ASHLEY COLLEGE

Disciplinary Policy and Procedure for Schools

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Disciplinary Policy and Procedure

1. Introduction

Brent Schools' disciplinary policy provides a fair and effective framework for maintaining expected standards of behaviour at work. Where an allegation of misconduct has occurred, the policy outlines the process for managing this.

Our approach

We expect all employees to observe and maintain the highest standards of conduct and head teachers and managers are expected to address conduct issues in the course of day-to-day management of staff.

If misconduct is serious, Brent Schools' disciplinary policy provides fair and effective arrangements for maintaining expected standards of behaviour at work. Headteachers and managers are expected to implement the procedures objectively and consistently. The Schools' Human Resources (HR) Team are available to provide advice and support as required.

2. Policy statement

Policy summary

The policy reflects the following key principles for dealing with issues of misconduct:

- High standards of behaviour must be maintained at work at all times
- Employees are expected to understand and comply with the School's Code of Conduct
- Head teachers and Managers are expected to use this policy where misconduct warrants it
- Issues will be dealt with fairly, consistently and promptly
- Employees will be informed about concerns over their conduct and the process to be followed
- Employees will be given sufficient opportunity to prepare their response to the allegation
- Managers will ensure that action and decisions are taken objectively without unfair discrimination

This policy reflects current legislation and good practice. This Policy is part of the contract between the Council/Governing Body/Management Committee and its employees directly employed by the school. The School reserves the right to amend the policy from time to time, after such consultation with the trade unions recognised by

the Council/Governing Body/Management Committee for collective bargaining purposes for any employee to whom this Policy applies.

Managing disciplinary policy and procedure

The policy operates in conjunction with the Code of Conduct and other rules and standards of performance relevant to the way in which employees should behave at work. The School will ensure that the policy is applied fairly to all employees and does not have a negative impact in relation to the school's equality strands: race, gender, faith or belief, sexual orientation, age and disability.

Where clarification is required about how to handle issues under multiple policies and procedures, advice should be taken from a Human Resources Adviser.

The Grievance Policy and Procedure is separate from this policy and should not be used for disciplinary matters.

3. General principles

- This policy will be implemented transparently, fairly and consistently
- It applies principally but not solely to conduct at work
- The Provision of HR Services team will provide links/contacts to external investigators to ensure that cases of alleged misconduct can be dealt with in a timely manner
- Hearings must be chaired by adequately skilled/trained senior school members of staff, as authorised by the head teacher; or chaired by the head teacher or Governing Body Panel or Committee, normally consisting of three Governors/management committee members
- A head teacher may make a decision to dismiss the employee, providing the Governing Body/Management Committee has delegated the decision to dismiss to the head teacher
- The Clerk/administrator to the Governing Body/Management Committee will arrange and minute formal disciplinary hearings
- Documentation submitted outside the timescales of this policy will be heard only in exceptional circumstances.

3.1 Definitions and general information

Employees

This policy applies to all employees of the School with the exception of:

- Support staff in their probationary period. Disciplinary issues during the probationary period should be handled under the School's Probationary Procedure
- Agency workers. Brent does not consider agency workers to be employees of the School. Any disciplinary issues should be addressed with the employing agency.

Disciplinary policy

This policy applies to all matters relating to:

- Conduct in the workplace
- Breaches of School rules and standards
- Activities and behaviour outside the workplace which may adversely affect the suitability of the employee to do their job, or the relationship between the School and the employee, or the relationship between the employee and work colleagues, pupils, parents or members of the community.
- Allegations of misconduct arising from action under other school policies and procedures such as Grievance.

Where an employee raises a grievance connected to an action or proposed action by management under this procedure, the grievance should normally be managed in line with the disciplinary process which is underway. Where the complaint raises new or unconnected issues, the grievance procedure will be invoked and shall run concurrently with the disciplinary matter at hand. Advice should be sought from the school's HR adviser if this is the case. In the event the grievance concern is substantiated by the deciding officers as part of the disciplinary process, such deciding officers reserve the right to dismiss or amend the charges against the employee."

Action Involving Trade Union Representatives

Where allegations involve an employee who is an official of a recognised trade union this Policy should be followed in the normal way. However, the matter must be discussed at an early stage with an official employed by the relevant trade union after first obtaining the employee's agreement.

Schools HR team should be notified about cases involving trade union representatives to advise if any other action is required. This should not delay manager/Headteacher/ Chair of Governors taking the appropriate steps under this Policy.

Misconduct

There are two kinds of misconduct:

- Misconduct – breaches of School rules and procedures which may attract a range of disciplinary sanctions up to and including dismissal
- Gross misconduct – breaches that are considered to be so serious that the basis of trust between the School and the employee is seriously damaged or destroyed, and which will normally result in dismissal.

This policy applies principally to conduct at work. However, there may be exceptional circumstances where conduct in an employee's personal life may also involve sanctions up to and including dismissal.

Examples of acts of misconduct and gross misconduct are available in Appendix 4.

4. Management action prior to the Formal Stage (Informal Stage/Action)

Misconduct involving minor infringement of rules and standards is best dealt with by management advice and guidance, coaching and counselling, rather than by formal disciplinary action. Managers/Headteachers should discuss work problems with employees at an early stage with the objective of encouraging them to improve and resolve issues to the mutual benefit of the school and the employee.

In deciding whether an attempt should be made to resolve the issue through management action, account will be taken of relevant issues, such as:

- the nature of the misconduct;
- previous management interventions;
- length of service with the School;
- previous disciplinary record(s); and
- whether there is a reasonable prospect of management action securing an improvement in the employee's conduct.

In circumstances of serious or repeated breaches the manager/headteacher should initiate action under the formal procedure having sought advice from their Schools HR Adviser.

4.1 Taking management action prior to the Formal Stage

Problems should be discussed with the objective of helping the employee to improve his/her conduct/behaviour. The manager/headteacher should meet with the employee to make clear:

- the standards, conduct and behaviour expected;
- identification of the errant conduct
- what needs to change;
- how conduct will be reviewed;
- over what period of time the conduct will be reviewed; and
- what action will be taken if s/he fails to improve.

4.2 Documentation and Future Action

The manager/headteacher will confirm in writing to the employee:

- the unacceptable conduct/behaviour;
- the summary of the informal discussions;
- the corrective action to be taken by the employee;
- any action to be taken by the manager;
- the arrangements to review the conduct and over what period;
- that informal action may lead to formal action if unacceptable behaviour/conduct is not addressed where appropriate.

5. Formal Procedure

5.1 Sanctions

Disciplinary sanctions, which may be taken, are:

- First written warning
- Final written warning
- Relegation to a lower salary scale point within the employee's grade*
- Withholding a salary increment*
- Combination of the above
- Dismissal with or without notice
- Transfer to another job (within the school) as an alternative to dismissal
- Demotion to another job as an alternative to dismissal

**In the case of teachers -the School can only impose such sanctions as are permitted by the Schools Teacher Pay and Conditions Document.*

Any formal action will be recorded on an employee's personal file and in certain circumstances may be declared to a statutory body.

