



## Disciplinary Procedure

### Staff in Langley Park Learning Trust

Owner (job role):	Director of HR
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1.0	6 <sup>th</sup> September 2018	New policy (adopted from the Liberata Model Disciplinary Procedure for Staff in Academies)

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## 1 Purpose and scope

1.1 This procedure is designed to help and encourage all staff at the Trust to achieve and maintain good standards of conduct, attendance and job performance.

It is designed to cover allegations concerning:

- (i) an employee's work misconduct
- (ii) unsatisfactory attendance (other than for reasons of illness, maternity or injury) and/or
- (iii) poor performance

which arise from the employee's wilful neglect of his/her duties.

1.2 It does not cover the normal day-to-day supervision where a supervisor may have to counsel, train or otherwise discuss with an employee instances of poor performance, nor does it cover ill health or other capability issues which are dealt with under separate procedures.

1.3 As part of normal supervision, a supervisor may have to give an oral caution to an employee: this does not form part of the formal disciplinary procedure. The supervisor *must* make clear to the employee when the formal procedure is being used.

1.4 The procedure applies to:-

- (a) all teachers employed under the Teachers' Pay and Conditions Act 1991 and any successor Act, and the Conditions of Service for Schoolteachers in England and Wales;
- (b) all employees covered by the Scheme of Conditions of Service of the National Joint Council for Local Government Services.
- (c) all staff employed under conditions of service agreed locally by the Trust.

with the exception of:-

- (i) staff under a probationary or statutory induction period;
- (ii) staff employed on a casual day-to-day basis

For (i) above please refer to LBB Circular 102/07: Newly Qualified Teachers Induction Issues which provides details of the induction arrangements for NQTs and the procedure to follow in cases where unsatisfactory progress is being made.

## 2 Rights of representation

- 2.1 Employees have the right to be accompanied at all formal stages of the disciplinary procedure. They may be accompanied by a trade union representative or a work colleague or friend of their choice.
- 2.2 Senior Managers also have the right to be accompanied at all stages of the disciplinary procedure. The Head Teacher and the Trust Governing Body may also require the attendance of an advisory officer at any stage of the disciplinary procedure to give advice as to the law and procedure as required.
- 2.3 It is also appropriate for the Head Teacher or Chair of Governors to determine that an external Adviser either conducts or assists in the conduct of the investigation and operation of this procedure as well as the presentation of any case.
- 2.4 If the employee is a trade union official no formal disciplinary action should be taken until the appropriate branch secretary or full-time official has been informed.

## 3 Definitions and authority to initiate disciplinary action

- 3.1 The following definitions will apply throughout this procedure:

In accordance with the provisions of the School Staffing (England) Regulations 2003 the Governing Body may delegate its power to dismiss any member of staff to the Head Teacher, an individual governor or a group of governors with or without the Head Teacher.

The Head Teacher is normally expected to lead in all initial staff dismissal processes. The Head Teacher may involve other governors in dismissal processes (i.e. investigations) but where responsibility for staff dismissal has been delegated to the Head Teacher, the final decision on whether to terminate an individual's employment rests with the Head Teacher. However, if the Head Teacher has been extensively involved in the individual case, he/she may refer the dismissal to a relevant committee.

A Staff Disciplinary Committee should be established, together with a Staff Dismissal Committee to consider disciplinary matters which could lead to dismissal. The two committees may be the same but should comprise a minimum of 3 governors.

Supervisor	Anyone who has been delegated supervisory responsibilities for the operation of this procedure. Only in secondary Trusts may this authority be delegated by the Head Teacher to those below Deputy Head Teacher
Senior Manager	Head Teacher, Principal or any manager with specific delegated power. Where the person subject to discipline is the Head Teacher, the Senior Manager should be the Chair of Governors

Committees and Appeal Committees	A Staff Disciplinary Appeal Committee should be established together with a Staff Dismissal Appeal Committee to consider appeals which relate to proposed dismissal. One Committee may serve both requirements, but care should be taken to ensure that no governors are on the appeal panel who had any involvement in the earlier stages of the disciplinary process. <u>The Committees should comprise a minimum of 3 governors unless there are not enough governors available. In this circumstance the appeal may be heard by two governors provided there are no fewer governors present than there were on the panel who</u>
Days	Working days or consecutive days if it is necessary and appropriate to progress matters outside term time.

