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The John Moore Primary School

Staff Discipline, Conduct and Grievance

(procedure for addressing)

Statutory Policy

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Table of Contents

1	Introduction	4
2	Conduct.....	4
3	Misconduct	5
4	Gross misconduct.....	5
5	Whistle-blowing	6
6	Informal action.....	6
7	Formal action	6
7.1	Stage one:	7
7.2	Stage two:	7
7.3	Stage three:.....	7
8	Investigation.....	8
9	Suspension	8
10	Allegations involving children or young people.....	9
11	Summary dismissal.....	9
12	Right to representation.....	9
13	Formal meeting.....	10
14	Action plan	11
15	Absence during the conduct procedure	11
16	The role of Governors	12
17	Role of GCC and the Diocese	12
18	Dismissal	12
19	Right of appeal.....	12
20	Informing the Teaching Regulation Agency (TRA)	14
21	Informing the Disclosure and Barring Service (DBS).....	14
	Appendix 1 – Stage 1, Disciplinary Hearing Invitation	15
	Appendix 2 – Stage 1, Disciplinary Hearing Outcome	17
	Appendix 3 – Stage 2, Disciplinary Hearing Invitation	18
	Appendix 4 – Stage 2, Disciplinary Hearing Outcome	20
	Appendix 5 – Stage 3, Disciplinary Hearing Invitation	21
	Appendix 6 – Stage 3, Disciplinary Hearing Outcome - Dismissal	23
	Appendix 7 – Stage 3, Disciplinary Hearing Outcome – Gross Misconduct	24
	Appendix 8 – Conduct Hearing – Outcome – No further Action	25
22	Grievance Procedure	26

23	Resolving a grievance.....	27
23.1	Informal process	27
23.1.1	Mediation.....	27
23.2	Formal Process.....	27
23.3	Grievance investigation	28
23.4	Investigating Officer.....	28
23.5	Timescales.....	28
23.6	Grievance meetings	28
23.6.1	Employee raising the grievance	28
23.6.2	Employee who is the subject of grievance	29
23.6.3	Witnesses.....	29
23.7	Final grievance meeting.....	30
23.8	Notes of meetings.....	30
23.9	Responding to the grievance	31
24	Outcomes.....	31
24.1	Grievance not upheld.....	31
24.2	Grievance upheld (either in whole or in part)	31
25	Communicating the outcome	32
26	Appeal	32
27	Other types of grievance.....	32
27.1	Collective grievances.....	33
27.2	Post-employment grievances	33
28	Other linked policies	33

1 Introduction

The Governing Board at The John Moore Primary School recognises the importance of good working relationships with employees and seeks to ensure that concerns with conduct are dealt with promptly and consistently.

This policy provides a framework to manage an employee's conduct to an acceptable level, promoting fairness and transparency in the treatment of employees and ensuring that acceptable standards are sustainable and maintained.

It is based on the principles of the ACAS Code of Practice on disciplinary and grievance and current employment and educational legislative requirements.

This policy applies to the following employees:

- Support staff: where there are concerns which informal action has been unable to address or which are serious enough to require formal action
- Teachers: where there are serious concerns and/or the appraisal process has been unable to address concerns informally

Managers/head teachers are expected to:

- Regularly review the performance of employees and respond to any situations where an employee's conduct is unacceptable
- Give employees regular feedback on how they are doing
- Have early discussions with the employee on problems, possible causes and solutions
- Provide support, training or development where appropriate

Employees are expected to:

- Maintain good conduct
- Be responsible for their own development
- Raise with their manager any problems that are affecting their work
- Accept responsibility for their work performance
- Respond constructively to advice, guidance and development provided by their manager
- Be flexible and cooperate with changing work requirements

This policy does not form part of any employee's contract of employment and is entirely non-contractual. It may be amended, withdrawn, suspended or departed from at the discretion of the school at any time.

2 Conduct

Conduct relates to the behaviours and the ways in which employees act on a day to day basis. Acceptable conduct is largely based on the behaviours that others (i.e. children,

parents, governors/managers, colleagues and visitors) can reasonably expect of employees. Conduct differs from capability, with capability focusing on an employee's inability to attain expected standards of performance, for instance due to lack of knowledge or skill.