Demotion and transfer may be offered as an alternative to dismissal exceptionally. This would require agreement with the employee.

Sanctions such as withholding an increment for one year or relegation to a lower scale point may also be used.

Written warnings must state the period of time over which the warning will be regarded as 'live' for the following periods of time:

- First written warnings –12 months from date issued
- Final written warnings – two years from date issued

An employee's conduct must be satisfactory during this time and any lapses in conduct will result in a more severe penalty. There may be circumstances where it is appropriate to take account of previous expired warnings at the time of further misconduct.

Documentation relating to the disciplinary action will be retained on the employee's personal file after the expiry of the disciplinary action taken.

5.2 Contractual Notice

An employee who is dismissed from the school's service will normally be entitled to contractual notice or pay in lieu of notice except where the dismissal is for gross misconduct where dismissal will be without notice or pay in lieu of notice.

5.3 Confidentiality

Confidentiality and privacy should be maintained during the disciplinary process.

5.4 Correspondence

All correspondence with employees subject to disciplinary action (including letters convening hearings, details of allegations, documentary evidence and decisions of hearings) should be delivered either by 'hand' on behalf of the School, or by recorded or registered post or by email. A further copy should also be sent through the ordinary post.

5.5 Records retention

Records must be kept detailing disciplinary action taken (including the nature of any breach of disciplinary rules, the action taken and reasons for it, any appeal lodged and its outcome; and any subsequent developments) and will be retained on the employee's personal file.

In cases of dismissal, witness statements and other evidence gathered as part of the investigation must be kept on the personal file for six years from the date of the termination of the contract except in the case of special schools, when this documentation must be kept on the personal file for twenty years from the date of the termination of the contract

Where following an investigation a decision is taken that formal disciplinary action is not appropriate and the issue is handled via management action relevant documentation will be kept on the personal file.

Where following an investigation or hearing a decision is taken that there is no case to answer, the employee and, where appropriate, the trade union representative will be notified in writing within five days of the decision. Only a copy of the letter advising the employee of the outcome will be kept on the personal file. All other documentation will be destroyed immediately.

5.6 Record Retention in cases of allegations against staff which are related to child protection

In the case of allegations relating to safeguarding children as set out in Appendix 1 the outcome letter should include details of how the allegation was followed up and resolved, the decisions reached [substantiated, false, unfounded, unsubstantiated] and action taken.

Allegations that are found to be malicious should be removed from personnel records and any that are not substantiated, are unfounded or malicious should not be referred to in employer references.

For allegations that are substantiated and unsubstantiated the following applies:

As regards the files of employees who have undergone a child abuse allegation under the Brent local safeguarding children board procedures "Managing Allegations against Staff and Volunteers working with Children and Young People" or any replacement to these procedures, then the files should be kept until the person reaches normal retirement age or for a period of ten years from the termination of their employment if this is longer.

5.7 Criminal Offences

Where allegations against an employee may potentially involve criminal offences, advice must be taken from the Provision of HR Services team before any action is taken under this policy. Where an employee is the subject of a criminal investigation or a charge is pending regarding a criminal act, this will not normally be grounds to delay or prevent a hearing taking place. However, where a request is made by the police or Crown Prosecution Service to defer taking action, this may be considered. Any deferral of disciplinary action in response to such a request should not continue on an open-ended basis.

Headteachers/Managers must not rely on obtaining evidence from the police, but should conduct their own investigations prior to the hearing.

5.8 Suspension

Suspension is not a disciplinary action and should only be used during the investigation/disciplinary process when it is clearly inappropriate for the employee to remain in the workplace. Advice should be sought from the Provision of HR Services team about whether suspension is appropriate after careful consideration of all the relevant facts.

Suspension will normally be with full contractual pay.

A head teacher or manager may send the employee home on special leave pending a decision on formal suspension.

A decision to suspend must be taken by the Governing Body/Management Committee (this can be done retrospectively) or by the Head teacher.

Employees must be available to the School at all times during the paid suspension period. A suspended employee must:

- Not enter School premises without permission
- Not use School systems, or undertake School business, without permission
- Not contact or approach School employees, pupils, or parents
- Attend interviews during the suspension and co-operate with the investigation
- Return all School equipment
- Not engage in other work (paid or unpaid) during the contracted working time with the School

The head teacher or governing body/Management Committee will confirm in writing the reasons for suspension to the employee. The head teacher or governing body will advise the employee how long the investigation is likely to last. Suspensions should be for as short a time as possible and should be reviewed on a regular basis.

Suspensions should be lifted promptly where there is no risk of prejudice to the investigation, or management consider there is no case to answer. Ending a suspension can only be done by the Headteacher/Governing Body/Management Committee.

The governing body/Management Committee may decide, in certain circumstances, that it is content for the chair to undertake these functions on behalf of the governing body/Management Committee.

A suspended employee will require written permission from the Head teacher or governing body/Management Committee to enter any School premises, whether this is to seek access to information or prepare a case.

For an employee who is medically unfit for work during suspension, their absence will be recorded as sickness and the disciplinary process will continue in so far as their medical condition allows (refer to Appendix 1). In this instance, the terms of the employee's suspension will still apply whilst the disciplinary matter is ongoing. Where an employee fails to attend formal meetings as part of the disciplinary process without providing a satisfactory reason, this may be considered as unauthorised absence and as such, their pay may be withheld. Advice must be taken from the Schools' HR team prior to such a decision being implemented.

5.9 Child Protection: allegations against staff

Allegations about the abuse of children must be handled in accordance with the procedure of the Brent Local Safeguarding Children Board (LSCB) available on the Schools Extranet. A summary of the procedure is in Appendix 2.

Where conduct issues relate to the safeguarding of children, it is not appropriate to terminate disciplinary action if the employee resigns before this is completed. Where such circumstances arise, the Headteacher/manager must seek advice from the Schools' HR team.

5.10 Qualifications and Compliance Issues

Employees in particular professions may need to hold a specific regulatory classification and/or maintain certain standards to carry out their job (e.g. registration with a professional organisation). Where this is the case, the school may have a duty to report incidents of alleged professional misconduct or serious performance issues to the appropriate registration authority or statutory body. Advice should be sought from the Schools' HR team.

If a statutory body is involved (for compliance/regulated posts), it is a requirement that serious allegations must be reported to it whilst disciplinary action is being taken against an employee.

6. Roles and responsibilities

Managers/ Headteachers have a specific responsibility to:

- Ensure that all employees understand the standards of conduct expected in the work place and the general and specific rules that apply to them;
- Support employees to reach the School's standards of acceptable conduct, behaviour and performance as replicated in the School's Code of Conduct by providing coaching and feedback;
- Try to resolve problems and difficulties through normal day-to-day management processes;
- Handle disciplinary matters fairly, consistently and in accordance with the principles of natural justice;
- Keep staff informed of the action they face if they fail to meet the standards required;
- Instigate formal disciplinary action where management action has failed to remedy the alleged misconduct or, where formal action is required;
- Deal with disciplinary matters promptly and effectively ensuring timescales set out in the Policy and procedures are met wherever possible;
- Ensure confidentiality is maintained at all times;

Employees have a responsibility to:

- Familiarise themselves and comply with the disciplinary policy and procedures that apply in relation to their employment;

- Comply with all reasonable management instructions;
- Adopt appropriate standards of behaviour towards others, including employees', parents/carers and pupils;
- Co-operate with disciplinary investigations;
- Tell managers as soon as possible where problems arise which may impact on their behaviour or performance at work, e.g. personal or health issues;
- Report potential malpractice or fraud whenever they become aware of it.