3.2 Reference throughout this procedure to the Supervisor, Senior Manager and employee shall include their personal representatives as appropriate. In certain circumstances (eg a small Trust) the Supervisor and the Senior Manager may be the same person.

3.3 The following table details the maximum disciplinary action which can be imposed at various levels of authority, and the various stages of the formal disciplinary procedure applicable to these levels:

Level of Authority	Authorised to
Investigating Officer	<ul style="list-style-type: none"> <li>- carry out investigation prior to formal disciplinary action</li> <li>- produce a report recommending to the Senior Manager that the matter proceed to a disciplinary hearing.</li> </ul>
Senior Manager	<ul style="list-style-type: none"> <li>- conduct formal disciplinary hearings</li> <li>- issue formal oral and written warnings</li> <li>- dismiss<sup>1</sup></li> <li>- withhold an incremental rise</li> <li>- refer a case to the Governors' Committee for consideration</li> <li>- suspend (in consultation with the Chair of Governors)</li> </ul> <p><sup>1</sup> where authority has been delegated by the Governing Body</p>

Staff Disciplinary Committee	<ul style="list-style-type: none"> <li>- conduct formal disciplinary hearings</li> <li>- suspend or order a Head Teacher to end a suspension</li> <li>- issue formal oral and/or written warnings</li> <li>- consider appeals against formal oral and written warnings issued by a Senior Manager</li> <li>- consider appeals against any penalty issued by a Senior Manager</li> <li>- consider appeals against a Senior Manager's decision not to remove a warning letter from the personal file</li> </ul>
Staff Dismissal Committee	<ul style="list-style-type: none"> <li>- conduct formal disciplinary hearings where dismissal is under consideration and issue formal or final written warnings if appropriate where authority has not been delegated to Head Teacher or where the Head Teacher has been involved in the investigation</li> <li>- dismiss</li> </ul>
Staff Appeal Committee	<ul style="list-style-type: none"> <li>- hear appeals against formal written warnings issued by a Committee</li> <li>- order a Committee to end a suspension</li> <li>- hear appeals against a Committee's decision not to remove a warning from the personal file</li> <li>- hear appeals against formal oral and written warnings issued by a Senior Manager</li> <li>- hear appeals against any penalty issued by a Senior Manager</li> <li>- hear appeals against a Senior Manager's decision not to remove a warning from the personal file</li> </ul>
Staff Dismissal Appeal Committee	<ul style="list-style-type: none"> <li>- hear appeals against a Staff Dismissal Committee's decision to dismiss</li> <li>- hear appeals against the Head Teacher's decision to dismiss.</li> </ul>

3.4 To ensure fairness throughout the procedure, different people must participate in the Disciplinary/Dismissal Committee and the Disciplinary Dismissal Appeal Committee. However, where the case concerns a continuing or related matter, the same Committee can hear the case on subsequent occasions.

#### 4 Suspension

Both the Trust Governing Body and the Head Teacher can suspend any staff employed or engaged at the Trust but only the Trust Governing Body can lift a suspension. A decision may be made in view of the particular circumstances of a case, to suspend an employee on full pay when an allegation of misconduct is made. However, such a suspension is not a disciplinary action in itself but a means of providing a breathing space; nor does it imply guilt. The aim is to enable further investigation of the facts to be carried out. It should be used to protect the interests of all concerned including the employee during the investigation. An employee must only automatically be suspended if the alleged offence would constitute gross misconduct.