3 Misconduct

Misconduct is when expected conduct/behaviour is not achieved or maintained. This could include when an employee:

- Does not follow rules or procedures
- Fails to exercise reasonable care or skill due to negligence or lack of effort
- Fails to carry out management instructions, direction or guidance
- Is inappropriately negative or behaviour is undermining of managers or colleagues
- Has poor attendance
- Breaches codes of conduct applicable to or adopted by the school
- Breaches professional standards
- Is dishonest

The above are examples of situations that could constitute misconduct. Each case will depend on the particular facts and circumstances.

4 Gross misconduct

Gross misconduct is regarded as serious misconduct that fundamentally breaches the relationship of trust and confidence between the employee and employer. In the absence of exceptional mitigating circumstances, offences of gross misconduct will result in summary dismissal.

The following list (which is not exhaustive) gives examples of situations that could constitute gross misconduct. Each case will depend on the particular facts and circumstances.

- Theft, fraud or falsification of records
- Physical violence, verbal abuse, bullying, harassment or intimidation.
- Damage to property, health and safety equipment or a serious breach of health and safety rules
- Serious negligence which causes loss, damage, injury or endangers people or property
- Misuse of alcohol or drugs
- Any illegal discrimination
- Inappropriate physical, emotional or sexual contact with a child, or an abuse of trust as defined in the Sexual Offences Act (2003)
- Serious insubordination or serious undermining of school management, or a serious breach of confidentiality including covert recording of school meetings
- Accessing internet sites containing pornographic, offensive or obscene material
- Inappropriate activities on school site(s) or whilst on school activities e.g. sexual activities with another adult

- Major breaches of the Code of Conduct for Educational Establishments, or bringing the reputation of the school into disrepute
- Serious breach of the school's Social Media Policy

5 Whistle-blowing

The whistle-blowing procedure should be used for employees wishing to report, in strict confidence, their serious concerns about malpractice or conduct of other employees within GCC or an educational establishment. It gives protection to employees who make an allegation and forms part of the conditions of employment.

6 Informal action

Informal action would normally be taken when the employee has:

- A previous good record of conduct and the incident is of a minor nature
- A previous good record and there are mitigating circumstances

Informal action to address the situation should be taken as soon as a concern arises about an employee's conduct and should not be delayed.

For teachers, this will normally be managed through meetings held as part of the appraisal process.

Informal action may include a discussion between the manager and employee, a verbal warning and the reinforcement of expectations surrounding an employee's conduct.

7 Formal action

Formal action should be taken when the employee has:

- Repeated incidents of misconduct, or an incident of a serious nature
- An incident that may be gross misconduct
- Previous formal warnings on file for any reason that are still current and there is a continued or new performance concern

No formal action should commence against a trade union representative until the circumstances of the case have been discussed with the appropriate branch or full-time officer, with the prior permission of the employee. If the employee does not wish there to be any prior discussion with the branch or full-time officer then formal action will proceed in the normal way under this procedure.

Although there is an expectation that formal action is generally progressive, formal action may start at any stage, dependent on the severity of the situation and the circumstances.

At each stage, a formal meeting will be arranged with the employee.

If the concern is established, the outcome would normally result in a warning and sanction or ultimately dismissal. The maximum warning for each stage is detailed in the table below, however the chair has the flexibility to apply lesser sanctions if appropriate (i.e. issuing a first written warning at a stage two meeting, if the concern was not enough to warrant a final warning as detailed).

Sanctions (including associated financial outcomes) will not disproportionately impact employees covered under the Equality Act 2010, and will be considered on a case by case basis.

The stages of formal action and potential sanctions are given below:

Formal stage	Maximum level of sanction at each stage
One	Could lead to a first written warning. Withholding an increment for support staff and preventing progression to the next pay point/grade for teachers.
Two	Could lead to a final written warning. Withholding an increment for support staff and preventing progression to the next pay point/grade for teachers.
Three	Could lead to dismissal.