The role of Governors/Management Committee members is to:

- Be responsible for the adoption of the Disciplinary policy and the resolution of issues raised under the procedures to be decided on by Governors.
- Set its committee structure and membership annually which will include establishing a pool of governors who can be called upon to sit on disciplinary, grievance or appeal panels.
- Exercise duty of care towards employees and be aware of the legal requirement to do so.

- The Chair of Governors/Chair of Management Committee, or a governor/committee member delegated by the Chair, will deal with any matters arising with regard to the conduct of the Headteacher.

The role of the Provision of HR Services team is to:

- Provide advice to line managers/headteachers on how to investigate issues of concern, how to assess the evidence and to take appropriate action.
- Provide advice to line managers/headteachers on progressing a concern using the formal Disciplinary procedure and to participate in any associated hearings.
- Assist the Local Authority to monitor and review the use of the policy.
- Take legal advice on behalf of managers where appropriate.

Trades unions

The role of the trades unions is to represent the views and interests of their members on this policy and associated procedures, as a need arises, and to advise and represent individual members as appropriate.

7. Applying disciplinary procedures

7.1 Timescales

All parties involved in disciplinary proceedings have an obligation to co-operate in ensuring that processes and reasonable timescales are followed.

7.2 Investigation

An investigation is an objective fact finding exercise to ascertain the facts of any case before a decision is made on whether the case should go to a formal disciplinary hearing.

Where a disciplinary issue has arisen, the headteacher or line manager will decide who will carry out the investigation. This may be the line manager, an internal investigating officer of suitable seniority or an externally appointed investigator. The Provision of HR Services team can advise on external investigators.

Brent's Audit and Investigations Team will carry out investigations into cases of alleged fraud, corruption and financial misconduct, or conduct reported under the School's Whistleblowing Policy and will be expected to attend any subsequent disciplinary hearing to present their findings.

Normally an employee will be informed in writing about any allegations as soon as possible, save exceptional circumstances and will be required to attend a disciplinary investigation meeting in order to respond to the allegations.

Any witnesses which could also provide valuable information which either supports or refutes the allegation(s) should also be interviewed. Where it is not possible to meet with witnesses, they are able to make written submissions of questions given to them or provide statements.

Anonymous allegations made against an employee are not normally investigated unless the Head teacher or Chair of Governors/Chair of Management Committee considers by exception otherwise e.g. Serious safeguarding/whistleblowing allegations.

Employees are required to co-operate with the investigation and further disciplinary action may be taken against an employee who refuses to comply with a reasonable management instruction in relation to an investigation.

The investigation should be completed within a reasonable timeframe depending on the complexities of the case, whilst still maintaining a thorough and fair investigation and without compromising the integrity of the investigation. Care should be taken to avoid excessive delays during the process so as not to cause the employee unnecessary stress. .

7.3 Representation

There will be occasions where it is necessary for the School to meet with an employee in order to undertake a fact finding process to determine the nature of the allegation(s) and

whether a formal disciplinary investigation is required. Employees will not normally be entitled to have the right to be represented or accompanied at such meetings.

Employees who are subject to disciplinary allegation(s) have the right to be represented and/or accompanied to all formal meetings during the investigation, hearing and appeal stages of this procedure by either:

- A trade union representative or
- A work colleague (a person who is a school worker) but not a legal representative.

It is the employee's responsibility to organise representation on the relevant date, keep the representative informed of the case and provide them with copies of any relevant documentation.

The representative can put forward a case on behalf of the employee and can give advice and support during the process. The representative cannot, however, answer questions for the employee. The employee must at all stages respond to questions asked during a meeting convened to address an employee's conduct.

Where a trade union representative or work colleague chosen by the employee to accompany him/her at a formal disciplinary or appeal hearing cannot attend on the date proposed, the employee can propose an alternative time and date so long as it is reasonable and falls before the end of the period of five working days beginning with the first working day after the day proposed by the employer. One postponement on these grounds will be allowed. In particular extenuating circumstances the five working days timeframe may be extended.

7.4 Investigation report

The Investigating Officer will produce an investigation report as soon as practicable and present it to the Manager, Head teacher, Governor or committee member who commissioned the investigation. The report will give details of allegations, evidence, mitigation findings and recommendation on whether the case should proceed to a disciplinary hearing. The employee's account of the events, witness statements and supporting documentation should be attached to the report.

Where there is a case to be answered, normally a formal disciplinary hearing will be convened. Action short of convening a formal disciplinary hearing may be considered in circumstances where the infringement is considered minor or where there are exceptional circumstances.

Where it is accepted not to proceed to a formal hearing, the employee will be informed.

7.5 Records of interviews, meetings and hearings

A written record of all investigation interviews and hearings must be made. It will not be a verbatim record but will accurately reflect all of the issues raised at the interview/hearing.

Following an investigation interview the employee/witness (es) must be asked to sign and date the interview record as being an accurate record of the interview. Any disagreement concerning the record should be annotated in the document by the employee/witness (es) and reflected in the investigation report.

Following a Disciplinary Hearing the Clerk to the Governing Body is responsible for producing the record of the hearing. The Manager, Headteacher, Governor or committee member must provide a letter summarising the case, details of the decision made and the reasons.

7.6 Convening a disciplinary hearing

The Clerk to the Governing Body is responsible for organising disciplinary hearings and for ensuring that an accurate record of events is produced.

If a disciplinary hearing is convened, the employee will be informed in writing of:

- Date, time and place of the hearing
- Who will hear the case
- Who will present the case
- Details of the allegation(s)
- The status of the hearing and the possible consequences including where appropriate dismissal
- How any current 'live' warnings will be treated in reaching a decision
- The right to be accompanied by a trade union representative or school worker
- The right to call witnesses and to produce relevant information.

The employee will be given:

- At least seven working days written notice of the disciplinary hearing
- A copy of the Investigating Officer's report (including witness statements) where an investigation has been conducted
- Access to a copy of the School's Disciplinary Policy.

All documentation from both parties must be provided at least three working days before the hearing along with the names of any witnesses to be called. The employee and the Investigating/Presenting Officer are responsible for arranging any witnesses and organising their attendance. Where an employee is unable to attend the hearing date set, another date within 5 working days of the original date will normally be set, subject to the needs of the school.