## 5 Stages in the formal disciplinary procedure

### 5.1 Investigation Prior to Taking Formal Disciplinary Action

5.1.1 When a concern arises which may warrant an investigation and may require formal disciplinary action:-

- (a) The Head Teacher should appoint an Investigating Officer.
- (b) The employee should be notified in writing of the allegations and the decision to instigate a disciplinary investigation as soon as possible.
- (c) The Head Teacher/Trust Governing Body should consider whether it is advisable to suspend the employee during the investigation.
- (d) The person investigating the matter (The Investigating Officer) must establish the facts promptly and normally within **10 working or 14 consecutive days**. The Investigating Officer (providing that person is not involved in the matter to be investigated) will usually arrange a disciplinary investigation interview with the employee to give them an opportunity to respond to the allegations. They will also take into account the statements of any available witnesses and the individual concerned as soon as possible after the alleged incident.
- (e) When the facts are established, the Investigating Officer will arrange for a formal interview with the employee to discuss whether further formal action is required under the formal disciplinary procedure. The employee will also be given copies of all relevant documents in advance of this interview.
- (f) If it is decided to take formal disciplinary action the employee must be instructed to attend a disciplinary hearing.
- (g) If it is decided not to take the matter further or to deal with it informally (eg, through the provision of professional or specialist advice or support), all relevant parties must be informed of this.

5.1.2 During the course of a disciplinary investigation, an employee might raise a grievance against the actions of the manager handling the case or against other senior managers. Normally this will be dealt with as part of consideration of the facts of the case. However, the manager investigating the case will seek advice from an appropriate professional adviser and, depending on the circumstances, it may be appropriate to suspend the disciplinary procedure for a short period until the grievance can be considered.

### 5.2 Preparing for the Disciplinary Hearing

5.2.1 The employee will need to be written to confirming the outcome of the investigation with a duplicate copy for his/her representative. If it is decided to proceed with formal disciplinary action, the letter must be received no less than 5 working or 7 consecutive days before the hearing and must:-

- (i) instruct the employee to attend a formal hearing

- (ii) contain a written statement of the allegations against the employee (confirming the seriousness with which they are regarded and whether they constitute misconduct/gross misconduct if proven);  
  
(NB: If gross misconduct is alleged, the employee must be warned that if the allegation is found to be true, it will lead to his/her dismissal).
- (iii) contain copies of any relevant documents to be submitted to the hearing;
- (iv) advise the employee that the hearing forms part of the formal disciplinary procedure (including a copy of the procedure if this has not already been provided)
- (v) advise the employee of his/her rights of representation;
- (vi) request details of any documents to be submitted and witnesses to be called by the employee.

5.2.2 It is good practice to agree a mutually convenient date for the disciplinary hearing with the employee and their representative. This is to ensure that the hearing does not have to be delayed or postponed at the last minute. Where the chosen representative cannot attend the date proposed, the employee can offer an alternative date and time so long as it is reasonable and falls before the period of seven days beginning with the first day after the day proposed by management.

5.2.3 The employee must have regard to the availability of the managers involved in the case. The location and timing of any alternative hearing should be convenient to both the employee and management.

5.2.4 A duplicate copy of the letter and all documentation must be included for his/her representative.

5.2.5 The Senior Manager or the Staff Disciplinary/Dismissal Committee will decide at the hearing whether the case for disciplinary action has been established after considering all the evidence presented by both sides.

The Investigating Officer cannot also hear the case.

The procedure to be followed at all formal hearings is included with this document.



### 5.3 Disciplinary Penalties

5.3.1 The possible penalties available to the Staff Dismissal Committee are:

Level of Performance	Possible Capability Penalty
<ul style="list-style-type: none"><li>• Work performance or conduct below required standards</li></ul>	<ul style="list-style-type: none"><li>• An oral warning may be given which should be recorded on file</li></ul>
<ul style="list-style-type: none"><li>• Work performance or conduct which is persistently or seriously below standard</li></ul>	<ul style="list-style-type: none"><li>• a) Written warning may be given</li><li>• b) Withholding of an increment.</li></ul>
<ul style="list-style-type: none"><li>• Misconduct of serious nature; failure to work to required standards after previous warning(s)</li></ul>	<ul style="list-style-type: none"><li>• Final written warning, transfer or relegation to another post, dismissal with notice</li></ul>
<ul style="list-style-type: none"><li>• Gross misconduct</li></ul>	<ul style="list-style-type: none"><li>• Summary dismissal without notice.</li></ul>

The Senior Manager/Staff Disciplinary/Dismissal Committee must decide upon the appropriate penalty in each individual case based on all the facts that are presented and any extenuating circumstances that are considered relevant.

