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The Willows Way

Staff Discipline, Conduct,
Capability and Grievance
Procedures
Policy

SCHOOL - DISCIPLINE POLICY AND PROCEDURE

PREAMBLE

This is a model Discipline Policy and Procedure recommended by the Council for adoption by Governing Bodies. It is based on Council Policies and Procedures and adapted, as appropriate, for schools.

PURPOSE

1. The maintenance of good order and discipline amongst the workforce is essential if schools are to deliver quality services.
2. The school's Discipline Policy and Procedure is, therefore, intended to help and encourage all its employees to achieve and maintain acceptable standards of conduct, attendance and job performance.
3. To that end, therefore, it is essential that employees observe and abide by the school's rules, regulations and standards. The Discipline Policy and Procedure sets out the actions that will be taken when those rules, regulations and standards are breached, or in the case of non teaching staff, where job performance does not reach an acceptable level.

SCOPE

- 4.a This Policy applies to all staff appointed by the school and aims to ensure that there is a fair, systematic and consistent approach to the enforcement of the school's rules, regulations and standards irrespective of grade or status. It does not apply to Direct Services Unit staff i.e. catering staff.
- 4.b In the case of staff working wholly or primarily within schools, but appointed to centrally established posts (in Pupil Support/EMAS etc.), **Council** Policies and Procedures will apply. For practical purposes of implementation of specific policies, however, (e.g. in reporting of absence) it will be necessary for the appropriate line manager within the school to be properly involved with the process. The specific arrangements which might apply in such cases **must** be clearly identified and agreed between the Schools Service and the school. The Schools Service will be responsible for initiating such discussions and ensuring that any such arrangements are clearly identified, agreed and documented.
- 4.c N.B. Where a * is indicated, reference is made to Headteachers. **Where reference is made to an employee's capability i.e. competence in the job, please note that teaching staff are covered by a separate [Capability Policy and Procedure](#), and not by this Policy and Procedure.**

KEY PRINCIPLES

- 5.a The fundamental aim of the Policy and Procedure is, wherever possible, to modify and correct behaviour, not to punish.
- 5.b The Governing Body is responsible for making decisions relating to the Discipline Policy and Procedure. The Governing Body may delegate certain stages of decision-making on disciplinary issues to the Headteacher, but must delegate decisions on dismissing staff to The Staff Disciplinary and Dismissal Committee containing a minimum of 3 Governors. Where the matter relates to a child protection issue that occurred in the school that could amount to gross

misconduct the Governing Body must appoint an independent non-governor member on the panel who has voting rights.

- 5.c The Governing Body will appoint a clerk to service the committees referred to in this Policy and Procedure.
- 5.d The role of the Council is to provide appropriate and timely advice, guidance and support to the Governing Body or, as appropriate, the Headteacher or Headteacher's nominated representative.
6. No employee will be dismissed for a first breach of discipline except where the breach constitutes gross misconduct and/or serious dereliction of duty. In such cases, the procedure should be invoked at stage 4.
7. No disciplinary action should be taken against an employee without an investigation to establish the facts. This investigation should be adequate, conform to the principles of natural justice and be carried out as quickly as possible. Every effort must be made to try and establish the facts in each case without undue delay. The decision whether or not to investigate an allegation is different from the decision whether or not to hold a disciplinary hearing, which should only be made when the investigation is complete. See the [school's Disciplinary Investigations Policy and Procedure](#) and [Procedure for Dealing with Police Involvement in Staff Disciplinary Cases](#).
8. Disciplinary offences must be dealt with at the time they occur. It is automatically unfair to "stockpile" them so as to deliberately impose a more serious disciplinary sanction on the employee concerned.
9. Prior to any disciplinary decision being taken, any mitigating factors/circumstances must be taken into account.
10. To ensure impartiality, disciplinary hearing responsibilities beyond the formal Verbal Warning Stage should not be carried out by persons who conducted the investigation into the alleged misconduct, or by any persons who have had any involvement in the circumstances giving rise to the alleged misconduct. The Governing Body and Headteacher or Headteacher's nominated representative must take great care not to discuss the merits of a disciplinary matter before it goes to a hearing or Staff Disciplinary and Dismissal Committee.

The Chair of Governors will not sit on the Staff Disciplinary and Dismissal Committee or Staff Disciplinary and Dismissal Appeals Committee to enable him/her to advise the Headteacher when considering cases involving staff other than the Headteacher, and to seek advice in cases involving the Headteacher.

With the exception of the formal Verbal Warning Stage, investigations will not normally be carried out by the Headteacher, to enable the Headteacher to be able to be subsequently involved in any informal action or appropriate formal disciplinary proceedings without prior involvement.

11. No disciplinary action should be taken against a Trade Union official without first notifying the appropriate local Branch Secretary. If the local Branch Secretary is the subject of potential disciplinary action then the full time Trade Union official must be notified. Advice must be sought and obtained from the Council's People and Organisational Development Services and Legal Services before a Trade Union official or Branch Secretary can be disciplined.
12. At all stages of the Procedure the employee will be advised in writing of the nature of the allegation(s) and given the opportunity to respond before a

decision is reached. However, there might be instances where full disclosure of information at an early stage may hamper the investigation or put witnesses at risk.

