMENT OF GOVERNOR’S DISCIPLINARY AND APPEAL PANELS

As part of these disciplinary procedures, it may be necessary for governing bodies to appoint:

- **a disciplinary panel** – where the Principal does not have delegated responsibility (or the Principal is subject to disciplinary action), the initial decision should be delegated to one or more governors.
- **an appeal panel** – appeal hearings must be conducted by an appeal panel comprising of not fewer than three members of the governing body.

All governing body panels should be convened with an appropriate gender/ethnic balance wherever possible.

Governing bodies should ensure that no one who takes part in an initial disciplinary decision also hears the appeal. Furthermore, the governing body remains responsible for any decisions taken under delegated authority.

The Schedule to the Education (School Government) Regulations 1989 contains detailed rules concerning circumstances in which a person attending a meeting of the governing body (including disciplinary or appeal panels) must withdraw/take no further part in proceedings due to a personal interest (including a financial or employment interest) of their own or a close relative.

There may also be cases where the working relationship between a staff governor sitting on a disciplinary/appeal panel and the employee facing allegations are such that the fair operation of the procedures could be jeopardised.

It is therefore recommended that each governor sitting on a disciplinary/appeal panel should ask himself/herself whether there are any other personal circumstances or interests (apart from those set out in the schedule referred to above) which might lead to their appearance being taken as that he/she is likely to be biased. If there are, then the governor(s) concerned should withdraw and take no further part in the proceedings in order to ensure that there is a fair hearing.

APPENDIX J – CONDUCTING A DISCIPLINARY HEARING, INCLUDING A CHECKLIST FOR ATTENDANCE AND DOCUMENTATION REQUIRED

Organising

the hearing

The following need to be invited:

- Hearing Officer(s)
- Officer presenting the management case
- Witnesses
- Minute taker
- Representative of Director of Children’s Services (normally Schools’ HR)
- Employee and their representative

Send out the following documents to the Hearing Officer(s) and employee:

- Invite letter – giving the employee and their representative 5 days notice
- Disciplinary procedure
- All witness statements
- Any documentation the Officer giving the management case will be referring to
- Any other documentary evidence requested to be included

The disciplinary hearing should be conducted as follows:

- **Purpose.** The hearing officer should commence the proceedings by stating that the meeting is a formal disciplinary hearing, the purpose of which is to examine various

facts/allegations, and to consider whether disciplinary action should be taken.

- **Attendees.** The hearing officer shall satisfy himself/herself that the meeting attendees are all legitimate (please refer to the Disciplinary Procedure **section 2.3.2 Who Should Attend a Formal Disciplinary Hearing**) and if a disciplinary panel is used its members are consistent with the advice set out in **Appendix H - Appointment of Disciplinary and Appeal Panels**.
- **Introductions.** The hearing officer should introduce those present, and explain the procedure by which the hearing will be conducted.
- **Employee's rights.** The hearing officer should satisfy himself/herself that the employee has:
 - received the letter, instructing them to attend, in advance of the hearing
 - has previously received details of the allegation/s
 - is aware of his/her rights to be accompanied by a union representative, work colleague or other person of his/her choice
 - is aware of his/her right to state their case and to call witnesses if desired
- **Management presents their case.** The person designated to present management's case does so, offering any facts/mitigating circumstances, calling any witnesses, and/or presenting written statements/documents as necessary to support their case. The hearing officer, the employee, their companion, the Director of Children's Services and HR, when present, may ask questions of the person presenting management's case and any witnesses.
- **Employee presents their case.** The employee should present their case, i.e. that they either accept or deny the charge, offering any facts/mitigating circumstances, calling witnesses and/or presenting written statements/documents as necessary to support their case. The hearing officer, the person presenting management's case, the Director of Children's Services and HR, when present, may ask questions of the employee and any witnesses.

Summing up. The person presenting management's case and the employee, or his/her companion, should be asked to summarise their cases respectively.

- **Adjournment.** When the hearing officer is satisfied that all the facts have been presented, the employee, their companion and the person presenting management's case should withdraw whilst the case is deliberated. If necessary the hearing officer may recall the employee, the person presenting management's case, or witnesses, to further clarify any points. Should this be the case all parties should be asked to return to the hearing whilst the additional questions are asked.
- **Reconvene.** When the hearing officer has reached a conclusion he/she should recall the employee, their companion and the person presenting management's case so that they can announce their decision.