5.3.2 Examples of conduct which would be regarded as gross misconduct are included in Appendix 1. Only in cases of gross misconduct can an employee be dismissed for a first breach of discipline.

5.3.3 If an employee resigns before a disciplinary process is completed or is dismissed as a result of formal disciplinary action, the Senior Manager must inform him/her of the statutory duty of employers to report the case to the Department for Education, Independent Safeguarding Authority or Teaching Agency as appropriate.

### 5.4 Disciplinary Letters

5.4.1 The decision on the outcome of the disciplinary hearing will be given to the employee at the end of the hearing whenever possible and in any case in writing, within 5 working or 7 consecutive days of the hearing. At the same time as the employee is informed of the outcome of the hearing, he/she will be advised of any right of appeal.

5.4.2 The employee will also be advised as to a specified period of time after which he/she may request the warning on his/her personal file be disregarded for the purpose of future disciplinary proceedings. The specified period will depend upon the nature of the offence and the type of disciplinary action imposed, but will not normally exceed one year. Removal will be subject to satisfactory conduct during the specified period. Where, exceptionally, the misconduct is so serious that it cannot realistically be disregarded for future disciplinary

purposes this should be made explicitly clear, together with a statement that any recurrence will lead to dismissal.

5.4.3 The employee will be informed in writing of the outcome of the hearing, ie:-

- (i) the nature of the disciplinary offence;
- (ii) a brief summary of the findings as to the facts presented at the disciplinary hearing;
- (iii) the nature of the disciplinary penalty imposed or alternative course of action decided upon;
- (iv) the level of conduct/standards required in the future;
- (v) where appropriate, the time scale within which the conduct performance will be monitored and improvement assessed and who will be responsible for carrying this out;
- (vi) arrangements for guidance, supervision or training, where appropriate;
- (vii) what will happen if conduct fails to meet the required standards;
- (viii) the opportunity to ask for clarification of the disciplinary action to be taken;
- (ix) the specified period of time after which he/she may request that a disciplinary warning be disregarded and to whom;
- (x) the employee's right of appeal and how this should be presented.

5.4.4 A copy of this letter must be sent to the employee and his/her representative and a copy retained on the personal file. As indicated in the letter an employee may request the Staff Disciplinary/Dismissal Committee or Senior Manager, a year after the event and each subsequent year, that any warning on the file be disregarded for the purpose of future disciplinary proceedings. Such a request shall be fully considered and not unreasonably refused, and the Committee or Senior Manager will respond in writing to this request normally within 5 working or 7 consecutive days, giving reasons if this request is refused.

## 6 Appeals

6.1 An employee who has been formally disciplined has a right of appeal against the decision as well as a right to appeal against a decision not to disregard a warning on the file in accordance with the provisions contained within this procedure.

6.2 The appeal will be heard by a Staff Disciplinary/Dismissal Appeal Committee as appropriate but there will be no further right of appeal beyond the appeal stage. In the case of an appeal against dismissal the Staff Dismissal Appeal Committee must be convened. The Appeal hearing provides an opportunity for a rehearing of the case to determine whether the original decision was reasonable in the circumstances.

APPEAL AGAINST	RIGHT OF APPEAL
Formal oral or written warning given by Senior Manager  Formal written warnings, suspension or other disciplinary action initiated by the	Staff Disciplinary/Appeal Committee
Dismissal	Staff Dismissal Appeal Committee

A request for an appeal must be made to the Senior Manager within **5 working or 7 consecutive days** of the receipt of the letter detailing the outcome of a disciplinary hearing. The procedure for the conduct of an appeal hearing is enclosed with this document.

## 7 Dismissal

- 7.1 A Staff Dismissal Committee or Head Teacher (where in receipt of delegated powers) is authorised to determine the dismissal of an employee. The Staff Disciplinary Committee and the Staff Dismissal Committee may be the same body.
- 7.2 The decision to dismiss will be confirmed in writing to the employee and his/her representative. The letter will also contain the reasons for the dismissal and the right of appeal to the Staff Dismissal Appeal Committee within 10 working or 14 consecutive days of receipt of the letter.
- 7.3 Within 5 or 7 consecutive days of the date of written notification of the decision to dismiss by the Staff Dismissal Committee, the employee's contract of employment at the Trust will be terminated with or without notice according to the circumstances.
- 7.4 Where the Dismissal Appeal Committee decides to uphold the decision of the Staff Dismissal Committee to dismiss there will be no further internal right of appeal. This decision will be confirmed in writing within 5 working or 7 consecutive days to the employee and his/her representative.
- 7.5 If the appeal to the Staff Dismissal Appeal Committee overturns the decision of the Staff Dismissal Committee to dismiss, the termination notice may be rescinded.