13. At all stages of the Procedure including the counselling phase, the employee will be given the opportunity of being represented by a maximum of 2 Trade Union Representatives or a colleague. This right to representation also applies to any employee required to attend investigatory hearings/interviews as a witness.
14. At all stages of the Procedure, any documents that either party intend to rely on in the course of the disciplinary hearing will be made available and circulated to all parties in advance of any hearing organised. At least 7 working days' notice must be given of the hearing.
15. The Procedure may be implemented at any stage depending upon the seriousness of the allegation(s) levelled against the employee.
16. If it is deemed necessary to suspend the employee in the course of a disciplinary enquiry, the suspension shall normally be based on full average earnings. The school reserves the right, however, to suspend the employee without pay and will only do so in exceptional circumstances in consultation with the Trade Unions. See the [school's Suspension Policy and Procedure](#)
17. No two disciplinary cases will ever be identical. Therefore, although consistency of approach is extremely important, each case must be considered on its merits.
18. Decision(s) will be communicated on the day of the hearing other than in exceptional circumstances. If the announcement of the decision(s) is delayed, the employee and his/her representative(s) must be informed and given reasons for the delay on the day of the hearing.
19. All employees have the right to appeal against any disciplinary action taken against them.
- 20.a The Headteacher and Governing Body must ensure that disciplinary issues are treated on a strictly confidential basis.
- 20.b The Headteacher/*Chair of Governors must also ensure that written records are kept of each stage of the Procedure, and checked for accuracy by all parties, and that employees are given copies of any meeting records. All such records will be regarded as confidential and retained in accordance with the provisions of the Data Protection Act 1998.
21. Warnings, issued in accordance with the Procedure, shall be time limited and will be disregarded for disciplinary purposes after a specified period of satisfactory conduct and/or service has been achieved. Written warnings will be dated to run from the date of the hearing. The time limits for each stage are detailed in Appendix B. It should be noted that periods of school closure will be discounted for the purposes of calculating the time limits.
22. Written warnings and/or confirmation of notices of dismissal/relegation will be issued within 5 working days after the decision has been made.
23. Not applicable

24. The Governing Body must ensure that the existence of the Discipline Policy and Procedure and its implications are drawn to the attention of all employees, and that those who have a responsibility to maintain discipline in the workforce are provided with appropriate training as required.
25. This Policy and Procedure will be reviewed in the light of operational experience.

PROCEDURE

Counselling Phase

26. Normally, before taking any formal disciplinary action, the Headteacher or Headteacher's nominated representative/*Chair of Governors should make every effort to resolve the difficulties by counselling the employee concerned. Counselling, coaching, and advice and support can play an important and effective role in most cases of poor performance and some instances of minor misconduct. Only if the counselling and supporting approach fails to bring about the desired improvement in job performance, or a change to behaviour, will the formal disciplinary procedure be implemented. The Headteacher/*Chair of Governors must ensure that a brief note of any counselling sessions/meetings organised is retained on the employee's personal file and, where possible, the note should be agreed and signed by both parties. The note should be a record of the key points of the discussion and clear actions for both parties. Please note that as per paragraph 13 of this policy the employee will be given the opportunity of being represented by a maximum of 2 Trade Union Representatives or a colleague at the counselling meeting.

This stage would not initially be applicable where there are child protection issues as they must be referred to Intake and Assessment for a strategy meeting to be convened. Following the conclusion of the strategy meeting process then it may be appropriate to use this stage of the procedure.

Stage 1 – Formal Verbal Warning

27. A fair and adequate investigation should be carried out at every stage of the Procedure. For the first minor disciplinary breach (or where previous counselling and/or informal reprimands have proved to be ineffective), the Headteacher or Headteacher's nominated representative/*minimum of 2 Governors nominated by the Governing Body, will attend a formal hearing with the employee concerned - see the standard '[Instruction to Attend Disciplinary Hearing Letter](#)'. If the explanation given by the employee concerned is unacceptable, the person(s) conducting the hearing is empowered to issue a formal verbal warning. See the standard '[Disciplinary Decisions Pro-Forma](#)' to assist in the decision making process. The person(s) issuing the warning must make sure that the employee to whom the warning is issued understands:
 - Why the warning has been issued
 - That it is a formal verbal warning issued in accordance with Stage 1 of the school's Discipline Policy and Procedure
 - That if within the 3 month time limit applicable for a formal verbal warning, he/she commits the same disciplinary offence; or commits a different offence or, if the warning has been issued because of poor job performance and there is not a marked improvement in his/her standard of work, then further disciplinary action will be contemplated
 - That he/she has the right to appeal against the warning

- That specific, measurable, achievable, realistic and time related targets for improvement are established
- That a record of the warning will be kept on the employee's personal file but that it will be disregarded for any future disciplinary purposes after a period of 3 months subject to satisfactory conduct and/or performance during the period in which the warning is in force

28. Once the formal verbal warning has been given, the person(s) issuing the warning must ensure that a record of the Formal Verbal Warning is made on the appropriate pro-forma (see the standard '[Confirmation of Formal Verbal Warning - Note for Personal File Pro-Forma](#)'), agreed and signed by both parties, wherever possible, within 5 working days. They will also ensure that it is maintained as a valid warning on the employee's personal file for a period of 3 months. A copy of the Formal Verbal Warning should be forwarded in confidence to the Chief Schools and Lifelong Learning Officer.

N.B. Verbal warnings must not be communicated in writing to the employee.