7.1 Stage one:

- The warning cautions the employee that if their conduct does not improve, it may be necessary to consider further formal warnings, up to and including dismissal
- A decision can be made to issue a first warning at stage one depending on the severity of the issue
- If improvement is not achieved at this stage, or sustained thereafter, then progression to stage two is likely
- A decision can be made to withhold any incremental or salary progression at the next salary review date

7.2 Stage two:

- A decision can be made to go straight to stage two (without a first warning being in place) depending on the seriousness of the issue
- The maximum sanction at this stage is a final written warning
- If improvement is not achieved or sustained at this stage then it is likely to progress to stage three and may result in dismissal
- A decision can be made to withhold any incremental or salary progression at the next salary review date

7.3 Stage three:

- The maximum sanction at this stage is dismissal
- Lesser sanctions can be applied if during the meeting it is concluded that the conduct does not justify dismissal (i.e. final written warning)
- Any notice will be in line with normal contractual arrangements or statutory notice depending on which is greater

- All formal meetings for gross misconduct will be held at this stage, with the maximum potential outcome of summary dismissal

The start date of the formal warning will commence when the related action plan and support programme is finalised. Therefore, any outcome will be confirmed in writing to the employee within three working days of the decision, including as appropriate:

- The nature of the concern
- The required improvement
- The monitoring arrangements and, if appropriate, a review date
- The warning - what will happen if there is insufficient, improvement and the further formal action that could be taken
- Any support/training arrangements
- How long the warning will remain in force
- Any effect on pay
- The right of appeal
- An action plan

A written warning will remain live for the duration as set out in the outcome letter, usually 12 months.

If an employee appeals against an outcome, the sanction will remain in place until the outcome from the appeal is known.

8 Investigation

An investigation is the gathering of information relating to a conduct issue. Dependent on the manager's involvement, the manager will investigate or arrange an investigation to establish the facts. An investigation must be carried out before calling a formal meeting and will usually include a discussion with the employee about the issue.

Prior to the formal meeting, the investigator will produce a report setting out the findings and conclusions. Where appropriate, copies of witness statements and any other relevant documentation will be attached to the report.

9 Suspension

Suspension does not imply in any way that the matters have been pre-judged or the outcome pre-determined. Before suspending an employee, careful consideration should be taken of the circumstances of the allegation – it should not be an automatic response. It may be necessary to suspend an employee as a precautionary measure on normal contractual pay either pending, or as a result of, an investigation which could lead to a formal meeting, if:

- Their presence might cause an unacceptable risk to a child or children
- The allegations are sufficiently serious that the outcome may be dismissal
- Their presence may impede or influence the investigation

- To prevent a possible repeat allegation or offence
- There are reasonable grounds to believe that the interests of the school or employee would be seriously affected, if they were to remain at work

Alternatives, on a short-term basis where appropriate, include:

- Paid leave of absence with the agreement of the employee (very short term – a few days – allowing time for an initial decision to be made)
- Alternative duties/locations including working from home
- Close supervision e.g. a colleague present during pupil contact time

There will be a designated point of contact for the suspended employee.

10 Allegations involving children or young people

If the allegation relates to harm or risk of harm to a child or young person, no investigation should be undertaken until a discussion has been held with the Local Authority Designated Officer (LADO).

Refer to the Gloucestershire Safeguarding Children Board website and details on Allegations Management.

Under the Education Act 2011, there are reporting restrictions related to teachers if there is an allegation that they are or may be guilty of a criminal offence against a child and it is made by or on behalf of a registered pupil at the school.

Any messages, whether verbal or in writing, issued to the public and connected to child related allegations should be cleared through the LADO who will liaise with appropriate parties including the press office. In addition, it is good practice that the reporting restrictions are applied to support staff to ensure consistency.

11 Summary dismissal

If an investigation finds that there is a case for gross misconduct the employee will be required to attend a stage three formal meeting.

If it is decided that gross misconduct has occurred and there are no significant mitigating factors (or those factors do not sufficiently reduce concerns), the employee will be 'summarily dismissed'.

Summary dismissal is dismissal without notice, pay in lieu of notice, or any other contractual benefit and is effective from the date of the decision.

The decision must be confirmed in writing within three working days, setting out the grounds for dismissal and how the employee can appeal.

12 Right to representation

The employee has a right to be represented/supported by a trade union representative or workplace colleague during formal conduct meetings.

If the employee's representative is unavailable for any of the formal meetings, an alternative date (usually within five working days) will be arranged. There will normally be only one postponement allowed for this reason. If the representative subsequently becomes unavailable for the re-arranged meeting the employee may be advised they will need to find a different representative and it is the union's responsibility to ensure an alternative representative is provided.