If a conclusion cannot be reached that day the hearing officer should inform the

employee, and their companion, when they can expect to hear, normally this should be within 14 days.

- **The Decision**

Decision Making

There are two levels of decision on any formal disciplinary matter; the disciplinary decision itself and the decision on any appeal lodged against that decision. This guidance needs to be read as a whole, as in considering an appeal it is important to remain aware of the guidance on reaching the original disciplinary decision.

Officers considering whether an employee is blameworthy of the allegations put before them should consider their responses to the following questions:-

Whether the misconduct charge against the employee is found?

1. Has there been as much investigation as is reasonable in the circumstances?
2. Has sufficient regard been given to any explanation put forward by or on behalf of the employee?
3. Is it genuinely believable that the employee has committed the misconduct as alleged?
4. Are there reasonable grounds on which to sustain that belief on the balance of probabilities (i.e. is it more likely than less likely that the employee did what is alleged)?

What is the appropriate sanction for the employee's misconduct?

5. Is the misconduct sufficiently serious to justify the disciplinary decision contemplated?
6. Has regard been given to any mitigating circumstances put forward by or on behalf of the employee (and any response to these by management's representative, if any)?
7. Is the decision within the band of reasonable responses of a reasonable employer in the circumstances?

The effect of answering 'yes' to each of the first four questions is to reach a **finding** that the allegation of misconduct has been made out. Questions 5 to 7 help you decide what to do about it.

Question 5 is part of a statutory test – the justification for the decision in relation to the nature of the misconduct. Here it is necessary to consider whether there are any current warnings on the employee's record. The ACAS

code of practice on disciplinary practice and procedures in employment recommends 'that disciplinary procedures should ensure that, except for gross misconduct, no employees are dismissed for a first breach of discipline'. If dismissal is a possibility, in the absence of a prior and live warning question 5 may require a reasonably objective view' of whether gross misconduct has occurred. The sanction imposed should be both appropriate and consistent with similar cases in the past, and with any indications in the disciplinary code of a likely penalty.

The decision may also include, as a form of disciplinary action, supplementary action accompanying a warning or dismissal. Such action should be applied reasonably and be proportionate to the misconduct, and could include the recovery of monies; the withholding of allowances, benefits, or increments; demotion and/or transfer; increased supervision or training.

Question 6 may call for an invitation to management's representative to respond to any plea in mitigation put forward by or on behalf of the employee. The management response may take into account the employee's position held and performance, length of service, previous conduct and disciplinary record, whether or not these have been put forward by or for the employee.

Question 7 crystallises several important judgements on the fairness of dismissals. More particularly, evidence that it was considered before a dismissal decision was taken should register favourably with an Employment Tribunal.

Evidence of these 7 questions being considered at the decision making stage is good practice and could convince an Employment Tribunal of management's reasonableness in the circumstances.

The Outcome

- The hearing officer should satisfy himself/herself that the employee clearly understands:
 - the reason for any disciplinary action which has been taken against them
 - the requirements of any disciplinary action, which has been taken against them, e.g. level of improvement required, by when and what support management will provide
 - any right of appeal, how this should be made, by when and to who i.e. to the clerk of the governing body within 10 days of receipt of the letter confirming this decision and stating clearly their grounds for appeal
- **Written confirmation.** The result of the disciplinary hearing should be confirmed to the employee in writing, with copies to the person presenting management's case

and the employee's companion. Please refer to the Disciplinary Procedure section **3.3 Written Notification of Formal Disciplinary Action** and **Appendix L – Model Letters**.

- **Minute Taking.** The governing body must ensure that formal minutes of disciplinary hearings are always taken. Decisions of a hearing must be reported to the governing body at the next meeting following the exhaustion of the local disciplinary appeal procedure.