There is a standard 'No Action Letter' to be used when no action is needed following an investigation or disciplinary hearing - see the standard '[No Action](#)

Stage 2 – Written Warning

29. A fair and adequate investigation should be carried out at every stage of the Procedure. If, during the validity of the formal verbal warning, the employee commits the same or a different disciplinary offence or his/her job performance has shown insufficient improvement, Stage 2 of the Procedure may be invoked.
30. At Stage 2, a formal hearing will be conducted by a Headteacher /*minimum of 3 Governors nominated by the Governing Body, and the decision must be communicated to the employee in writing. (For child protection allegations that could amount to gross misconduct the matter would be heard by a panel of at least 3 Governors and this would include an independent non-governor member). If the allegations that prompted the Stage 2 hearing are proved to the satisfaction of the Headteacher, a Written Warning will be issued that will be valid for 6 months. It must be issued within 5 working days of the disciplinary decision being made. See the standard '[Disciplinary Decisions Pro-Forma](#)' to assist in the decision making process. The reasons why the warning has been issued and appeal rights etc. must be included in the letter. See the standard '[Written Warning Letter](#)'. See [Appendix C](#) for full details of who will hear appeals. The Written Warning will be disregarded for future disciplinary purposes after 6 months, subject to satisfactory conduct and/or performance. The Headteacher must ensure that a copy of the letter setting out the Written Warning is maintained as a valid warning on the employee's personal file for a period of 6 months. They should also ensure that a copy of the Written Warning Letter is forwarded in confidence to the Chief Schools and Lifelong Learning Officer.

Stage 3– Final Written Warning

31. A fair and adequate investigation should be carried out at every stage of the Procedure. If, during the validity of the written warning, the employee commits the same or a different disciplinary offence, or his/her job performance has shown insufficient improvement, Stage 3 of the Procedure may be invoked.

32. At Stage 3, a formal interview will be conducted by a Staff Disciplinary and Dismissal Committee made up of the Headteacher and 2 Governors nominated by the Governing Body/*minimum of 3 Governors nominated by the Governing Body, and the decision must be communicated to the employee in writing. (For child protection allegations that could amount to gross misconduct the matter would be heard by a panel of at least 3 Governors and this would include an independent non-governor member). If the allegation(s) that prompted the Stage 3 hearing are proved to the satisfaction of the Staff Disciplinary and Dismissal Committee, a Final Written Warning will be issued that will be valid for 12 months. It must be issued within 5 working days of the disciplinary decision being made. See the standard '[Disciplinary Decisions Pro-Forma](#)' to assist in the decision making process. As in the case of the First Written Warning, the reasons why the warning has been issued and appeal rights etc. must be included in the letter. See the standard '[Final Written Warning Letter](#)'. See [Appendix C](#) for full details of who will sit on the Staff Disciplinary and Dismissal Committee, and hears appeals. The Written Warning will be disregarded for future disciplinary purposes after 12 months, subject to satisfactory conduct and/or performance. The Staff Disciplinary and Dismissal Committee must ensure that a copy of the letter setting out the Final Written Warning is maintained as a valid warning on the employee's personal file for a period of 12 months. They should also ensure that a copy of the Final Written Warning Letter is forwarded in confidence to the Chief Schools and Lifelong Learning Officer.

Stage 4– Dismissal or Relegation

33. A fair and adequate investigation should be carried out at every stage of the Procedure. If, during the validity of the Final Written Warning, the employee commits the same or a different disciplinary offence or his/her job performance has shown insufficient improvement, Stage 4 of the Procedure may be invoked.
34. At Stage 4, a formal hearing will be conducted by a Staff Disciplinary and Dismissal Committee made up of a minimum of 3 members of the Governing Body nominated by the Governing Body. (For child protection allegations that could amount to gross misconduct the matter would be heard by a panel of at least 3 Governors and this would include an independent non-governor member). The Headteacher (except where he/she is concerned) and the Chief Schools and Lifelong Learning Officer Officer (or Chief Schools and Lifelong Learning Officer's nominated representative, usually from People and Organisational Development) are entitled to attend the proceedings for the purposes of giving advice, and the Committee is under a duty to consider any advice they give. The Committee also has a duty to have regard to the representations made by or on behalf of the employee, before making a decision to dismiss. The Headteacher and the Chief Schools and Lifelong Learning Officer (or nominated representative) will withdraw when the Governors make their final deliberations and a decision on what action to take. If the allegations that prompted the hearing are proved to the satisfaction of the Staff Disciplinary and Dismissal Committee, the decision may be either dismissal (with or without notice) or, in exceptional circumstances, relegation. See the standard '[Disciplinary Decisions Pro-Forma](#)' to assist in the decision making process. If consideration is being given to dismissing without notice, seeking the advice of the People and Organisational Development of the Council is strongly advised.
35. As in the case of Stages 2 & 3, the decision must be communicated to the employee in writing and the employee's right to appeal confirmed. See

[Appendix C](#) for full details of who will sit on the Staff Disciplinary and Dismissal Committee and hears appeals. In the case of community, voluntary controlled and community special schools the Staff Disciplinary and Dismissal Committee will forward, in confidence, a copy of this correspondence to the Chief Schools and Lifelong Learning Officer who will, subject to any appeal under the school's Disciplinary Appeals Policy and Procedure, make the necessary arrangements, in consultation with the People and Organisational Development Services of the Council, to terminate employment.

The letter of termination will confirm the decision taken by the Staff Disciplinary and Dismissal Committee, notification of dismissal, with notice as appropriate to the circumstances, and the termination date. The Chief Schools and Lifelong Learning Officer will forward in confidence a copy of the termination letter to the Headteacher/*Chair of Governors.

In the case of foundation, voluntary aided and foundation special schools, the Staff Disciplinary Committee should liaise with the Council's Human Resources Services with regard to the termination arrangements.

N.B. See the standard letters dealing with [Dismissal on Cumulative Grounds](#), [Gross Misconduct](#) and [Long Term Absence from Work](#).