## DISCIPLINARY RULES

The Trust Governing Body regards as misconduct any behaviour by an employee that potentially brings the Trust into disrepute or to cause a loss of public or professional confidence in an individual or a Trust.

It is not possible to provide a definitive list of all the disciplinary rules, but the examples provided below are intended to inform employees of the set standards of conduct at work expected of them. This is intended to avoid any confusion regarding the provision of general managerial supervision. Breaches of the disciplinary rules will render employees liable to disciplinary action.

The list provides a guide of the type of behaviour for which dismissal or a warning may be justified. Two categories are identified i.e. Gross Misconduct and Misconduct.

“Gross Misconduct” means an act, or series of actions, that fundamentally repudiates the contract of employment because the Trust Governing Body is justified in no longer tolerating the presence at the Academy of the employee who commits the offence. It may justify summary dismissal<sup>[?]</sup> if the case is proven unless there are extenuating circumstances. Gross Misconduct can include acts committed outside working hours/the Academy as well as those committed during working time/within the Trust.

Where “Gross Misconduct” is alleged and Head Teachers or Trust Governing Bodies are minded to embark on disciplinary action, they should always seek the advice of their retained Human Resources Provider.

### Examples of Gross Misconduct

- (a) serious dishonesty, such as theft of property, deliberate falsification of salary, timesheets or expense claims for pecuniary advantage, falsification of any information given in applying for a post, and failure to disclose criminal convictions;
- (b) acts of fraud and/or financial irregularity;
- (c) improper use of an employee’s position for private gain or the private gain of some other person, including soliciting or accepting bribes;
- (d) deliberate unauthorised disclosure of confidential information relating to the business of the Trust, its employees, or the public with whom it has dealings;
- (e) serious misuse of the Trust’s facilities or name, including abuse of the internet, electronic mail and other communication systems which compromises the integrity of the Trust, places pupils at risk and results in a lack of trust;

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\*Dismissal without notice

- (f) wilfully ignoring responsibilities or refusing to carry out reasonable, lawful and safe

instructions, thereby placing other members of staff and/or pupils in danger;

- (g) gross negligence in failing to attend to or to carry out the duties of the post;
- (h) attending for work whilst being unfit to carry out duties and responsibilities of the post as a result of taking and/or being under the influence of alcohol or other drugs (unless this is in accordance with medical advice);
- (i) sexual or racial offences and/or misconduct, abuse, victimisation or harassment at work;
- (j) deliberate unauthorised disclosure of information classified as confidential;
- (k) theft or misappropriation of, or malicious damage to, property of the Trust, parents, pupils or other employees at any time;
- (l) unauthorised use of Trust vehicles, equipment, resources and/or facilities for private purposes without authority.
- (m) acts of violence including physical assault on fellow employees, supervisors or members of the public, including maltreatment of pupils of the Trust or educational establishment;
- (n) failure to comply with health and safety responsibilities and requirements such as to endanger life or cause injury;
- (o) discrimination against an employee of the Trust or authority or a pupil or member of the public on the grounds of marital status, sex, colour, race, creed, disability, nationality or ethnic origin. Racial and/or sexual harassment;
- (p) other actions/practices of a similar nature/severity.

Misconduct is less serious than gross misconduct but could lead to dismissal if the unacceptable conduct is repeated.