APPENDIX K – CONDUCTING AN APPEAL HEARING INCLUDING A CHECKLIST FOR ATTENDANCE AND DOCUMENTATION REQUIRED

Organising the hearing

The following need to be invited:

- Hearing Officers
- Chair of original disciplinary hearing
- Witnesses requested
- Minute taker
- Representative of Director of Children’s Services
- Employee and their representative

Send out the following documents to Appeal Panel and employee:

- Invite letter – giving the employee and their representative 5 days notice
- Copy of appeal letter and any documentary evidence submitted by the employee which is accepted by the Appeal Panel
- Copy of the decision letter from the original disciplinary hearing
- Any documentation the Chair of the original disciplinary hearing will be referring to
- Any other documentary evidence requested to be included

The appeal hearing should be conducted as follows:

- **Purpose.** The chair of the appeal panel should commence the proceedings by stating that the meeting is an appeal hearing, the purpose of which is to examine the grounds for appeal (please refer to **section 4.2 Grounds for Appeal**) and to consider whether the original disciplinary decision was correct.

- **Attendees.** The chair shall satisfy himself/herself that the meeting attendees are all legitimate (please refer to the Disciplinary Procedure **section 4.3.3 Who Should Attend an Appeal Hearing**) and the appeal panel members are consistent with the advice set out in **Appendix H - Appointment of Disciplinary and Appeal Panels**.
- **Introductions.** The chair should introduce those present, and explain the procedure by which the hearing will be conducted.
- **Employee's rights.** The chair should satisfy himself/herself that the employee:
 - has received the letter inviting them to the appeal hearing
 - is aware of his/her rights to be accompanied by a union representative, work colleague or other person of his/her choice
 - is aware of his/her right to state their case and to call witnesses if desired
- **Employee presents their case.** The employee, or their companion, presents to the appeal panel their grounds for appeal, calling witnesses, and/or presenting written statements/documents as necessary to support their case. The appeal panel, the Principal/chair of disciplinary panel, the Director of Children's Services and HR, when present, may ask questions of the employee and any witnesses.
- **Management's response.** The Principal/chair of disciplinary panel who originally issued the disciplinary action responds to the grounds for appeal put forward by the employee, calling any witnesses, and/or presenting written statements/documents as necessary to support their case. The appeal panel, employee, their companion, the Director of Children's Services and HR, when present, may ask questions of the Principal/chair of disciplinary panel or any witnesses.
- **Summing up.** The Principal/chair of the original disciplinary panel and the employee, or his/her companion, should be asked to summarise their cases respectively.
- **Adjournment.** When the chair of the appeal panel is satisfied that all the facts have been presented, then the employee, their companion and the Principal/chair of disciplinary panel should withdraw whilst the case is deliberated. If necessary the chair may recall the employee, the Principal/chair of disciplinary panel or witnesses to further clarify any points. Should this be the case all parties should be asked to return to the hearing whilst the additional questions are asked.
- **Reconvene.** When the appeal panel has reached a conclusion they should recall the employee, their companion and the person presenting management's response, so that they can announce their decision.

If a conclusion cannot be reached that day the chair of the appeal panel should inform the employee, and their companion, when they can expect to hear. Normally this should be within 14 days.

- **Decision Making**

It is important to remember that an appeal is not a rehearing of the original decision but a consideration of valid grounds of objection to the original decision and whether those grounds are substantiated. In considering an appeal it is important to remain aware of the guidance on reaching the original disciplinary decision, where they relate to the grounds of appeal. Any or all of the 7 questions considered as apart of the disciplinary decision could be relevant to determining the appeal.

An Appeal Hearing should not consider matters which are outside the range of grounds, and also should not consider new evidence or hear new witnesses that could have been available at the original hearing.

Evidence of proper consideration at an appeal is good practice and could convince an Employment Tribunal of management's reasonableness in properly testing the original decision in the light of representations made by or for the employee.

- **The Decision.** The chair of the appeal panel should satisfy himself/herself that the employee clearly understands the appeal panel's decision.

The appeal panel's decision is final and will be either:

- not to uphold the appeal and that the previous decision is confirmed
- to uphold the appeal and that the disciplinary action be reduced to a less severe sanction
- to uphold the appeal and that no disciplinary action is warranted and all records be expunged from the employee's file

Exceptionally, where it would be inappropriate to reach any of these decisions, the decision may be to refer the decision back to the previous decision level. Such a decision should only be taken where the original decision cannot be reviewed without further evidence and investigation.