In certain circumstances it may be appropriate to restrict the calling of witnesses, where for example, it could have a detrimental impact on the future of the service provision or

due to extremely sensitive circumstances. External witnesses will not normally be permitted unless they have been direct witnesses to the alleged act of misconduct or where there are exceptional circumstances and advice has been sought from the school's HR adviser. Character witnesses may be permitted to submit written statements to the disciplinary hearing. Witnesses will usually attend the disciplinary hearing at the relevant point in the management/employee submissions. However, any party may request that witnesses re-attend the hearing where further clarity is required and where this does not unreasonably delay the proceedings.

7.7 Disciplinary Hearing

The hearing will normally involve the Head teacher or a panel of the Governing Body/Management Committee, a Human Resources Adviser and the Clerk to the Governing Body. The Headteacher or Chair of the Panel will decide whether to consider documentation submitted by either party outside of the timescales in this Policy.

The Head teacher or Governors/Members on the Panel will not have had any previous involvement in the case; will ensure that the process is fair; and implement rules of natural justice to ensure that:

- The School's procedures are followed
- The hearing is free from any bias
- The employee understands the nature of the allegation
- The employee is given the opportunity to state his/her case.

The conduct of the hearing will be as follows:

- Manager's case examined and questioned
- Case for the employee examined and questioned
- Further questioning and clarification as requested by the Headteacher or panel of the Governing Body/Management Committee
- Closing statements
- Decision.

7.8 Decision

The Head teacher or panel of the Governing Body/Management Committee will decide whether the allegation(s) is substantiated, based on the balance of probabilities taking all the evidence into consideration and any disciplinary sanction to be imposed.

Where possible, the Headteacher or panel of the Governing Body/Management Committee will give the decision verbally at the end of the hearing after a period of adjournment to make the decision. In all cases the decision will be given in writing within five working days of the meeting. This period may be extended to ten working days if the

decision-maker(s) require additional time to consider the case; the employee will be advised accordingly.

7.9 Dismissal approval process

Where the person(s) conducting a disciplinary hearing has made a determination under the School Staffing (England) Regulations that the employee should cease to work at the School (i.e. where the School is a community, community special, maintained nursery pupil referral unit or voluntary controlled school) the person chairing the disciplinary hearing must formally notify the Director of Children's Services, or other person authorised by the Director to dismiss employees based at the School on behalf of the School's Governing Body/Management Committee, in writing of the decision of the panel and of the reasons for the decision.

The Director of Children's Services or other person authorised by the Director to dismiss employees based at the School will confirm to the employee that the Local authority has been notified and his/her employment with Brent Council will be terminated with effect from the date specified in the letter of notification from the School.

As Governing Bodies of Foundation & Voluntary Aided Schools are the legal employer, the Governing Bodies do need to inform the LA of an employee dismissal.

8. Appeals

8.1 Right of appeal

An employee has the right of appeal against disciplinary action taken under this procedure.
An appeal may be lodged on one or more of the following grounds:

1. **Procedure** – where failure to follow the correct procedure has had a material effect on the decision
2. **The facts of the case** – where the Headteacher or panel of the Governing Body/Management Committee came to a conclusion on a material point of fact, which no reasonable person could have reached
3. **Sanction** – where no reasonable person conducting the disciplinary hearing would have decided the particular sanction given the circumstances of the case
4. **New evidence** is available that could not have reasonably been raised at the disciplinary hearing and the absence of which had a material effect on the decision.

Appeals will not be allowed on any other grounds.

8.2 Timescale

Appeals must be lodged in writing to the person advised in the disciplinary hearing within seven working days of the date of the letter informing the employee of the outcome of the disciplinary hearing and must outline the grounds of appeal. The appeal notification must set out clearly:

- the grounds for the appeal, i.e. one or more of those four listed in the previous paragraph;
- state the detailed basis, as far as possible, for each ground of appeal to be relied on;
- in the case of new evidence, the evidence must be included when lodging the appeal;
- where more than one allegation was proven the grounds of appeal should be cross referenced to the relevant allegation.

Where the appeal submission does not provide the necessary information to allow it to be processed the schools HR team will write to the employee seeking clarification. This may extend the timescales for hearing an appeal

8.3 Process

Where the decision appealed against was made by a senior school member of staff, the appeal against disciplinary action (including dismissal) will be heard by either the Headteacher or another senior school member of staff authorised by the Headteacher. Where the decision was made by the Headteacher or by a panel of the Governing Body/Management Committee, the appeal will be heard by another panel of the Governing Body/Management Committee. An appeal lodged against dismissal does not require the employee to be reinstated pending appeal.

The Presenting Manager for the appeal will normally be the Head teacher or Chair of the panel of the Governing Body/Management Committee at the original disciplinary hearing. An adviser from Human Resources or Legal adviser will be present to advise the panel.

An employee will be given seven working days notice in writing of the appeal hearing. Documentation and information regarding witnesses to be called must be provided by both parties at least three working days prior to the hearing. The Appeal should normally be heard within one month of the appeal notification.

An employee has the right to be accompanied at an appeal hearing by a trade union representative or a work colleague.

The appeal hearing will not be a rehearing and will only address the specific grounds of appeal set out in the employee's appeal submission, and new evidence where appropriate. No new evidence will be accepted at the appeal stage, unless it could not have reasonably been raised at the disciplinary hearing. Any exception to this will be made at the discretion of the appeal panel.

8.4 Decisions

The possible outcomes of an appeal hearing are as follows:

1. Uphold the original decision in its entirety

2. Allow the appeal in its entirety

3. Allow the appeal in part (where the appeal challenges more than one finding of misconduct)

4. Increase or reduce the severity of the sanction. However, dismissal may not be decided where a lesser sanction i.e. final warning has been given.

Decisions will be confirmed in writing within 7 working days of the conclusion of the hearing outlining reasons for findings. There is no further right of appeal.

9. Monitoring and review

Application of this policy and decisions taken on disciplinary matters will be monitored to ensure consistency and fairness.

This policy will be reviewed as necessary to take account of legislative changes, operational experience and best practice. Any changes to the policy will be undertaken in consultation with the recognised trades unions.

APPENDIX 1

Deferring Disciplinary Action

There may be a number of acceptable reasons to defer an investigation meeting or disciplinary hearing.

The employee is unable to attend due to ill-health

If an employee is unable to attend work due to illness whilst disciplinary action is being taken, a medical certificate must be submitted, stating the reasons why the employee is unable to attend. Provided a medical certificate is submitted, any planned investigation meeting or disciplinary hearing will be deferred. Normally this will be for up to five days but a longer postponement may be agreed in exceptional circumstances. Only one postponement will normally be granted.

Where a postponement is granted on health grounds, the person carrying out the investigation/the person(s) conducting the disciplinary hearing will advise the employee that if s/he is unable to attend the reconvened meeting/hearing the meeting/hearing may take place in his/her absence. Where an employee does not attend a meeting/hearing, submissions made on behalf of the employee by his/her representative or by the employee in writing or on the telephone will be taken into consideration.

If the medical condition gives cause for concern then advice should be sought from schools HR team and Occupational Health Service.