Appeal Rights

36. Employees subject to any form of disciplinary action have the right to appeal against the decision and the authority levels empowered to hear those appeals are set out in [Appendix C](#).
37. All appeals must be made in writing and must be submitted to the Clerk to the Governors within 5 working days of the decision being communicated either verbally or in writing, whichever is received first.
38. The appellant must clearly indicate the nature and grounds of his/her appeal.
39. The Clerk to the Governors must arrange an appeal hearing where possible within 10 working days. See the standard '[Acknowledgement and Notification of Appeal Hearing Letter](#)'. If an appeal hearing cannot be organised within 10 working days, the appellant and the representative(s), as appropriate, must be advised in writing of the delay together with the reasons for it and an alternative date offered. See the school's [Disciplinary Appeals Policy and Procedure](#).
40. Schools are advised to seek the advice of the People and Organisational Development Services of the Council prior to any decision to dismiss or relegate an employee under the school's Discipline Policy and Procedure, and to invite a representative of the People and Organisational Development Services of the Council to attend in person, or be represented at any Stage 4 disciplinary hearings.

SUPPORTING DOCUMENTATION

- Appendix A – [The school's Disciplinary Rules](#)
- Appendix B – [Normal Time Limits for Warnings issued](#)
- Appendix C – [Authority Levels within the Discipline Policy and Procedure](#)

THE SCHOOL'S DISCIPLINARY RULES

These are necessary for the efficient and safe performance of work and for the maintenance of good order and relations between the school and its employees. An employee who breaches a disciplinary rule will render himself/herself liable to disciplinary action under the school's Discipline Policy and Procedure. The list of disciplinary examples set out below is intended to be neither exclusive nor exhaustive. It has to be recognised that there may well be other acts of misconduct not listed below that would give rise to disciplinary action. Subject to this proviso, breaches of the school's disciplinary rules that could lead to disciplinary action are as follows:

Possible "Gross Misconduct" Breaches

Gross misconduct means an act, or series of actions that so fundamentally repudiates the contract of employment that the Governing Body would be justified in no longer tolerating the continued employment of the member of staff e.g.;

- Inappropriate behaviour or conduct towards pupils whether during the course of employment or otherwise
- Serious dereliction of duty and/or inappropriate conduct during school trips
- Serious professional incompetence in carrying out duties
- Conduct of a teacher which is incompatible with the ethos of the school
- Theft or misappropriation of, or falsely claiming entitlement to school goods, services, property, assets or funds
- Theft or misappropriation of goods, property, assets or funds of school's 'clients' e.g. pupils, parents, service providers
- Loss, damage to, or misuse of the school's equipment and/or property assets or funds through wilfulness or negligence
- Unauthorised and/or fraudulent use of the school's computers, networks, systems, software and E-Mail message facilities for personal use/private gain and includes the transmission or solicited receipt of pornographic or racist images/text /material to others inside and outside the school
- Wilful serious breaches of Health and Safety legislation and/or procedures
- Improper or disorderly conduct at, during or when arriving for work e.g. being under the influence of alcohol or illegal drugs
- While purporting to be absent from duty because of illness, working or indulging in activities that are likely to be inconsistent with the stated reason for absence and/or which is unlikely to be conducive to recovery
- Deliberate falsification of time sheets, bonus sheets, overtime, car mileage and/or travelling and subsistence claim forms etc. with the intention of defrauding the school or the Council

- Unauthorised possession (or use of) of school property and/or receiving money or other considerations for the use of that property
- Acts of physical violence against work colleagues, school governors, elected members or members of the general public
- Inciting others to commit violent acts against work colleagues, school governors, elected members or members of the general public
- Bullying, threatening and/or intimidating work colleagues, school governors, elected members or members of the general public
- Harassment of another work colleague, elected member or a member of the public on the grounds of racial or ethnic origin, gender, caring responsibilities, disability (and sickness relating to such disability), age, marital status, sexuality, religious beliefs, membership of a trade union, employment status, or spent convictions other than for jobs excluded by law
- Carrying out an act of gross misconduct, criminal misconduct or being convicted of a criminal offence outside the work place which is liable to adversely affect the performance of the employment contract and/or which fundamentally undermines the essential relationship of trust that has to exist between the school and the employee
- Persistent refusal to carry out or comply with a reasonable order, instruction or contractual requirement
- Misuse of an employee's office for personal gain
- Supplying false and/or inaccurate information in a job application form in order to either gain employment with the school or to secure promotion within the school, and will include failure to declare previous criminal convictions (whether "spent" or otherwise) when there is a requirement to do so
- Wilfully divulging commercially sensitive and/or confidential information or data belonging to the school, to third parties without the express consent of the school
- Aiding and abetting another colleague or colleagues to commit an act or acts of gross misconduct
- Failure on the part of an employee to report to an appropriate person an incident of abuse, or suspected abuse, of a child or vulnerable adult
- Failure to adhere to the restrictions imposed during employee suspensions
- Making deliberately false and/or malicious allegations about work colleagues, school governors or elected members

Possible "Misconduct" Breaches

Such breaches of discipline will not normally result in dismissal for a first offence, but may result in dismissal if repeated

- Refusal to carry out or comply with a reasonable order, instruction or contractual requirement
- Offensive behaviour, insubordination or using abusive language

- Refusal to attend an investigatory interview and/or obstructing the course of a disciplinary investigation
- Minor breaches of school Policies, Procedures, Regulations and/or Work Instructions
- Poor timekeeping, poor attendance or unauthorised absences
- Acts of minor insubordination
- Neglect, dereliction of duty or unsatisfactory standards in performance of duties

TIME LIMITS FOR WARNINGS ISSUED IN ACCORDANCE WITH THE SCHOOL'S DISCIPLINE POLICY AND PROCEDURE
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STAGE ONE/VERBAL WARNING -	3 Calendar MonthsΔ
STAGE TWO/WRITTEN WARNING -	6 Calendar Months Δ
STAGE THREE/FINAL WRITTEN WARNING -	12 Calendar Months Δ