- **Written confirmation.** The appeal panel's decision is final and must be confirmed in writing to both parties under the signature of the chair of the appeal panel. Please refer to **Appendix L – Model Letters**.
- **Minute Taking.** The governing body must ensure that formal minutes of appeal hearings are always taken. Decisions of a hearing must be reported to the governing body at the next meeting following the exhaustion of the local disciplinary appeal

procedure.

APPENDIX L – MODEL LETTERS

Model Letter 1 – Confirmation of suspension from duty.

(Date)

Dear (name)

SUSPENSION FROM DUTY

I am writing to confirm my decision, given verbally to you today, to suspend you from duty with immediate effect. Present at the meeting were (names). You were accompanied by (name and in what capacity, e.g. union representative).

The reason for the suspension is to allow an investigation to take place into the allegation/s that you These allegations constitute alleged gross misconduct and you will normally be given the opportunity to be interviewed regarding these allegations as part of the investigation.

(If the employee is to be interviewed, insert the following)

The details of your investigative interview are as follows:

Date:..... (minimum 5 days notice must be given)

Time:.....:

Location:.....

Investigating Officer:.....

At the interview you may be accompanied by a union representative or work colleague who is not otherwise involved.

During the period of your suspension you will receive full pay. Your suspension is a neutral act and without prejudice, however, during your suspension you must not attend for duty, visit your workplace or contact (names of witnesses etc., where relevant) without the permission of (name). If you need to contact any of the above or otherwise need access to the school please contact (name) who will be your key contact with the school and who will ensure that you receive any relevant news concerning the school during your suspension.

I will write to you again as soon as the investigation has been completed. If it is decided that the matter needs to be referred to a formal disciplinary hearing, you will be notified accordingly.

Yours sincerely,

Principal/Chair of Governors

Enclosure: Copy of the Disciplinary Procedure.

Model Letter 2 – Notice to attend disciplinary hearing where there are no previous live disciplinary warnings.

(Date)

Dear.....(name)

DISCIPLINARY HEARING

You are required to attend a formal disciplinary hearing. The details of the hearing are as follows:

Date: (minimum 5 days notice must be given)

Time:

Location:

The allegation to be considered is These allegations constitute serious/very serious misconduct.

Specifically that you:

1.
2.

The case will be heard by(name of hearing officer) and presented by(name of presenting manager), who will be presenting the following documentary evidence:

1.
2.

Please provide me with copies of any documentary evidence you wish to present at least 2 days prior to the hearing date.

If you wish to call any witnesses who are employees of the school, please contact(name) who will make the necessary arrangements for their release from duty.

You are entitled to be accompanied by a union representative or work colleague who is not otherwise involved. It is your responsibility to arrange your own representation. Should your chosen representative be unavailable on the date given for this hearing you would be entitled to propose a reasonable alternative date which may be up to 5 working dates after the given date.

If you do not attend the hearing at the time specified in this letter and fail to give an explanation, which the hearing officer considers adequate and satisfactory, the hearing may proceed in your absence. If, therefore, you are not able to attend the hearing you must notify me in writing, stating your reasons and giving as much notice as possible.

If you are unable to attend the hearing you are strongly advised to arrange for a representative to attend on your behalf and/or provide a written submission for consideration.

Yours sincerely,

(Hearing Officer)

Enclosures: Copy of the Disciplinary Procedure.

Copy of any documentary evidence

Copy of witness statements

Model Letter 3 – Notice to attend disciplinary hearing where there are previous live verbal or written warnings (not final written warning).

(Date)

Dear (name)

DISCIPLINARY HEARING

You are required to attend a formal disciplinary hearing. The details of the hearing are as follows:

Date: (minimum 5 days notice must be given)

Time:

Location:

The allegation to be considered is that, following the verbal warning given to you on (date) and the written warning given to you on (date) for (reasons), your conduct has continued to be unsatisfactory.

Specifically that you:

1.
2.

These allegations constitute serious/very serious misconduct.

The case will be heard by (name of hearing officer) and presented by (name of presenting manager), who will be presenting the following documentary evidence:

1.
2.

Please provide me with copies of any documentary evidence you wish to present at least 2 days prior to the hearing date.

If you wish to call any witnesses who are employees of the school, please contact (name) who will make the necessary arrangements for their release from duty.

You are entitled to be accompanied by a union representative or work colleague who is not otherwise involved. It is your responsibility to arrange your own representation. Should your chosen representative be unavailable on the date given for this hearing you would be entitled to propose a reasonable alternative date which may be up to 5 working dates after the given date.