The employee is unable to attend for other reasons

If the employee requests a deferment the person carrying out the investigation /the person(s) chairing the disciplinary hearing can refuse the request unless there are exceptional circumstances. If the meeting/hearing is postponed for legitimate reasons the person carrying out the investigation /the person(s) conducting the disciplinary hearing will advise the employee that if they are unable to attend the reconvened meeting/hearing, the meeting/hearing may proceed in his/her absence. Where an employee does not attend a hearing, submissions made on behalf of the employee by his/her representative or by the employee in writing or on the telephone will be taken into consideration.

The employee does not attend and no notification received

If the employee does not attend on the day of the meeting**/**hearing without prior notification, the meeting/hearing may either proceed in his/her absence or be postponed, taking into account any known facts. If the meeting/hearing is postponed the person carrying out the investigation/the person(s) conducting the disciplinary hearing will advise the employee that if they are unable to attend the reconvened meeting/ hearing, the meeting/hearing will proceed in their absence

The employee's representative is unable to attend.

If an employee's representative is unable to attend on the day of the hearing, the hearing may be postponed in accordance with provisions in *paragraph 7.3 above.* Any longer extension of the postponement will be at the discretion of the person(s) chairing the disciplinary hearing and will depend on the circumstances of the request for a postponement. If the employee's representative is unable to attend an investigation meeting or a re-arranged investigation meeting/hearing, the meeting/hearing may either proceed in the absence of the representative or be postponed taking account of the known facts**.** In the event the meeting/ hearing proceeds the employee could consider arranging an alternative representative

APPENDIX 2

Child protection: Allegations against staff

Allegations about the abuse of children must be handled in accordance with the procedures of the Brent Local Safeguarding Children Board (LSCB) available on the schools extranet.

These procedures incorporate the guidance in "Safeguarding Children and Safer Recruitment in Education 2011" and Appendix 5 of "Working Together to Safeguard Children 2018".

These procedures apply to any allegation that an employee or volunteer has:

- Behaved in a way that has harmed a child, or may have harmed a child
- Possibly committed a criminal offence against or related to a child
- Behaved towards a child or children in a way that indicates s/he would pose a risk of harm if they work regularly or closely with children

The role of Local Authority Designated Officer (LADO) is crucial in handling all allegations of this kind. The LADO has the responsibility to ensure that allegations about abuse are handled properly and expeditiously.

The key points for head teachers/Chair of Governors/Management Committee to follow are:

a) Inform the LADO **within one working day** of any allegation that comes to the school's attention that meets the criteria as mentioned in section 2 of LSCB procedures.

b) When informed of the concern or allegation, no attempt should be made by Head Teacher/Chair of Governors/Management Committee to investigate the matter or interview the member of staff concerned or potential witnesses.

c) If the matter is referred to a multi agency meeting, the School should continue to take no action, unless advised to do so.

d) If the matter is handed back to the school, whether at the first strategy meeting or at some later stage, the School must take account of the recommendations of the strategy meeting and must liaise with the LADO about the next steps.

e) To liaise with schools HR team in these instances.

Statements from pupils

The principles stated below will apply whenever statements are taken from pupils and not only in safeguarding cases.

Statements must be taken from pupils as soon as possible after the alleged disciplinary matter has occurred. They must be taken individually and pupils must be kept separately until this has happened so that any possible collusion is avoided.

a) This is a sensitive area where the search for truth needs to be conducted in such a way as to avoid causing emotional harm to the pupil whose evidence is required. Care needs to be taken to ensure that the pupil does not, as far as possible, feel intimidated by the process. This is particularly true for a pupil who might have been the subject of the alleged misconduct. When dealing with an area which is not around child protection, the same procedure should apply.

b) An important requirement for the protection of children is that children should not be interviewed more than once unless this is clearly necessary. If, therefore, a child has already been interviewed by the police or by a social care agency in the course of investigation into the same or similar allegations, then the interview statements must be requested from the other agency and used in the school's investigation. The child may be interviewed by the person carrying out the investigation to obtain clarification of matters in the interview statements or to obtain additional information, but only if this is clearly necessary. Advice should be taken from schools HR team before arranging such an interview.

c) Where a formal investigation is underway, the parent/carer of the pupil should always be informed and invited to attend the interview with their child. The parent/carer should be informed that an incident is being investigated and that the pupil's evidence may be used if it proves necessary to hold a formal disciplinary hearing. The pupil will not be required to attend the hearing to give evidence in person.

d) Where the person carrying out the investigation is not well-known to the pupil, for example, if the person carrying out the investigation is from outside the school, consideration should be given to asking the school's Designated Senior Person for Child Protection to carry out this part of the investigation. The point here is that

the pupil should feel able to speak frankly and, as far as is possible, in a situation that is not intimidating.

e) In any event, when interviewing pupils, the person carrying out the investigation should be accompanied by a second adult, whose role is to ensure that a complete and accurate record is taken.

f) The person carrying out the investigation, taking into account the age and capabilities of the pupil, should ask the pupil to write down an account of what happened. Where this is not practicable, the person carrying out the investigation should write the account for the pupil and check carefully that the account accurately records what the pupil wishes to say. It is likely to be particularly helpful for the person carrying out the investigation to prepare questions in advance.

g) The person carrying out the investigation, in questioning the pupil should aim to seek clarification of what the pupil saw and experienced. Leading questions must be avoided, but is important to record the pupil's account of what happened, where and when and who else might have been present during the incident under investigation.

h) The pupil's account must, like any witness statement, indicate the time, date and place at which the account was written and the names and roles of all those present at the interview.

APPENDIX 3

List of Disciplinary letter templates:

1. Model Letter: To advise employee of Suspension
2. Model Letter: Invite to Disciplinary Investigation Meeting
3. Model Letter: Invite to Investigative Interview (witness)
4. Model Letter: Invite to a Disciplinary Hearing (seeking formal warning)
5. Model Letter: Invite to a Disciplinary Hearing (seeking dismissal)
6. Model Letter: Disciplinary Hearing Outcome (Dismissal)
7. Model Letter: Invite to Appeal hearing
8. Model Letter: Outcome of Appeal Hearing

Please contact your HR Adviser prior to instigating any part of this process.

MODEL LETTER 1: LETTER TO ADVISE EMPLOYEE OF SUSPENSION

(Date)

(Name)
(Address)

Dear (Name)

Formal notification of suspension from duty

I am writing to confirm my decision to suspend you from your (insert position title) post at the school at our meeting on (insert date). Your suspension is with effect from (insert date) in accordance with the school's disciplinary procedures, copy attached.

This suspension will allow an investigation to occur into the possible allegation of (insert type of misconduct i.e. gross misconduct). It is alleged that you have whilst in employment at the School:

(1)

(2)

(3)

The allegation(s) is/are extremely serious and, if proven, could lead to your dismissal (adjust where necessary).

Suspension is a neutral act and does not imply that any decision has been taken regarding the allegations made against you.

The suspension will be on full pay and will continue until such time that there has been a full investigation of the allegation. I advise you to arrange for a member of your union to support you during the suspension period. You will be given every opportunity to consider and respond to the allegations. At such time you can be accompanied at a meeting by a trade union representative or work colleague and must make your own arrangements in this respect.