Δ N.B. Periods of school closure will be discounted for the purpose of calculating the time limits

AUTHORITY LEVELS AND APPEAL ARRANGEMENTS WITHIN THE SCHOOL'S DISCIPLINE POLICY AND PROCEDURE

<u>Decision</u>	Empowered to make decision *	Appeal heard by *
Stage One/Formal Verbal Warning Validity; 3 calendar months (N.B. periods of school closure are discounted)	Headteacher or Headteacher's nominated representative	Headteacher or Governor(s) nominated by the Governing Body and no less than the number of persons making the decision on the warning but excluding any persons involved in issuing the warning
Stage Two/Written Warning Validity; 6 calendar months (N.B. periods of school closure are discounted)	Headteacher	Governor(s) nominated by the Governing Body
Stage Three/Final Written Warning Validity; 12 calendar months (N.B. periods of school closure are discounted)	Staff Disciplinary and Dismissal Committee made up of 3 governors nominated by the Governing Body	Staff Disciplinary and Dismissal Appeals Committee made up of a minimum of 3 members of the Governing Body nominated by the Governing Body and no less than the number of Governors attending the Staff Disciplinary and Dismissal Committee but excluding any who did attend
Stage Four/Dismissal/Relegation	Staff Disciplinary and Dismissal Committee made up of a minimum of 3 members of the Governing Body nominated by the Governing Body. The Headteacher and the Chief Schools and Lifelong Learning Officer (or Chief Schools and Lifelong Learning Officer's nominated representative) are entitled to attend the proceedings, for the purposes of giving advice and will withdraw when the Governors are making their final deliberations and a decision on whether or not to take action	Staff Disciplinary and Dismissal Appeals Committee made up of a minimum of 3 members of the Governing Body nominated by the Governing Body and no less than the number of Governors attending the Staff Disciplinary and Dismissal Committee but excluding any who did attend. The Headteacher and the Chief Schools and Lifelong Learning Officer (or Chief Schools and Lifelong Learning Officer's nominated representative) are entitled to attend the proceedings, for the purposes of giving advice and will withdraw when the Governors are making their final deliberations and a decision on whether or not to take action

* For child protection issues it will be the Staff Disciplinary and Dismissal Committee plus an independent non-governor member with a minimum of 3 on the committee who will be empowered to take decision. The appeal will be heard by the Staff Disciplinary and Dismissal Appeals Committee plus a different independent non-governor member with a minimum of 3 on the committee and no less than the number attending the Staff Disciplinary and Dismissal Committee. An independent non-governor may be on the committee for cases not involving child protection issues but in these cases they would not have voting rights.

In the case of disciplinary decisions taken against a Headteacher the authority levels and appeal arrangements are as follows *:

<p>Stage One/Formal Verbal Warning Validity; 3 calendar months (N.B. periods of school closure are discounted)</p>	<p>Minimum of 2 Governors nominated by the Governing Body</p>	<p>Minimum of 2 Governors nominated by the Governing Body, and no less than the number of Governors involved in issuing the warning but excluding any involved in issuing the warning</p>
<p>Stage Two/Written Warning Validity; 6 calendar months (N.B. periods of school closure are discounted)</p>	<p>Staff Disciplinary and Dismissal Committee made up of a minimum of 3 Governors nominated by the Governing Body</p>	<p>Staff Disciplinary and Dismissal Appeals committee made up of a minimum of 3 Governors nominated by the Governing Body and no less than the number involved in issuing the warning but excluding any involved in issuing the warning</p>
<p>Stage Three/Final Written Warning Validity; 12 calendar months (N.B. periods of school closure are discounted)</p>	<p>As above</p>	<p>As above</p>
<p>Stage Four/Dismissal/Relegation</p>	<p>Staff Disciplinary and Dismissal Committee made up of a minimum of 3 members of the Governing Body nominated by the Governing Body. The Chief Schools and Lifelong Learning Officer (or nominated representative) is entitled to attend the proceedings, for the purposes of giving advice, and will withdraw when the Governors are making their final deliberations and a decision on whether or not to take action</p>	<p>Staff Disciplinary and Dismissal Appeals Committee made up of a minimum of 3 members of the Governing Body nominated by the Governing Body and no less than the number of Governors attending the Staff Disciplinary and Dismissal Committee but excluding any involved in issuing the dismissal. The Chief Schools and Lifelong Learning Officer (or nominated representative) is entitled to attend the proceedings, for the purposes of giving advice, and will withdraw when the Governors are making their final deliberations and a decision on whether or not to take action</p>

* For child protection issues it will be the Staff Disciplinary and Dismissal Committee plus an independent non-governor member with a minimum of 3 on the committee who will be empowered to take decision. The appeal will be heard by the Staff Disciplinary and Dismissal Appeals Committee plus a different independent non-governor member with a minimum of 3 on the committee and no less than the number attending the Staff Disciplinary and Dismissal Committee. An independent non-governor may be on the committee for cases not involving child protection issues but in these cases they would not have voting rights.

PREAMBLE

This is a model Disciplinary Appeals Policy and Procedure recommended by the Council for adoption by Governing Bodies. It is based on Council Policies/Procedure and adapted, as appropriate, for schools.

POLICY

1. The school recognises that the maintenance of good order and discipline amongst the workforce is essential if it is to deliver high quality services. Its Discipline and related Policies and Procedures are, therefore, vital in the maintenance of that good order and discipline.
2. The school will use the Discipline and related Policies and Procedures in “good faith” in a fair, systematic and consistent fashion.
3. The school gives employees the right to appeal against any disciplinary action taken against them. As a further safeguard, it will ensure that their appeals are heard and considered by persons who had no involvement in the decision against which they are appealing.
4. This Policy and the Procedure is to be used, therefore, in conjunction with the school’s [Discipline Policy and Procedure](#).