If you do not attend the hearing at the time specified in this letter and fail to give an explanation, which the hearing officer considers adequate and satisfactory, the hearing may proceed in your absence. If, therefore, you are not able to attend the hearing you must notify me in writing, stating your reasons and giving as much notice as possible.

If you are unable to attend the hearing you are strongly advised to arrange for a representative to attend on your behalf and/or provide a written submission for consideration.

Yours sincerely,

(Hearing Officer)

Enclosures: Copy of the Disciplinary Procedure.

Copy of any documentary evidence including previous warning letter/s

Copy of witness statements

Model Letter 4 – Notice to attend a disciplinary hearing where there is a previous live final written warning.

(Date)

Dear (name)

DISCIPLINARY HEARING

You are required to attend a formal disciplinary hearing. The details of the hearing are as follows:

Date: (minimum 5 days notice must be given)

Time:

Location:

The allegation to be considered is that, following the verbal warning given to you on (date), the written warning given to you on (date) and the final written warning given to you on (date) for (reasons), your conduct has continued to be unsatisfactory.

Specifically that you:

1.
2.

These allegations constitute serious/very serious misconduct and at the conclusion of the hearing a decision will be made regarding your continued employment with the School/The Royal Borough.

The case will be heard by (name of hearing officer) and presented by (name of presenting manager), who will be presenting the following documentary evidence:

1.
2.

Please provide me with copies of any documentary evidence you wish to present at least 2 days prior to the hearing date.

If you wish to call any witnesses who are employees of the school, please contact (name) who will make the necessary arrangements for their release from duty.

You are entitled to be accompanied by a union representative or work colleague who is not otherwise involved. It is your responsibility to arrange your own representation. Should your chosen representative be unavailable on the date given for this hearing you would be entitled to propose a reasonable alternative date which may be up to 5 working dates after the given date.

If you do not attend the hearing at the time specified in this letter and fail to give an explanation, which the hearing officer considers adequate and satisfactory, the hearing may proceed in your absence. If, therefore, you are not able to attend the hearing you must notify me in writing, stating your reasons and giving as much notice as possible.

If you are unable to attend the hearing you are strongly advised to arrange for a representative to attend on your behalf and/or provide a written submission for consideration.

Yours sincerely,

(Hearing Officer)

Enclosures: Copy of the Disciplinary Procedure.

Copy of any documentary evidence including previous warning letter/s

Copy of witness statements

Model Letter 5 – Notice to attend a disciplinary hearing following an alleged gross-misconduct offence.

(Date)

Dear (name)

DISCIPLINARY HEARING

I refer to my letter to you dated-----which confirmed your suspension from duty following an incident on (date/time).

The investigation into this incident is now complete and I can confirm that you are required to attend a formal disciplinary hearing.

The allegation to be considered is These allegations constitute gross-misconduct.

Specifically that you:

1.
2.

The details of the hearing are as follows:

Date: (minimum 5 days notice must be given)

Time:

Location:

At the conclusion of the hearing a decision will be made regarding your continued employment with the School/The Royal Borough.

The case will be heard by (name of hearing officer) and presented by (name of presenting manager), who will be presenting the following documentary evidence:

1.
2.

Please provide me with copies of any documentary evidence you wish to present at least 2 days prior to the hearing date.

If you wish to call any witnesses who are employees of the school, please contact (name) who will make the necessary arrangements for their release from duty.

You are entitled to be accompanied by a union representative or work colleague who is not otherwise involved. It is your responsibility to arrange your own representation. Should your chosen representative be unavailable on the date given for this hearing you would be entitled to propose a reasonable alternative date which may be up to 5 working dates after the given date.

If you do not attend the hearing at the time specified in this letter and fail to give an explanation, which the hearing officer considers adequate and satisfactory, the hearing may proceed in your absence. If, therefore, you are not able to attend the hearing you must notify me in writing, stating your reasons and giving as much notice as possible.

If you are unable to attend the hearing you are strongly advised to arrange for a representative to attend on your behalf and/or provide a written submission for consideration.

Your suspension from duty on full pay will continue until the disciplinary hearing is concluded.

You have already been sent a copy of the disciplinary procedure, should you wish to have another copy please contact me and I will organise for one to be sent to you.