### **Examples of Misconduct**

- (a) conduct on the part of an employee which is incompatible with the rules, principles and procedures of the Trust;
- (b) absenteeism including failure to remain at the place of work during Trust sessions without permission or sufficient cause and failure to comply with sickness reporting and absence regulations;
- (c) frequent failure to attend punctually at the Trust or other work place;
- (d) abuse of the internet, electronic mail and other communication systems which compromises the integrity of the Trust, places pupils at risk and results in a lack of trust;
- (e) failure to comply with reasonable instructions and/or requirements in accordance with job description;

- (f) abusive, threatening, unprofessional or offensive behaviour or language, victimisation or harassment;
- (g) minor dishonesty and petty deceptions;
- (h) negligence in failing to attend to or to carry out the duties of the post, failure to observe operational regulations/procedures and the rules of the Trust;
- (i) wilful neglect of duty, such as failure to adopt safe working practices, negligent use of Trust property;
- (j) failure to comply with hygiene requirements, accident reporting procedures and the requirement to wear protective clothing in accordance to health and safety legislation and Trust requirements;
- (k) other actions/practices of a similar nature/severity.

PROCEDURE FOR CONDUCTING FORMAL HEARINGS BEFORE A GOVERNORS COMMITTEE/THE  
STAFF DISMISSAL COMMITTEE/HEADTEACHER

Once a decision has been made to hold a formal hearing the employee will be sent a letter notifying him/her of the hearing (with a duplicate copy for his/her representative) to be received not less than **five working or seven consecutive days** before the hearing itself.

Reference to the Supervisor, the employee and the Senior Manager shall include their personal representative as appropriate. In certain circumstances (eg small Academies), the Supervisor and Senior Manager will be the same person.

1. The Senior Manager's report shall be submitted to the hearing setting out the specific concerns, together with any written statement made by the employee. Copies of the written statement(s) and any other relevant documents shall be sent to the employee and members of the panel/Head Teacher at the same time as the notice of the date and time of the meeting. The employee shall be entitled to attend the hearing and to be represented by his/her Trade Union or a fellow employee or friend of his/her choice and to call witnesses and produce documents relevant to his/her case.
2. If the employee or his/her representative fails to turn up at the hearing, consideration will be given to:
  - (i) the employee's difficulty in obtaining a representative;
  - (ii) any difficulties and costs which may arise from reconvening the meeting;
  - (iii) the employee's medical condition.

The Senior Manager will already have determined whether the employee wishes to make representations to the Governors' Committee/Head Teacher and whether s/he wishes to attend in person or send a representative or make an oral representation (see paragraph 9 of the Model Procedure).

3. Aspects of (2) above will also be considered if a witness(es) fails to attend. This would include how important that witness(es) is to the case.
4. If a Committee member fails to turn up (either at the first hearing or following an adjournment) the Committee will need to consider whether it can continue with a reduced number or whether a new Committee member will need to be appointed in accordance with adopted procedures. Where a dismissal is being considered, a minimum of three Governors (two in exceptional circumstances) must hear the case and be convened as the Staff Dismissal Committee. Where responsibility for staff dismissal has been delegated, the case may be heard by the Head Teacher.

5. The Chair of the Committee/Head Teacher hearing the case will introduce those present, explain the purpose of the hearing and the procedure to be followed.
6. The Chair/Head Teacher will establish whether witnesses are to be called by either side.
7. The evidence will be presented by the Senior Manager ensuring that the employee and his/her representative are made aware of the content of any witnesses statements or relevant records and documents. In presenting the case, witnesses may be called as appropriate. Each witness will leave the room after giving evidence.
8. The employee may question the evidence and witnesses called by the Senior Manager.
9. The employee will present his/her evidence and call any witnesses.
10. The Senior Manager may question the evidence presented by the employee and witnesses.
11. The Head Teacher/ Committee and any advisory officer(s) present will have the opportunity to ask questions of both sides and witnesses at any time during the proceedings outlined in paragraphs 7-10 inclusive. Late evidence can only be admitted with the agreement of the Committee/Head Teacher.
12. After questioning, each witness will be asked to leave the room but possibly not the venue, in case further evidence is required.
13. The Committee/Head Teacher may request an adjournment at any stage in order to seek clarification.
14. The Senior Manager will then sum up his/her case.
15. The employee or his/her representative will then sum up his/her case.
16. The Senior Manager, the employee and their representatives will then withdraw.
17. The Head Teacher/Committee will then deliberate in private together with the Clerk and any advisory officer(s) present to give advice as to law and procedure as required. If it is necessary to clear any points of uncertainty on the evidence already given both sides are to be recalled together even if only one is concerned with the point giving rise to doubt. If further investigations are necessary it may be appropriate to adjourn the hearing at this stage, in which case both parties are to return and be advised accordingly by the Chair.
18. At the conclusion of the deliberations all parties shall return and the Chair/Head Teacher will announce the Committee's/his/her decision and/or recommendation to both sides personally and/or in writing as appropriate. The employee will be informed of any action which will be taken and of his/her rights of appeal as appropriate. The findings shall in any case be confirmed in writing within **five working or seven consecutive days** together with the employee's right of appeal.