SCOPE

- 5.a This Policy applies to all staff working in the school. It does not apply to Direct Services Unit staff i.e. catering, cleaning, grounds maintenance and repairs and buildings maintenance staff.
- 5.b In the case of staff working wholly or primarily within schools, but appointed to centrally established posts (in Pupil Support/EMAS etc.), Council Policies and Procedures will apply. For practical purposes of implementation of specific policies, however, (e.g. in reporting of absence) it will be necessary for the appropriate line manager within the school to be properly involved with the process. The specific arrangements which might apply in such cases must be clearly identified and agreed between the Schools Service and the school. The Schools Service will be responsible for initiating such discussions and ensuring that any such arrangements are clearly identified, agreed and documented.
- 5.c N.B. Where a * is indicated, reference is made to Headteachers.

KEY PRINCIPLES

6. Employees who are the subject of formal disciplinary action under the school’s [Discipline Policy and Procedure](#) have the right to appeal against the action taken against them.
7. All appeals will be heard and considered by persons who had no involvement in the decision against which the employee concerned is appealing.
8. Appeals against a Verbal Warning and a Written Warning will take the form of a review. Appeals against a Final Written Warning, Dismissal or relegation will take the form of a rehearing.
9. All appeals must be made in writing to the Headteacher/*Chair of Governors within 5 working days of the disciplinary decision being communicated either verbally or in writing, whichever is received first. Appellants MUST indicate the

grounds on which they are appealing i.e. whether they are appealing on the grounds that there was a:-

- procedural flaw and/or;
- the findings were inconsistent with the evidence presented and/or;
- the sanction was inappropriate.

10. The reason for indicating the grounds of appeal is to ensure that the review or rehearing can focus on the principal issue(s) of concern, thus speeding up the process for all parties.
11. All parties will make every effort to ensure that appeals are heard within the timescales set down in the Discipline Policy and Procedure i.e. 10 working days.
12. Appeals against a Verbal Warning and a Written Warning will take the form of a review of the respective cases i.e. a review of the management case, and a review of the appellant's case. Both sides will be invited to produce their respective cases in writing and these written submissions, supplemented by any documents and notes (agreed or otherwise) taken at the original disciplinary hearing, will be examined and considered at the appeal hearing. The attendance of witnesses who participated at the original hearing is not required at the appeal since the process is specifically intended not to be a complete rehearing. However, the person(s) hearing a Stage 1 Formal Verbal Warning appeal, or the Staff Disciplinary and Dismissal Appeals Committee hearing an appeal against a Written Warning, has the right to suspend its Review Hearing should he/she wish to seek clarification about the testimony of a particular witness. At its Review Hearing, all parties will be present to put forward their respective case to the Panel and written and oral submissions from the appellant's side and management's side will be considered.
13. Appeals against a decision to issue a Final Written Warning, Dismiss or Relegate will take the form of a complete rehearing of the case by a Staff Disciplinary and Dismissal Appeals Committee. This will include an evaluation of all the documentary evidence including the notes of the previous disciplinary hearing, agreed or otherwise. Since this is a complete rehearing, witnesses who gave evidence at the original hearing will be required to attend the appeal hearing.
14. Appellants have the right to be accompanied to any appeal hearing by a maximum of 2 Trade Union Representatives or a work colleague.
15. The person(s) hearing the Stage 1 Formal Verbal Warning Appeal, or Staff Disciplinary and Dismissal Appeals Committee, will be empowered to confirm the earlier decision on the disciplinary action to be taken, or order that this decision is overturned. The decision at appeal level will be final. The Headteacher/*Chair of Governors must ensure that the decision is communicated to the appellant and their representatives, in writing, within 5 days.
16. This Policy and Procedure will be reviewed in the light of operational experience.

PROCEDURE FOR APPEALS HEARINGS

17. At any appeal hearing, the "management case" shall be presented first. The appellant and/or his/her representative(s) will be given the opportunity to question the officer(s) presenting the "management case". The persons

hearing the appeal will also have the opportunity to question the officer(s) presenting the “management case”.

18. Once the “management case” has been presented, the case for the appellant shall be presented. The officer(s) who presented the “management case” shall have the opportunity to question the appellant and/or his/her representatives. The persons hearing the appeal will also have the opportunity to question the appellant and/or his/her representatives.
19. Both sides will be given the opportunity to sum up their respective cases with the “management side” going first. After the summing up phase, both sides will withdraw to allow the persons hearing the case to deliberate in private.
20. If in the course of deliberation, the person(s) hearing an appeal consider it necessary to seek clarification and/or further information from one side or the other then, in the interests of natural justice, both sides will be invited back into the hearing to hear the discussion.
21. Wherever possible, the person(s) hearing the appeal will announce their decision to the appellant and/or his/her representative(s) on the day of the hearing. If, for what ever reason that is not possible, the appellant and/or his/her representative(s) must be given the reason(s) why the decision cannot be announced and advised that the formal decision will be communicated in writing to all interested parties within 5 days.

NOTE

22. The authority levels for hearing appeal cases are set out in [Appendix A](#).
23. Representatives from the Council’s People and Organisational Development Services will attend all appeals lodged against a Final Written Warning.