I will contact you as soon as possible with further information. In the meantime, you are advised that you must not during this suspension enter the School premises without prior permission from me until the investigation is concluded. Your suspension does not constitute a break in your employment service and you cannot take up any employment paid or otherwise.

Additionally, you should not make contact with any colleagues, parents, children or governors/management committee members of the School, without my express permission. You should not retain any keys or belongings that you may have in your possession relating to the School. If you have any personal belongings that you wish to collect please let me know.

During the period of your absence from your duties any enquiries together with other information that you need to relay to the School can also be forwarded to myself or (alternative management school contact person) at the School on telephone number (direct phone contact number).

Please be assured that should you need additional support or access to counselling support during your suspension this can be arranged by the School via Brent Council's Occupational Health Unit, please contact either me at the School or contact your union Representative to arrange this for you.

You must make yourself available during normal working hours to attend meetings or interviews as may be required to conclude the investigation. The receipt of full pay whilst on suspension is dependent upon a person making themselves available at all times during working hours unless other leave has been authorised by me.

If you require special leave of absence, sick leave or any other leave then the normal authorisation/notification procedures apply. If you are sick at any point during your suspension then you must follow the normal sickness reporting procedures.

If you are going away from your home address for any period then you must ensure that you notify me at the School where you will be staying and provide me with a contact address and telephone number.

In order to maintain confidentiality please be assured that any enquiries about your absence from your duties whilst you are on suspension from your duties at the School would be responded to with the following statement "that you are absent due to being granted paid leave of absence".

Yours sincerely

(Name)
HEAD TEACHER

Enc.

cc (Name of HR representative), HR Services
(Name of Trade Union Rep), (Trade Union)

MODEL LETTER 2: INVITE TO DISCIPLINARY INVESTIGATION MEETING

(Date)

(Name)
(Address)

Dear (Name)

INVESTIGATORY MEETING

Further to our recent discussions regarding allegations of your (brief description of allegation for example improper use of the internet), I am writing to invite you to attend a meeting as part of the investigation process on (day/date/month) at (time). The meeting will take place in (venue).

The nature of the allegation(s) under investigation are (specify brief details of the allegations including number of occurrences/dates where appropriate).

(include the sentence below if appropriate)
The allegation(s) is/are extremely serious and, if proven, could lead to your dismissal (adjust where necessary).

The purpose of the meeting is to give you the opportunity to respond fully to these allegations and ask you questions about the matters concerned.

At the investigatory meeting I will be accompanied by (name of senior member of school staff/HR representative). You have the right to be accompanied at the meeting by a trade union representative or work colleague, if you wish. It is your responsibility to organise this representation if you would like someone to attend with you.

A copy of the Disciplinary Policy and Procedure for Schools is enclosed for your information.

If the date of the meeting is not convenient for your representative or work colleague, please contact me as soon as possible on (telephone number) and we can arrange a mutually acceptable time which, where possible, will be within 5 working days of the original date of the meeting.

Yours sincerely

(Name)
HEAD TEACHER

Enc.
cc (Name of HR representative), HR Services
(Name of Trade Union Rep), (Trade Union)

MODEL LETTER 3: INVITE TO INVESTIGATIVE INTERVIEW (WITNESS)

(Date)

(Name)
(Address)

Dear (Name)

Investigative interview

I am writing to confirm that you are required to attend an investigative interview on (insert date) at (insert time) at (insert venue). I will be conducting the interview, as the Investigating Manager, and will be accompanied by (insert name of note-taker or HR representative – delete if not applicable).

The interview is to investigate allegations of (insert brief details of allegations), which are not directed at you, but it is felt you may be able to provide some information to assist the on-going investigation.

This is a confidential matter and you should not discuss this interview with anyone.

If you have any questions or queries in relation to this letter then please do not hesitate to get in touch. Many thanks for your co-operation.

Yours sincerely

(Name)
HEAD TEACHER

Enc.

cc (Name of HR representative), HR Services
(Name of Trade Union Rep), (Trade Union)

MODEL LETTER 4: INVITE TO DISCIPLINARY HEARING (SEEKING FORMAL WARNING)

(Date)

(Name)
(Address)

Dear (Name)

DISCIPLINARY HEARING

Following the conclusion of the investigation under the Schools' Disciplinary Procedure into allegations regarding your misconduct (if appropriate serious misconduct), I am writing to confirm that a hearing has been arranged for (day/date/month) at (time) in (venue).

The allegations are that you (brief description of allegation *for example disregarded safety rules specified in the Schools' Health and Safety policy*), specifically that you (specify brief details of the allegations including number of occurrences/dates where appropriate).

The matter will be heard by *chose either* (the school's Staffing Committee) (insert names) *or* (insert name), Headteacher and they will be advised by (Name), (Job Title) from the Schools' HR Service. This could result in (a first or final written warning which will remain active on your file for 12 *or* 24 months). *(delete as appropriate)*. Where there are 'live' warnings on your file at the point of the disciplinary hearing, this may be taken into account in reaching decision and could result in your dismissal from the School.

You have the right to attend and make representations at the hearing and to be accompanied by a trade union representative or work colleague, if you wish. It is your responsibility to make suitable arrangements for your representation.

You have the right to present witnesses and written statements to support your case. The names of witnesses and copies of written statements shall be circulated to all parties no later than 3 working days in advance of the hearing and therefore you must forward these to me no later than (date 4 working days before hearing) to arrange this.

The papers that will be presented at the meeting as part of the management case are enclosed for your information. These comprise:

- (list all relevant documents).

You have the right to ask questions of the author of the management case and any witnesses that attend the hearing. Management intend to call the following staff as witnesses (insert name and job title as appropriate).

(*if appropriate*: However, please note that management believe it is inappropriate to call any of the school pupils as witnesses.)

If you have any specific medical needs or accessibility requirements in relation to the hearing you are required to inform the school on receipt of this letter.

A copy of the Disciplinary Policy and Procedure for Schools is enclosed for your information.

Please contact (Name) on (telephone number) in the first instance if there is any aspect of this letter you need to clarify.

Yours sincerely

(Name)
HEADTEACHER / (DELETE AS APPROPRIATE)

cc. (Name of HR representative), HR Services
(Name of Trade Union Rep), (Trade Union)
(Names), Members of Staffing Committee
(Name), Head Teacher

Enc.

MODEL LETTER 5: INVITE TO A DISCIPLINARY HEARING (SEEKING DISMISSAL)

(Date)

(Name)
(Address)

Dear (Name)

You are asked to attend a formal disciplinary hearing.

The hearing will be held on (day/date/month) at (time) in (venue).
Specifically the hearing will consider the following charges against you:
1.
2.
3.

These allegations if proven could constitute gross misconduct.

Therefore the hearing may dismiss the charges against you, issue a written warning, or decide to dismiss you (*foundation or voluntary aided schools*) /determine you be removed from the school (*community schools*). Where there are 'live' warnings on your file at the point of the disciplinary hearing, this may be taken into account in reaching decision and could result in your dismissal from the School.