The employee does not have a specific right to be accompanied at an investigatory meeting by a trade union representative or workplace colleague. However, it is recommended they be given the opportunity to be accompanied if there is the possibility of formal action being taken at a later date.

13 Formal meeting

The headteacher and/or a governor, or a panel of governors can conduct a formal meeting. The Governing Board may delegate responsibility to the headteacher for formal action including the decision to dismiss.

For the formal stages up to stage two, the holding of formal meetings and the issuing of warnings may be delegated to an appropriate member of the leadership team e.g. business manager.

Where the headteacher is the subject of the formal meeting, the Governing Board may delegate responsibility for formal action to one (usually the chair of governors) or more governors.

However, the headteacher or same governing board representatives cannot take dismissal decisions if they have been directly involved in making decisions on previous formal warnings. And where practicable, different people should carry out the investigation and disciplinary hearing.

The manager should make it clear to the employee that formal action is being taken:

- At least five working days' notice will be given to the employee attending the formal conduct meeting. For a formal meeting where dismissal is being considered, at least 10 working days' notice should be given.
- The letter should include details of the right to representation, of the Conduct Policy and the documents to be discussed at the meeting (e.g. investigation notes). There should be an additional copy for the representative that the employee can send, or it can be sent directly to the representative if the employee has advised the school who their representative is, provided the employee has agreed.
- The letter must state the formal stage at which the meeting is being held and the potential formal outcome/sanction that may result.

- The employee must be given a date by which to provide any documentation to support their case (five working days). Sufficient time should be given to allow papers to be distributed to the chairperson/panel to be read prior to the formal meeting. If this is not possible, they should contact a relevant person to make appropriate arrangements.
- For a formal meeting where dismissal is being considered, the employee must ensure the school receives any documents at least five working days before the meeting to ensure all parties receive the documentation at least three working days before the formal meeting to allow time to read and understand the content.
- Any formal action taken and the reasons for the decision will be confirmed in writing to the employee, including details on how they can appeal. The employee should be informed of the consequences of failing to improve sufficiently within the set period following a final warning, including confirmation that it may result in dismissal.
- An action plan for improvement (if appropriate) should either be issued with the decision letter or follow shortly after.

It is good practice to make a note of informal meetings to inform future proceedings. Where a formal meeting takes place, minutes must be taken. Where dismissal is a potential outcome, minutes should be kept and consideration should be given to having note-taker present. Employees are not permitted to make their own audio recording of a conduct meeting.

14 Action plan

Action plans are developed to suit individual circumstances but would normally include clear expectations regarding work standards and practices, the criteria for success, time scales for improvement and any agreed support and review arrangements. The employee may be given the opportunity to discuss the content of this plan with their trade union representative before agreeing to it.

Whilst it is for the manager to determine the criteria it is important for the employee to understand what is required of them and to help identify potential support. Employees are expected to co-operate with the process and engage fully with any agreed support.

Should the employee not achieve a successful outcome following the action plan they would normally progress to the next stage of the conduct policy, and ultimately could be dismissed.

Arrangements for monitoring and review will be agreed as part of the action plan.

15 Absence during the conduct procedure

If the employee becomes absent during the conduct process the headteacher is advised to contact their HR provider as soon as possible to ensure that the best course of action is followed.

Sickness absence should not normally delay any part of a conduct process. If during the process the employee is signed off as medically unfit for work the employee should be

referred immediately for Occupational Health assessment (if available) including in the referral details of the process including the stage reached in the procedure, and the question of whether they are fit to attend formal meetings.

Where the employee is unable to attend conduct related meetings for health reasons, the meetings may proceed in the employee's absence, considering all the circumstances of the case. They may submit a written statement and/or their representative may attend on their behalf. It is advised that further guidance is obtained from the school's HR provider if there are difficulties in arranging for an employee to attend meetings.

If an employee is absent during the period of any formal warning being in force, the warning will be extended by a period equivalent to the total absence from work. Any such extension must be confirmed in writing to the employee.

The absence will be dealt with in accordance with the school's attendance policy.

16 The role of Governors

The school may delegate the headteacher (or manager), a single governor or a panel of governors to hear a formal case as appropriate (see above).

A panel of governors (up to three) will hear an appeal.

Where collaborative arrangements with another Governing Board are in place regarding staff conduct, governors from any of the collaborative schools may be delegated to hear a formal meeting or appeal.