AUTHORITY LEVELS AND APPEAL ARRANGEMENTS WITHIN THE SCHOOL’S DISCIPLINE POLICY AND PROCEDURE	hearing
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<u>Decision</u>	Empowered to make decision *	Appeal heard by *
Stage One/Formal Verbal Warning Validity; 3 calendar months (N.B. periods of school closure are discounted)	Headteacher or Headteacher’s nominated representative	Headteacher or Governor(s) nominated by the Governing Body and no less than the number of persons making the decision on the warning but excluding any persons involved in issuing the warning
Stage Two/Written Warning Validity; 6 calendar months (N.B. periods of school closure are discounted)	Headteacher	Governor(s) nominated by the Governing Body
Stage Three/Final Written Warning Validity; 12 calendar months (N.B. periods of school closure are discounted)	Staff Disciplinary and Dismissal Committee made up of 3 governors nominated by the Governing Body	Staff Disciplinary and Dismissal Appeals Committee made up of a minimum of 3 Governors nominated by the Governing Body and no less than the number of persons making the decision on the warning but excluding any persons involved in issuing the warning

Stage Four/Dismissal/Relegation	Staff Disciplinary and Dismissal Committee made up of a minimum of 3 members of the Governing Body nominated by the Governing Body. The Headteacher and the Chief Schools and Lifelong Learning Officer (or their nominated representative) are entitled to attend the proceedings, for the purposes of giving advice and will withdraw when the Governors are making their final deliberations and a decision on whether or not to take action	Staff Disciplinary and Dismissal Appeals Committee made up of a minimum of 3 members of the Governing Body nominated by the Governing Body and no less than the number of Governors attending the Staff Disciplinary and Dismissal Committee but excluding any who did attend. The Headteacher and the Chief Schools and Lifelong Learning Officer (or their nominated representative) are entitled to attend the proceedings, for the purposes of giving advice and will withdraw when the Governors are making their final deliberations and a decision on whether or not to take action.
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* For child protection issues it will be the Staff Disciplinary and Dismissal Committee plus an independent non-governor member with a minimum of 3 on the committee who will be empowered to take decision. The appeal will be heard by the Staff Disciplinary and Dismissal Appeals Committee plus a different independent non-governor member with a minimum of 3 on the committee and no less than the number attending the Staff Disciplinary and Dismissal Committee. An independent non-governor may be on the committee for cases not involving child protection issues but in these cases they would not have voting rights.

SCHOOL - SUSPENSION POLICY AND PROCEDURE

PREAMBLE

This is a model Suspension Policy and Procedure recommended by the Council for adoption by Governing Bodies. It is based on Council Policies/Procedures and adapted, as appropriate, for schools.

1. The maintenance of good order and discipline amongst the workforce is essential if schools are to deliver quality services.
2. The school's Suspension Policy and Procedure is intended to be used in conjunction with the school's [Discipline Policy and Procedure](#), and [Policy and Procedure for Dealing with Police Involvement in Employee Disciplinary Cases in Schools](#);
 - where the matter to be investigated is considered to involve or potentially involves an act (or acts) of gross misconduct and/or serious dereliction of duty that would (if substantiated) irreparably damage the essential relationship of trust that has to exist between the employee and the school, and/or which would undermine public confidence in the integrity of the school
 - where pupils and/or other employees are considered to be at risk of physical, verbal, sexual and/or racial abuse/assault/intimidation/bullying or harassment

- where there is a risk that the employee will (or attempt to) interfere with the disciplinary investigation e.g. by threatening and/or intimidating witnesses
 - where there is a risk that the employee will (or attempt to) tamper with, remove, or destroy any incriminating evidence
 - where there is a risk that the employee will (or attempt to) damage goods, property or data (hard copy and/or electronic data) belonging to the school which would damage the school's services
 - where there is a risk that the employee under investigation is considered to be at risk of physical, verbal, sexual and/or racial abuse/assault/intimidation/bullying or harassment from other members of staff.
3. The Policy takes account of national and local terms and conditions of employment; relevant employment legislation and the ACAS Code of Practice in relation to Disciplinary Practices and Procedures at Work. It sets out the key principles by which employee suspension will be managed and specifies authority levels for suspending employees from duty.

SCOPE

- 4.a This Policy applies to all staff working in the school and aims to provide a framework where there is a fair, systematic and consistent approach to the issue of suspension irrespective of status or grade.
- 4.b In the case of staff working wholly or primarily within schools, but appointed to centrally established posts (in Pupil Support/EMAS etc.), **Council** Policies and Procedures will apply. For practical purposes of implementation of specific policies, however, (e.g. in reporting of absence) it will be necessary for the appropriate line manager within the school to be properly involved with the process. The specific arrangements which might apply in such cases **must** be clearly identified and agreed between the Schools Service and the school. The Schools Service will be responsible for initiating such discussions and ensuring that any such arrangements are clearly identified, agreed and documented.
- 4.c N.B. Where a * is indicated, reference is made to Headteachers.

KEY PRINCIPLES

5. The safety and welfare of pupils must take precedence over other considerations.
6. Suspension from duty is **not** disciplinary action and suspension from duty does **not** imply that the employee has committed an act of misconduct.
7. Suspension will only be used as a measure of last resort.
8. Employees must be treated reasonably and fairly.
9. Other options must be considered before a suspension is authorised, including the possibility of transferring the employee to other duties and/or workplaces within the Cardiff Council Area.
10. The decision to suspend must depend upon the seriousness of the allegation(s) and must be determined as quickly as possible.