Yours sincerely,

(Hearing Officer)

Enclosures: Copy of any documentary evidence

Copy of witness statements

Model Letter 6 – Confirmation of the outcome of the disciplinary hearing

– no action taken.

(Date)

Dear (name)

DISCIPLINARY HEARING

I refer to your attendance at the formal disciplinary hearing which took place on(date). I conducted the hearing in the presence of (other panel members). You were accompanied at the hearing by (name and in what capacity, e.g. union representative).

The purpose of the hearing was to consider the allegations set out in the letter to you dated

Specifically that you:

1.
2.

At the hearing you stated

I/The Panel considered (details of findings).

I confirm the decision which was conveyed to you at the conclusion of the hearing that, having considered the evidence submitted, I find the allegation that you, not proven.

Therefore there is no disciplinary action arising from the hearing and all information relating to the hearing has been removed from your personal file and destroyed.

Yours sincerely,

(Hearing Officer)

Model Letter 7 – Confirmation of the outcome of the disciplinary hearing – written warning.

(Date)

Dear (name)

WRITTEN WARNING

I refer to your attendance at the formal disciplinary hearing which took place on (date). I conducted the hearing in the presence of (other panel members). You were accompanied at the hearing by (name and in what capacity, e.g. union representative).

The purpose of the hearing was to consider the allegations set out in the letter to you dated

Specifically that you:

1.
2.

At the hearing you stated

I/ The Panel considered (details of findings), and that this behaviour constituted serious misconduct.

(Insert this paragraph as applicable) You were reminded that on (date), you had previously been given a verbal warning for..... (reasons).)

I now confirm the decision which was conveyed to you at the conclusion of the hearing that you be given a written warning and that if there is any repetition of this, or similar misconduct; further disciplinary action may be taken.

This warning will be placed in your personal file, but will be disregarded for disciplinary purposes after a period of 12 months' satisfactory conduct.

You have the right of appeal against this written warning. If you wish to exercise this right you must do so within 10 days of receipt of this letter. Any appeal should be made in writing, stating in full the specific grounds of appeal and sent to the Clerk of the Governing Body ofSchool.

Yours sincerely,

(Hearing

Officer)

**Model Letter 8 – Confirmation of the outcome of the disciplinary hearing –
final written warning.**

(Date)

Dear (name)

FINAL WRITTEN WARNING

I refer to your attendance at the formal disciplinary hearing which took place on (date). I conducted the hearing in the presence of (other panel members). You were accompanied at the hearing by (name and in what capacity, e.g. union representative name).

The purpose of the hearing was to consider the allegations set out in the letter to you dated

Specifically that you:

1.
2.

At the hearing you stated

I/ The Panel considered (details of findings), and that this behaviour constituted very serious misconduct.

(Insert this paragraph as applicable) You were reminded that, you had previously been given a verbal warning on (date), and a written warning on (date) for (reasons).

I now confirm the decision which was conveyed to you at the conclusion of the hearing that you be given a final written warning and that if there is any repetition of this or similar misconduct, further disciplinary action may be taken which may result in your dismissal from the School/The Royal Borough's service.

This warning will be placed in your personal file, but will be disregarded for disciplinary purposes after a period of 24 months' satisfactory conduct.

You have the right of appeal against this final written warning. If you wish to exercise this right you must do so within 10 days of receipt of this letter. Any appeal should be made in writing, stating in full the specific grounds of appeal and sent to the Clerk of the Governing Body School.

Yours sincerely,

(Hearing

Officer)

Model Letter 9 – Confirmation of the outcome of the disciplinary hearing – dismissal with notice.

(Date)

Dear (name)

DISCIPLINARY HEARING

I refer to your attendance at the formal disciplinary hearing which took place on (date). I conducted the hearing in the presence of (other panel members) and (name), representative of the Director of Children’s Services. You were accompanied at the hearing by (name and in what capacity, e.g. union representative).

The purpose of the hearing was to consider the allegations set out in the letter to you dated

Specifically that you:

1.
2.

At the hearing you stated

I/ The Panel considered (details of findings), and that this behaviour constituted very serious misconduct.

(Insert this paragraph as applicable) You were reminded that, you had previously been given a verbal warning on(date), a written warning on (date), and a final written warning on (date) for (reasons).