17 Role of GCC

A representative from GCC is entitled to attend and provide advice at all proceedings in Community schools relating to any dismissal decisions.

The Governing Board or the headteacher must consider any advice given by the GCC representative before a decision to dismiss is made.

18 Dismissal

In all Schools, Governors will send the employee a dismissal notice.

However, for Community schools, the Governing Board will also send an instruction to GCC and the employee will receive a confirmation of dismissal notice from GCC.

Where dismissal is with notice, any notice period will be in accordance with the employee's contractual arrangements, or the statutory period, whichever is greater. The employee will receive normal pay throughout the period of notice.

19 Right of appeal

There is a right of appeal at every stage of the formal absence process as specified in the warning or dismissal letter.

The appeal is not a rehearing of the case but is a review of the reasonableness of the decision. Determining reasonableness may include consideration of procedural irregularities or any relevant new evidence which could not have been available at the time of the formal meeting.

Whilst the outcome of the appeal is pending, an action plan, warning or dismissal will remain in force.

The appeal letter must be received within five working days of the date of the outcome letter and should specify the grounds of the appeal including why and in what respects the decision of the original meeting was unreasonable. The appeal needs to be sufficiently clear to enable the initial chair whose decision is being appealed to respond at the appeal meeting.

Any supporting documents or information should be provided with the appeal letter. If this is not possible, documents should be submitted to allow reasonable time for the employer to prepare their case and collate, paginate and distribute the bundle for receipt by all parties at least three working days before the appeal meeting.

Where the appeal period overlaps with a pre-determined holiday period (i.e. out of term-time for term-time only employees), the letter of appeal needs only to register the intention of appeal. A fully detailed letter should arrive within five working days after the end of the holiday period.

A panel of up to three governors not previously involved with the case will conduct appeal meetings. Where there has been an appeal at an earlier stage of the procedure, the same governors may conduct the appeal.

Arrangements for the appeal meeting should normally be notified to the employee within 10 working days of receipt of the request for an appeal. The employee should be reminded of the right to be accompanied by a trade union representative or workplace colleague.

At an appeal, the original sanction will be reviewed and may be amended or withdrawn but cannot be increased.

The decision of the appeal panel will be final, and will be confirmed in writing to the individual within 3 working days. Should the outcome of the appeal change the original decision, the panel will make clear the terms and reasons of that revised decision.

If an appeal is successful, any outcome will be amended or withdrawn without detriment to the employee. In the case of dismissal, there will be no detriment to pay or continuous service. In the case of dismissal for gross misconduct, the individual will be reinstated with no break in service.

20 Informing the Teaching Regulation Agency (TRA)

The TRA's disciplinary functions require the employer to consider referring cases to the Agency when the employer:

- Has dismissed a teacher on the grounds of serious misconduct
- Might have done so if the teacher had not already resigned

21 Informing the Disclosure and Barring Service (DBS)

Where employment finishes due to a child protection allegation, whether a resignation, dismissal or non-renewal of a fixed term contract, the matter should be referred to the DBS.

The DBS should also be informed if the employee is removed from working with children.

Where the employee has resigned or been removed from working with children or where there has been a non-renewal of a fixed term contract, the employer will still need to continue the formal procedure in order to reach a formal decision in respect of the allegations.

Appendix 1 – Stage 1, Disciplinary Hearing Invitation

Private and Confidential (Special or Hand Delivery)

[Please edit, insert or delete as applicable, change blue text to black]

Dear [Name]

Stage 1 – Disciplinary Hearing

The investigation by [insert name of investigating manager] into concerns raised about your conduct has now been completed and it has been found that there is a case to answer. Therefore, you are required to attend a Stage 1 disciplinary hearing on [Date] commencing at [Time] and [Venue], at [Location]. You should report to reception on arrival and ask for [manager/contact].

At the meeting you will be required to respond to the following allegations:

[Details of allegations]

The meeting is to be held in accordance with Stage 1 of the school's Conduct Policy and procedure. The meeting will be chaired by [Name and Post Title of Chair]. The purpose of this meeting is to discuss formally with you the concerns regarding your conduct. The concerns are outlined in full in the Investigation Report, which will be considered at the meeting. A copy of the report and of the procedures is enclosed for your reference, together with a copy of the suggested format for the structure of the meeting. [Name of note taker] will also be present to take notes.