The matter will be heard by *chose either* (the school's Staffing Committee) (insert names) *or* (insert name), Headteacher and they will be advised by (Name), (Job Title) from the Schools' HR Service.

You have the right to attend and make representations at the hearing and to be accompanied by a trade union representative or work colleague, if you wish. It is your responsibility to make suitable arrangements for your representation.

You have the right to present witnesses and written statements to support your case. The names of witnesses and copies of written statements shall be circulated to all parties no later than 3 working days in advance of the hearing and therefore you must forward these to me no later than (date 4 working days before hearing) to arrange this.

The papers that will be presented at the meeting as part of the management case are enclosed for your information. These comprise:

- (list all relevant documents).

You have the right to ask questions of the author of the management case and any witnesses that attend the hearing. Management intends to call the following staff as witnesses: (insert name and job title).

(insert paragraph below if required)
However, please note that management believe it is inappropriate to call any of the school pupils as witnesses.

(insert paragraph below if the employee is suspended from the school):
You should contact (insert headteacher's name) if you need access to the school premises for any reason before the date of the hearing as one of the conditions of the suspension is that you remain off the premises until invited to return.

A copy of the Disciplinary Policy and Procedure for Schools is enclosed for your information.

Please contact (Name) on (telephone number) by (time), on (date) to confirm you are going to attend. Also, please advise me if you intend to be accompanied by a colleague or official representative of your staff association, provide written evidence, or, if you wish to call any member of staff as witnesses to accompany you so that I may make arrangements for cover.

If you have any specific medical needs or accessibility requirements in relation to the hearing you are required to inform the school on receipt of this letter.

Yours sincerely

(Name)
HEADTEACHER / CLERK TO GOVERNING BODY/MANAGEMENT COMMITTEE (DELETE AS APPROPRIATE)

cc. (Name of HR representative), HR Services
(Name of Trade Union Rep), (Trade Union)
(Names), Members of Staffing Committee
(Name), Head Teacher

Enc.

MODEL LETTER 6: DISCIPLINARY HEARING OUTCOME (DISMISSAL)

(Date)

(Name)
(Address)

Dear (Name)

Disciplinary Hearing

Further to the disciplinary hearing held under the Schools Disciplinary Policy and Procedure on (day/date/month) to consider allegations of your (if appropriate serious/gross) misconduct, I am writing to confirm my decision or the Staffing Committee's decision to dismiss you from employment.

The purpose of the hearing was to consider the allegations that you (brief description of allegation e.g. disregarded safety rules specified in the Schools' Health and Safety policy), specifically that you (specify brief details of the allegations including number of occurrences/dates where appropriate).

At the hearing you (were represented by Name, Trade Union/declined the right to representation by a trade union representative or work colleague) and I was advised by (Name) from HR.

In reaching a decision with regard to the above allegations, the Committee considered:

- (brief view on whether the Schools' Disciplinary Procedure was followed)
- (brief view on whether an adequate investigation was carried out)
- (brief view on whether the allegations were substantiated on the balance of probabilities)
- (brief view on whether sufficient regard was paid to any explanation put forward by you/your representative and how any mitigating factors were considered)
- (brief view on whether the conduct is sufficiently serious to justify the disciplinary decision being taken)
- (brief view on whether the decision is reasonable given all the circumstances).

The Staffing Committee has therefore decided to (/dismiss you on the grounds of gross misconduct with immediate effect/dismiss you on the grounds that this is a further instance of misconduct since the final written warning issued to you previously on (date)).

(if child protection matter) Please note that records of "spent" warnings regarding conduct involving children may be used in subsequent disciplinary or child protection investigations of allegations relating to children. Such records may also be referred to in references provided in relation to appointments with substantial access to children.

(if appropriate) insert here if you will be referring the employee to the DBS and/or their professional body.

You have the right to appeal against this decision to the Staffing Appeals Committee of the Governing Body/Management Committee. If you wish to exercise your right of appeal, you must notify the Chair of Governors/Chair of Management Committee in writing within ten working days of receipt of this letter.

The Local Authority will be notified of the requirement to dismiss you as soon as possible.

Yours sincerely

(Name)
Headteacher / Chair of Staffing Committee (delete as appropriate)

cc. (Name of HR representative), HR Services
(Name of Trade Union Rep), (Trade Union)
if dismissal, (name), Head of Education
Chair of Governors/Chair of Management Committee

MODEL LETTER 7: DISCIPLINARY HEARING OUTCOME (WRITTEN WARNING)

(Date)

(Name)
(Address)

Dear (Name)

FORMAL WRITTEN WARNING

I am writing to confirm the outcome of the disciplinary hearing held on ( )

I decided that the following allegations of misconduct had been proven:-

(1)

(2)

(3)

I went on to consider the appropriate penalty for this misconduct taking into account the representations made during the hearing and all the circumstances, I decided the appropriate penalty was a (first) or (final) written warning.

The warning will remain in force for a period of (12 months) or (24 months) If during that time a further act of misconduct of whatever nature is committed by you, and you are proven to have committed that act of misconduct at a subsequent disciplinary hearing, this warning will be taken into account by the person(s) conducting the hearing when considering the appropriate sanction.

You are entitled to appeal against this decision as set out in the school's disciplinary policy and procedure. In order to do so you must write to me in the first instance within 7 working days of your receiving this letter setting out the grounds upon which you are appealing.

Yours sincerely,

(Name)
Headteacher / Chair of Staffing Committee (delete as appropriate)

cc. (Name of HR representative), HR Services
(Name of Trade Union Rep), (Trade Union)

MODEL LETTER 8: INVITE TO APPEAL HEARING

(Date)

(Name)
(Address)

Dear (Name)

Meeting of Staffing Appeals Committee

Following receipt of your appeal against the decision of the (Head Teacher/Staffing Committee) to (issue you with a first written warning/final written warning/dismiss you on grounds of gross misconduct) under the Schools' Disciplinary Procedure, I am writing to confirm that an appeal hearing has been arranged for (day/date/month) at (time). The hearing will take place in (venue). (Name), (Job Title) from HR will also be in attendance to advise the committee.

You have the right to present witnesses and written statements to support your case. The names of witnesses and copies of written statements shall be circulated to all parties no later than 3 working days in advance of the hearing and therefore you must forward these to (Name) no later than (date 4 working days before hearing) to arrange this.

The papers that will be presented by the (Head Teacher/Chair of the Staffing Committee) in responding to your appeal (are enclosed for your information/will be circulated by the same date). These comprise of:

- list all relevant documents;
- the letter confirming the outcome of the disciplinary hearing;
- an additional statement from the (Head Teacher/Chair of the Staffing Committee).

You have the right to be accompanied at the hearing by a trade union representative or work colleague, if you wish. It is your responsibility to organise this if you would like someone to attend with you.

If you have any specific medical needs or accessibility requirements in relation to the hearing you are required to inform the school on receipt of this letter.

Please note that the decision of the Staffing Appeals Committee shall be final and there will be no further right of appeal.