### PROCEDURE FOR CONDUCTING FORMAL APPEAL HEARINGS BEFORE A GOVERNORS/STAFF DISMISSAL APPEAL COMMITTEE

Reference to the Senior Manager and employee shall include their personal representatives as appropriate.

- (i) The employee should write to the Senior Manager requesting an appeal within **five working or seven consecutive days** of receiving a formal letter notifying the decision of the Staff Dismissal Committee/Head Teacher and any action to be taken under the Procedure.
- (ii) The Dismissal Appeal Committee will consist of members appointed by the full Trust Governing Body excluding those Governors who have been part of a Committee which has already heard the case.
- (iii) The Hearing will be arranged as soon as practicable. The employee will be sent a letter (with a copy for his/her representative) to be received at least **five working or seven consecutive days** before the date of the appeal hearing itself.
- (iv) The employee may be represented by his/her trade union or a work colleague or friend. Witnesses may be called and documents produced at the hearing by both sides.
- (v) If the employee or his/her representative fails to turn up at the hearing, consideration will be given to:
  - (a) the employee's difficulty in obtaining a representative;
  - (b) any difficulties and costs which may arise from reconvening the meeting;
  - (c) the employee's medical condition.
- (vi) Aspects of (v) above will also be considered if a witness(es) fails to attend. This would include how important that witness(es) is to the case.
- (vii) If a Committee member fails to turn up (either at the first hearing or following an adjournment) the Committee will need to consider whether it can continue with a reduced number or whether a new Committee member will need to be appointed in

accordance with adopted procedures. In any case, no fewer Governors than that comprising the first Staff Dismissal Committee may hear the case.

- (viii) The Chair of the Committee hearing the case will introduce those present, explain the purpose of the hearing and the procedure to be followed.
- (ix) The Chair will establish whether witnesses are to be called by either side.
- (x) The employee will put his/her case in the presence of the Senior Manager and will call any witnesses.
- (xi) The Senior Manager may then ask questions of the employee and witnesses.
- (xii) The Senior Manager will put the management's case in the presence (if any) of the employee and will call any witnesses.
- (xiii) The employee may ask questions of the Senior Manager and witnesses (if any).
- (xiv) The Staff Dismissal Appeal Committee and any advisory officer(s) will be entitled to ask questions of the Senior Manager, the employee and the witnesses at any time during the proceedings outlined in paragraphs (x) to (xiii) inclusive.
- (xv) After questioning, each witness will be asked to leave the room but possibly not the venue, in case further evidence is required.
- (xvi) The Staff Dismissal Appeal Committee may request an adjournment at any stage in order to seek clarification.
- (xvii) The employee or his/her representative will then sum up his/her case.
- (xviii) The Senior Manager will then sum up his/her case.
- (xix) The Senior Manager and the employee and their representatives will then withdraw.
- (xx) The Staff Dismissal Appeal Committee, with a Clerk in attendance and any advisory officer(s) present, will consider the evidence in private. They may recall either party to clear points of uncertainty on the evidence already given. If recall is necessary, both parties are to return even if only one is concerned with the point giving rise to doubt.
- (xxi) The Staff Dismissal Appeal Committee will give their decision to the Senior Manager and employee and/or representative personally and/or in writing as appropriate. Their findings will in any event be confirmed in writing, together with reasons for any formal action taken within **five working or seven consecutive days**. Where notice of termination has been given the Staff Dismissal Appeal Committee may request that the notice be rescinded as appropriate.