You are entitled to be accompanied at the meeting by a representative of a trade union or by a work place colleague (i.e. an employee of XXXX School). If you do wish to be accompanied at the meeting, I would suggest you share this letter and the enclosed documents with your chosen representative and I have enclosed a duplicate of the paperwork for that purpose. I would be grateful if you could advise me of your chosen representative's name by [insert same date as submission of any supporting documentation].

If you intend to submit any documents for consideration at the meeting these must be received by me by [insert date – (suggest 5 days) *need enough time to copy and distribute bundle to all parties*].

Although it is not a procedural requirement, you may present a written statement setting out your responses to the issues raised in the report. If you decide to do this it should be submitted to all parties as above.

[If applicable, insert the following – Please ensure that you, or your representative, let me know as soon as possible if you wish to ask questions of any of the witnesses who have provided written statements. This will enable me to make the necessary arrangements for those people to attend the meeting on [Date] to answer any questions in relation of their statements. You or your representative should also inform me of any witnesses you may be intending to call in support of your case by [Date] so that I can ensure the availability of rooms and make any other necessary arrangements.]

[Please note that management intends to call the following witnesses to the meeting:

[List names of Witnesses]

OR

The management side does not intend to call witnesses.]

As a result of this Stage 1 Meeting, you may be issued with a first formal written warning. If the outcome of the meeting results in your receiving a formal warning, you will not receive [an increment on 1 April 201X, in line with the school's Salary Progression Scheme [support staff] **OR** progression to the next pay point/grade [teachers] on 1 April 202X] if eligible for one.

Please advise me by [date] if you have any special requirements that need to be considered to enable you to participate in the meeting.

Please contact me as soon as possible should you have any queries.

Yours sincerely

[Manager's Name]

[Manager's Title]

Copies to: [Insert Name/Title] - Chairperson (if applicable)
[Insert Name/Title] - HR Adviser

Enclosures: Conduct Policy
Investigation Report
Agenda

Appendix 2 – Stage 1, Disciplinary Hearing Outcome

Private and Confidential (Special or Hand Delivery)

[Please edit, insert or delete as applicable, change blue text to black]

Dear [Name]

Stage 1 Disciplinary Hearing – Outcome Letter – Formal First Written Warning

Following the Disciplinary Hearing on [insert date], I am writing to confirm the decision to issue you with a formal first written warning. The warning was issued in respect of the following concerns, which [you admitted/were substantiated]:

[List each allegation]

This first written warning will remain 'live' for twelve months, after which time it will be discarded for disciplinary purposes but will remain on your file. As a result of this outcome, an Action Plan will be developed to help you improve your standards of behaviour and conduct. This will be discussed fully with you by [name of manager] who will help to develop the plan. I must advise you that any failure to improve your behaviour sufficiently, or any further incident of misconduct, could result in a Stage 2 hearing under the Conduct Policy being called, which could result in a Final Written Warning and ultimately dismissal. An incident of a serious nature that could constitute gross misconduct will be managed in line with the provisions outlined in the Conduct Policy.

As a result of this warning being issued, you will not receive [an increment on 1 April 202X, in line with the school's Salary Progression Scheme [support staff] OR progression to the next pay point/grade [teachers]], if eligible.

You have the right of appeal against this decision. If you wish to appeal you should write to the Head Teacher, copied to the Chair of Governors, within five working days of the date of this letter. The appeal letter should specify clearly the full grounds of the appeal including why and in what respects the decision of the original meeting was unreasonable. The appeal needs to be set out clearly to enable [manager/head/governor/chair], whose decision is being appealed, to know what they will need to respond to at the appeal meeting.

Yours sincerely

[Hearing Manager's Name]
[Title]

Copies to: [Insert Name/Title] – Head Teacher/Manager (if applicable)
[Insert Name/Title] – HR Adviser
[Insert Name/Title] – Union Rep/Colleague

The default of a warning is 12 months. A longer duration is never appropriate. A shorter duration may be considered if there are explicit and exceptional reasons for doing so.

Appendix 3 – Stage 2, Disciplinary Hearing Invitation

Private and Confidential (Special or Hand Delivery)

[Please edit, insert or delete as applicable, change blue text to black]

Dear [Name]

Stage 2 – Disciplinary Hearing

The investigation conducted by [insert name of investigating manager] into concerns about your conduct has now been completed and there are sufficient serious concerns to consider formal measures. Therefore, you are required to attend a Stage 2 Disciplinary Hearing on [Date] commencing at [Time] and [Venue], at [Location]. You should report to reception on arrival and ask for [manager/contact].