11. There must be a preliminary examination to establish the facts before a suspension and, where possible, an opportunity given to the employee concerned to comment on the allegation(s).
12. Suspension must be treated sensitively; an employee should preferably be informed verbally that they are being suspended, including the reasons, and this confirmed in writing.
13. Paid suspensions shall **not** be time limited but there is a clear expectation that all investigations and/or disciplinary hearings arising from the suspension shall be completed within 8 weeks of the date of the suspension. Suspensions will be reviewed after 4 weeks and either party will notify the other if a delay in the process is anticipated giving reasons.
14. If an employee is transferred as an alternative to suspension, the same timescales will apply.
15. All suspensions shall be based on full average earnings but, in wholly exceptional circumstances, the school reserves the right to suspend an employee on less than full pay, or with no pay at all, such exceptional circumstances being the physical inability of the employee concerned to report for work should the suspension be lifted (for reasons other than certified sickness), e.g. because of detention by the police or imprisonment. However, the underlying principle is that there should be no loss of earnings whether an employee is transferred or suspended.
16. Before a Trade Union official can be suspended, the appropriate Branch Secretary must be informed. If it is deemed necessary to suspend a Branch Secretary from duty, the appropriate full time Trade Union official must be notified. Advice from the Council's People and Organisational Development and Legal Services must be sought and obtained before a Trade Union official or Branch Secretary can be suspended.
17. Employees will have the right to be represented by a maximum of 2 Trade Union Representatives or a work colleague throughout this process.
18. Contact will be maintained with an employee on suspension by the Headteacher or his/her nominated representative/*Chair of Governors or his/her nominated representative.
19. The Headteacher/*Chair of Governors must ensure that the circumstances surrounding any decision to suspend or transfer are fully documented.
20. The Headteacher and the Governing Body (delegated to the Chair of Governors or nominated Governor as appropriate) have the right to suspend an employee. The relevant Governing Body must be notified and provided with the reasons whenever a suspension or transfer has been authorised.
21. This Policy and Procedure will be reviewed in the light of operational experience.

PROCEDURE

22. Before the employee can be suspended from duty, the Headteacher or his/her nominated representative/*Chair of Governors or his/her nominated representative must carry out a preliminary examination of all the relevant information and facts available. The purpose of this examination is to establish whether, prima facie, the conduct complained of and/or allegation(s) levelled against the employee would (if

proven) constitute gross misconduct or serious dereliction of duty. Where it is considered that an employee should be suspended, the Headteacher should consult with the Chair of Governors before the decision is taken, and immediately inform the Chief Schools and Lifelong Learning Officer. In the case of a Headteacher the Chair of Governors or his/her nominated representative should consult with the Chief Schools and Lifelong Learning Officer and People and Organisational Development. The nature of the allegation(s) will determine when during the working day the suspension should occur – please seek the advice of People and Organisational Development.

23. Where possible the employee will be given the opportunity to comment on the conduct complained of and/or the allegation(s).

24.a If, after carrying out the preliminary examination, the Headteacher or his/her nominated representative/*Chair of Governors or his/her nominated representative considers that the employee may have committed an act or acts of gross misconduct and/or gross dereliction of duty, then he/she has a choice to make from the following options;

- **Allow the employee to carry on working as normal**

This is an option if the health, safety and welfare of pupils and employees would not be affected or where it is the appropriate course of action in the case of criminal offences committed outside work, e.g. drink driving

- **Transfer the employee to other duties and/or to another workplace location preferably within the Cardiff Council Area**

If this appears to be a realistic option, but more time is needed to organise and arrange the transfer, then consideration should be given to temporarily suspending the employee to make any necessary arrangements. The advice and guidance of People and Organisational Development should be sought in these circumstances.

- **Suspend the employee from duty immediately**

If, after considering all the other options, the Headteacher or his/her nominated representative/*Chair of Governors or his/her nominated representative decides that suspension is the only realistic option, the employee should be informed that they are being suspended, and the reasons for the suspension, without delay - preferably verbally, the decision being subsequently confirmed in writing.

24.b The Headteacher/*Chair of Governors or his/her nominated representative will give written notification of the suspension, and of the nature of the allegations even where the investigation is to be an external one, in the first instance, by the police or child protection agencies. The provision of this information does not of itself “taint” any persons involved at a subsequent stage. The Governing Body of the school need to be informed of what is happening at the school. What is important is that the Headteacher/*Chair of Governors, or any other appropriate persons involved at this stage, take great care not to discuss the merits of a potential disciplinary matter should it need to go to a hearing or a Staff Disciplinary and Dismissal Committee.

25. The ['Suspension From Work'](#) Letter should clearly indicate;

- the reason(s) why the employee has been suspended

- the date from which the suspension is valid
- that the suspension is a neutral act and not to be regarded as disciplinary action
- that an internal disciplinary investigation is going to be conducted and that he/she will be expected to co-operate fully with that investigation
- that he/she must not enter their normal workplace or have any contact whatsoever with any other employees or pupils who are, or who may be, involved in the investigation or in any subsequent disciplinary hearing(s). Employees who are unsure about this restriction should seek clarification from a named officer who will be clearly designated in the letter. This restriction will only apply to the employee concerned. It will not apply to his/her representative(s)
- that he/she will be instructed not to use the school's E-Mail system/Web Services
- that he/she must surrender all school equipment and property in their possession which may include IT equipment, vehicles, mobile phones, warrant cards, ID cards, any building "access cards", office keys and/or school vehicle keys in his/her possession immediately
- that he/she must make himself/herself available to attend any investigatory and/or disciplinary hearings and/or to return to work in the event that the suspension is lifted
- the name of the contact officer
- whether the suspension is paid or unpaid.

Please see the standard '[suspension from work letter](#)'.

- 26.a Whether the decision taken is to suspend the employee or not, the Headteacher/*Chair of Governors should immediately invoke the school's [Disciplinary Investigations Policy/Procedure](#).
- 26.b The Governing Body, delegated as appropriate to the Chair of Governors and/or Governors nominated by the Governing Body, will decide when a suspension can be lifted, and are advised to seek the advice and guidance of People and Organisational Development.