I now confirm the decision, by agreement of the Director of Children’s Services, which was conveyed to you at the conclusion of the hearing, that you are dismissed from The Royal Borough’s services, on (insert date), the cause of which is your continued unprofessional conduct and that your last day of service with the School and The Royal Borough will be recorded as

[OR for VA Schools:

I now confirm the decision which was conveyed to you at the conclusion of the hearing that you are dismissed from the School, and that your last day of service will be recorded as.]

It is a requirement for the Director of Children’s Services/Governors to notify the Teaching Agency of the dismissal on the grounds of unacceptable professional conduct (teachers only). I now confirm that your case is being put forward to the Teaching Agency for their consideration as to whether any direction should be made in relation to you continuing to work with children in the future.

For employees in tied accommodation, this letter should include the following paragraph:

‘You currently occupy School/Royal Borough accommodation for the better performance of your duties. You will be required to vacate the property on or before (insert date).’

The date by which the employee is required to vacate the property would normally coincide with the last day of service. However, in the case of dismissal with a short notice period, or summary dismissals, a reasonable time should be given to vacate the property taking into account the terms of the tenancy.

You have the right of appeal against this decision. If you wish to exercise this right you must do so within 10 days of receipt of this letter. Any appeal should be made in writing, stating in full the specific grounds of appeal and sent to the Clerk of the Governing Body School.

Yours sincerely,

(Hearing Officer)

cc Director of Children’s Services

Model Letter 10 – Confirmation of the outcome of the disciplinary hearing – summary dismissal for gross-misconduct (i.e. without notice).

(Date)

Dear (name)

DISCIPLINARY HEARING.

I refer to your attendance at the formal disciplinary hearing, which took place on (date). I conducted the hearing in the presence of (name), representative of the Director of Children’s Services. You were accompanied at the hearing by (name and in what capacity, e.g. union representative).

The purpose of the hearing was to consider the allegations set out in the letter to you dated

Specifically that you:

1.
2.

At the hearing you stated

I/ The Panel considered ... (details of findings), and that this behaviour constituted gross-misconduct.

I now confirm the decision, by agreement of the Director of Children’s Services, which was conveyed to you at the conclusion of the hearing, that you are dismissed from The Royal Borough’s services, on (insert date), the cause of which is your unprofessional conduct and that your last day of service with the School and The Royal Borough will be recorded as

[OR for VA Schools:

I now confirm the decision which was conveyed to you at the conclusion of the hearing that you are dismissed from the School, and that your last day of service will be recorded as.]

It is a requirement for the Director of Children's Services/Governors to notify the Teaching Agency of the dismissal on the grounds of unacceptable professional conduct (teachers only). I now confirm that your case is being put forward to the Teaching Agency for their consideration as to whether any direction should be made in relation to you continuing to work with children in the future.

OR for child protection cases (*all staff)

*The Safeguarding Vulnerable Groups Act (2006) states that Local Authorities have an obligation to report all cases to the Independent Safeguarding Authority (ISA) where they cease to use a person's services because he or she is considered unsuitable to work with children, as a result of misconduct that raises an issue concerning the safety and welfare of children. I now confirm that your case is being put forward to the ISA for their consideration as to whether any direction should be made in relation to you continuing to work with children in the future.

For employees in tied accommodation, this letter should include the following paragraph:

'You currently occupy School/Royal Borough accommodation for the better performance of your duties. You will be required to vacate the property on or before (insert date).'

The date by which the employee is required to vacate the property would normally coincide with the last day of service. However, in the case of dismissal with a short notice period, or summary dismissals, a reasonable time should be given to vacate the property taking into account the terms of the tenancy.

You have the right of appeal against this decision. If you wish to exercise this right you must do so within 10 days of receipt of this letter. Any appeal should

be made in writing, stating in full the specific grounds of appeal and sent to the Clerk of the Governing Body school.

Yours sincerely,

(Hearing Officer)

cc Director of Children's Services

Model Letter 11 - Notice to attend an appeal hearing

DISCIPLINARY APPEAL HEARING

I am writing to you concerning the appeal you have made against the decision to (issue you with a written warning / final written warning or dismiss you from the School/The Royal Borough's services on(date).