At the meeting you will be required to respond to the following allegations:

[Details of allegations]

The meeting is to be held in accordance with Stage 2 of the School's Conduct policy and procedure. The meeting will be chaired by [Name and Post Title of Chair]. The purpose of this meeting is to discuss formally with you the concerns regarding your conduct. The concerns are outlined in full in the Investigation Report, which will be considered at the meeting. A copy of the report and of the procedures is enclosed for your reference, together with a copy of the suggested format for the structure of the meeting. [Name of note taker] will also be present to take notes.

You are entitled to be accompanied at the meeting by a representative of a trade union or by a work place colleague (i.e. an employee of XXXX School). If you do wish to be accompanied at the meeting, I would suggest you share this letter and the enclosed documents with your chosen representative and I have enclosed a duplicate of the paperwork for that purpose. I would be grateful if you could advise me of your chosen representative's name by [insert same date as submission of any supporting documentation].

If you intend to submit any documents for consideration at the meeting these must be received by me by [insert date (5 days prior) – need sufficient time to copy and distribute bundle to all parties].

Although it is not a procedural requirement you may present a written statement setting out your responses to the issues raised in the report. If you decide to do this it should also be submitted to all parties as above.

[If applicable, insert the following – Please ensure that you, or your representative, let me know as soon as possible if you wish to ask questions of any of the witnesses who have provided written statements. This will enable me to make the necessary arrangements for those people to attend the meeting on [Date] to answer any questions in relation of their statements. You or your representative should also inform me of any witnesses you may be intending to call in support of your case by [Date] so that I can ensure the availability of rooms and make any other necessary arrangements.

Please note that management intends to call the following witnesses to the meeting:

[List names of Witnesses]

OR

The management side does not intend to call witnesses.]

As a result of this Stage 2 Meeting, you may be issued with a sanction up to a formal final written warning. *[If an increment/pay point was not, for whatever reason, withheld at a Stage 1 Meeting – If the outcome of the meeting results in you receiving a formal warning, you will not receive [an increment on 1 April 20XX, in line with the school's Salary Progression Scheme [support staff] **OR** progression to the next pay point/grade [teachers] on 1 April 20XX].]*

Please advise me by [date] if you have any special requirements that need to be considered to enable you to participate in the meeting.

Please contact me as soon as possible should you have any queries.

Yours sincerely

[Manager's Name]

[Manager's Title]

Copies to: [Insert Name/Title] - Chairperson (if applicable)
[Insert Name/Title] - HR Adviser

Enclosures: Conduct Policy
Investigation Report
Agenda

Appendix 4 – Stage 2, Disciplinary Hearing Outcome

Private and Confidential (Special or Hand Delivery)

[Please edit, insert or delete as applicable, change blue text to black]

Dear [Name]

Stage 2 Disciplinary Hearing – Outcome Letter – [First OR] Final Written Warning

Following the Disciplinary Hearing on [insert date], I am writing to confirm the decision to issue you with a [First OR] Final Written Warning. The warning was issued in respect of the following concerns, which [you admitted/were substantiated]:

[List each allegation]

This warning will remain 'live' for [twelve] months, after which time it will be discarded for disciplinary purposes but will remain on your file. As a result of this outcome, an Action Plan will be developed to help you improve your standards of behaviour and conduct. This will be discussed fully with you by [name of manager] who will help to develop the plan. I must advise you that a failure to improve your behaviour sufficiently, or any further incident of misconduct, could result in a Stage 3 hearing under the Conduct Policy being called, the outcome of which could result in dismissal. An incident of a serious nature that could constitute gross misconduct will be managed in line with the provisions outlined in the Conduct Policy.

As a result of this warning being issued, you will not receive [an increment on 1 April 202X, in line with the school's Salary Progression Scheme [support staff] OR progression to the next pay point/grade [teachers]], if eligible.

You have the right of appeal against this decision. If you wish to appeal you should write to the Head Teacher, copied to the Chair of Governors, within five working days of the date of this letter. The appeal letter should specify clearly the full grounds of the appeal including why and in what respects the decision of the original meeting was unreasonable. The appeal needs to be set out clearly to enable [manager/head/governor/chair], whose decision is being appealed, to know what they will need to respond to at the appeal meeting.