Please contact (Name) on (telephone number) in the first instance if there is any aspect of this letter you need to clarify.

Yours sincerely

(Name)
Chair of Staffing Appeals Committee

cc. (Name of HR representative), HR Services
(Name of Trade Union Rep), (Trade Union)
(Names), Members of Staffing Appeals Committee

MODEL LETTER 9: OUTCOME OF APPEAL HEARING

(Date)

(Name)
(Address)

Dear (Name)

Meeting of Staffing Appeals Committee

Further to the meeting of the Staffing Appeals Committee under the Schools' Disciplinary Policy and Procedure on (day/date/month) to consider your appeal against (a written warning/ final written warning/ dismissal), I am writing to confirm the committee's decision in writing. At the hearing you (were represented by Name, Trade Union/declined the right to representation by a trade union representative or work colleague).

The grounds of your appeal were (briefly describe the case for appeal presented by the employee).

The (Head Teacher/Chair of the Staffing Committee) responded to your appeal by outlining the reasons for the decision to (issue you with a written warning/ final written warning/ dismiss you). These were (briefly describe case presented).

Having given consideration to all the available evidence, the Staffing Appeals Committee has decided to (uphold/reject) your appeal. In arriving at this decision the Committee considered (specify relevant factors).

(if rejected)
The decision of the Staffing Appeals Committee is final and there is no further right of appeal.

(if appeal partially upheld but lesser penalty decided on)
The Committee decided that it was appropriate to reduce the disciplinary action to a (first written warning or final written warning). This will remain active on your file for a period of (12 or 24) months.

(if appeal upheld)
I can therefore confirm that no formal disciplinary action will be taken against you.

Yours sincerely

(Name)
Chair of Staffing Appeals Committee

cc. (Name of HR representative), HR Services
(Name of Trade Union Rep), (Trade Union)
(Name), Head Teacher

APPENDIX 4

Examples of Gross Misconduct

It is impossible to list every type of act, which would result in disciplinary action for gross misconduct. The examples of gross misconduct below are given so that all school employees have a general understanding of the type of act, which would result in such action.

1. Serious failure to comply with the School's Policies.

2. Acts of discrimination, harassment, bullying, the making of remarks, or verbal abuse against employees, pupils/students or members of the public, other members of the school community on the grounds of race, colour, nationality or ethnic or national origins, age, use of mental health services, sex, marriage or civil partnership, gender re-assignment, religion and belief, sexual orientation, disability, pregnancy or maternity. The display, or use within the workplace of any literature or material that could seriously and adversely affect the dignity of others.

3. Serious breach of the School's Code of Conduct (where the school has adopted this document).

4. Repeated instances or prolonged period of unauthorised absence from work.

5. Grossly inadequate standards of work due to negligence or wilful failure to perform.

6. Serious negligence, which causes unacceptable loss, damage or injury.

7. Serious failure to obey a reasonable management instruction or serious insubordination.

8. Culpable lack of care towards pupils/students, including serious breaches of statutory guidance to schools on safeguarding children and vulnerable adults.

9. Serious incapability through abuse of alcohol or drugs (subject to use of the Council's policy for dealing with employees suffering from alcohol or drug misuse if adopted by the School when appropriate).

10. Sexual misconduct at work.

11. Falsification of qualifications which are a statutory or essential requirement of employment or which allow the employee to succeed in getting another job with the School or which result in additional remuneration.

12. Falsification of School documents/forms e.g. attendance sheets, bonus sheets, subsistence and expense claims, application forms completed by Brent staff, etc.

13. Acceptance of bribes or other corrupt practices, such as improper use of an official position for private gain or the private gain of some other person

14. Serious breach of financial regulations, standing orders or other corporate standards including fraudulent activity and /or financial irregularity.

15. Unauthorised use and/or disclosure of confidential information relating to the business of the School, its Governors and employees or the members of the public with whom it has dealings unless doing so under the whistleblowing procedures.

16. Unauthorised removal, possession or use of property belonging to the Council or its Members or to the Governing Body or, to a member of the Governing Body, an employee, pupil/student or member of the public.

17. Theft of property belonging to the Council or its Members or to the Governing Body or to a member of the Governing Body, an employee, pupil /student or member of the public.

18. Wilfully causing serious damage to the property of the Council or its Members or of the Governing Body, a member of the Governing Body, an employee, pupil/student or member of the public.

19. Serious breaches of safety policies or practices including deliberate damage to or misappropriation of safety equipment endangering other people.

20. Acts of violence including the physical assault of and serious threatening or abusive behaviour towards an employee, pupils/students, parents, Governors or a member of the public or members/officers of the Council.

21. Conviction of a criminal offence unconnected with the School but which makes the employee unsuitable for continued employment with the School (e.g. sexual offences, or domestic violence towards other family members when s/he works with children and/or vulnerable adults)

22. Conviction of a non-criminal offence unconnected with the School but which makes the employee unsuitable for continued employment with the School (e.g. committing an offence of dishonesty against another public sector body such as a local authority, the Department of Work and Pensions or the National Health Service).

23. Undertaking unauthorised paid work during paid working time or during any period of sickness absence.

24. Unauthorised or inappropriate use of software and related IT equipment, including processing, storing or transmitting offensive, pornographic or libellous material via email, the internet or the intranet.

25. Any action, which brings or could bring the School and its reputation into disrepute (e.g. inappropriate use of Facebook).

26. Failure to report to an appropriate manager/headteacher or to take appropriate managerial action on knowledge of serious malpractice or wrong doing by others, where that wrong doing or malpractice relates to the business of the School, its Governors and employees or members of the public with whom the School has dealings.

27. Acts of malicious falsehood i.e. – knowingly spreading in bad faith information that is false about the School, its Governors, employees, pupils/students or members of the public with whom it has dealings.

Examples of Other Misconduct

It is impossible to list every type of act, which would result in disciplinary action for misconduct. The examples of misconduct below are given so that all employees have a general understanding of the type of act, which would result in such action.

1. Repeated lateness for work.

2. Unauthorised absence from work.

3. Repeated failure to follow absence-reporting rules.

4. Negligence at work leading to injury or loss of or damage to Council or Governing Body or public property.

5. Acts of insubordination.

6. Acts of discrimination, harassment, bullying, the making of remarks, or verbal abuse against employees, members of the school community, pupils/students or members of the public on the grounds of race, colour, nationality or ethnic or national origins, age, use of mental health services, sex, marital status, religious belief, sexual orientation or disability. The display within the workplace of any literature or material that could affect the dignity of others.

7. Breach of the school's Code of Conduct (where the school has adopted this document).

8. Inadequate standards of work due to negligence or wilful failure to perform.

9. Abusive or threatening behaviour towards employees, members of the school community, pupils/students or members of the public.

10. Engaging in other business or additional employment without the written permission of the School. In the case of part time staff this only applies where they engage in other employment which is in conflict with their duties and responsibilities to the Council/Governing Body.

11. Failure to discharge obligations in accordance with statute or contract of employment.

12. Failure to comply with the School's Policies.