You are required to attend an appeal hearing. The details of the hearing are as follows:

Date: (minimum 5 days notice must be given)

Time:

Location:

At the hearing the grounds for your appeal will be considered. These are:

1.
2.

Your appeal will be heard by (name of appeal hearing officer). Presenting management's response will be (name of presenting manager), who will be presenting the following documentary evidence:

1.
2.

Please provide me with copies of any documentary evidence you wish to present at least 2 days prior to the hearing date.

It is not intended that the appeal hearing will constitute a re-hearing of the case, therefore, it would be inappropriate to accept any new evidence in relation to the original charge of misconduct/performance, in the form of documents or witnesses, unless either party did not have, nor could reasonably be expected to have, been aware of such evidence at the original disciplinary hearing.

If you wish to call any witnesses who are employees of the school, please contact (name) who will make the necessary arrangements for their release from duty.

You are entitled to be accompanied by a union representative or work colleague who is not otherwise involved. It is your responsibility to arrange your own representation. Should your chosen representative be unavailable on the date given for this hearing you would be entitled to propose a reasonable alternative date which may be up to 5 working days after the given date.

If you do not attend the hearing at the time specified in this letter and fail to give an explanation, which the hearing officer considers adequate and satisfactory, the hearing may proceed in your absence. If, therefore, you are not able to attend the hearing you must notify me in writing, stating your reasons and giving as much notice as possible.

You have already been sent a copy of the disciplinary procedure, which includes the procedure for appeals, should you wish to have another copy please contact me and I will organise for one to be sent to you.

Yours sincerely,

(Chair of the Appeal Panel)

Enclosures: Copy of appeal report

Model Letter 12 – Confirmation of the outcome of an appeal hearing against written warnings.

(Date)

Dear(name)

DISCIPLINARY APPEAL HEARING

I am writing to confirm the outcome of the appeal hearing which took place on(date). I conducted the hearing in the presence of(other panel members). You were accompanied at the hearing by (name and in what capacity, e.g. union representative).

The purpose of the appeal hearing was to consider the disciplinary action issued to you on(date).

Your grounds for appeal as set out in the letter to you dated(date). Specifically that:

1.
2.

In response to your grounds for appeal(name of presenting manager) stated that.....

After careful consideration of all the evidence put forward I confirm the decision to (insert one of the following statements as appropriate)

- uphold the decision to (issue you with a written warning / final written warning) on(date)
- reduce the decision to issue you with a (written warning / final written warning) on(date) to(level of warning) effective from.....(date). This warning will be placed in your personal file, but will be disregarded for disciplinary purposes after a period ofmonths' satisfactory conduct.
- overturn the decision to issue you with a (written warning / final written warning) on(date). Therefore, the disciplinary action has been removed from your personal record.*

*Note all incidents of child protection, the following paragraph should be inserted instead "Since this is an allegation of a child protection nature, the record will remain on your personal file."

The appeal panel's decision is final.

Yours sincerely,

(Chair of the Appeal Panel)

Model Letter 13 – Confirmation of the outcome of an appeal hearing against dismissal.

(Date)

Dear (name)

DISMISSAL APPEAL HEARING

I am writing to confirm the outcome of the appeal hearing which took place on(date). I conducted the hearing in the presence of(other panel members) and(name), representative of the Director of Children's Services. You were accompanied at the hearing by(name and in what capacity, e.g. union representative).

The purpose of the appeal hearing was to consider the disciplinary action issued to you on(date)

Your grounds for appeal as set out in the letter to you dated(date). Specifically that:

1.
2.

In response to your grounds for appeal(name of presenting manager) stated that.....

After careful consideration of all the evidence put forward I confirm the decision to (insert one of the following statements as appropriate)

- uphold the decision to dismiss you from The Royal Borough's service on
- reduce the decision to dismiss you and issue you with a final written warning effective from This warning will be placed in your personal file, but will be disregarded for disciplinary purposes after a period of 24 months' satisfactory conduct. Your employment with The Royal Borough will be reinstated and you should return to work on Any outstanding monies due will be paid to you in the normal way.
- overturn the decision to issue you with a (written warning / final written warning) on(date). The disciplinary action, with the exception of allegations of a child protection nature, has been removed from your personal record.*

The appeal panel's decision is final.

Yours sincerely,

(Chair of the Appeal Panel)