Yours sincerely

[Hearing Manager's Name]
[Title]

Copies to: [Insert Name/Title] – Head Teacher/Manager (if applicable)
[Insert Name/Title] – HR Adviser
[Insert Name/Title] – Union Rep/Colleague

The default of a warning is 12 months. A longer duration is never appropriate. A shorter duration may be considered if there are explicit and exceptional reasons for doing so.

Appendix 5 – Stage 3, Disciplinary Hearing Invitation

Private and Confidential (Special or Hand Delivery)

[Please edit, insert or delete as applicable, change blue text to black]

Dear [Name]

Stage 3 Disciplinary Hearing

The investigation by [insert name of investigating manager] into concerns raised about your conduct has now been completed and it has been found that there is a case to answer. [Due the very serious nature of the concerns/as you currently have a final written warning that has not expired], you are required to attend a Stage 3 conduct hearing on [Date] commencing at [Time] and [Venue], at [Location]. You should report to reception on arrival and ask for [manager/contact].

At the meeting you will be required to respond to the following allegations:

[Details of allegations]

The meeting is to be held in accordance with Stage 3 of the School's Conduct policy and procedure. The meeting will be chaired by [Name and Post Title of Chair]. The purpose of this meeting is to discuss formally with you the concerns regarding your conduct. The concerns are outlined in full in the Investigation Report, which will be considered at the meeting. A copy of the report and of the procedures is enclosed for your reference, together with a copy of the suggested format for the structure of the meeting. A record of the meeting will be taken, and [insert name of HR Adviser] will be present to advise the chair/panel about the process.

You are entitled to be accompanied at the meeting by a representative of a trade union or by a work place colleague (i.e. an employee of XXXX School). If you do wish to be accompanied at the meeting, I would suggest you share this letter and the enclosed documents with your chosen representative and I have enclosed a duplicate of the paperwork for that purpose. I would be grateful if you could advise me of your chosen representative's name by [insert same date as submission of any supporting documentation].

If you intend to submit any documents for consideration at the meeting these must be received by me by [insert date (must be received 5 days before the meeting date) – need sufficient time to copy and distribute bundle to all parties].

Although it is not a procedural requirement you may present a written statement setting out your responses to the issues raised in the report. If you decide to do this it should also be submitted to all parties as above.

[If applicable, insert the following – Please ensure that you, or your representative, let me know as soon as possible if you wish to ask questions of any of the witnesses who have provided written statements. This will enable me to make the necessary arrangements for those people to attend the meeting on [Date] to answer any questions in relation of their statements. You or your representative should also inform me of any witnesses you may be intending to call in support of your case by [Date] so that I can ensure the availability of rooms and make any other necessary arrangements.

Please note that management intends to call the following witnesses to the meeting:

[List names of Witnesses]

OR

The management side does not intend to call witnesses.]

As a result of this Stage 3 Meeting, [a potential outcome may result in your dismissal from the school/ a potential outcome may result in your summary dismissal from the school (for gross misconduct cases)].

Please advise me by [date] if you have any special requirements that need to be considered to enable you to participate in the meeting.

Please contact me as soon as possible should you have any queries.

Yours sincerely

[Manager's Name]

[Manager's Title]

Copies to: [Insert Name/Title] - Chairperson (if applicable)
[Insert Name/Title] - HR Adviser

Enclosures: Conduct Policy
Investigation Report
Agenda

Appendix 6 – Stage 3, Disciplinary Hearing Outcome - Dismissal

Private and Confidential (Special or Hand Delivery)

[Please edit, insert or delete as applicable, change blue text to black]

Dear [Name]

Stage 3 Conduct Hearing – Outcome – Dismissal

Following the Conduct Hearing on [insert date], I am writing to confirm, on behalf of the panel of governors, the decision that you be dismissed on the grounds of misconduct in respect of: [list upheld allegation(s) and reasons for upholding these allegations]

Your dismissal will be in line with normal contractual arrangements or with statutory notice, whichever is greater, and you will receive your normal pay throughout the period of notice. As a result, your final day of employment with [name] School will be [date].

[For Community and Voluntary Controlled Schools include] – This decision will be confirmed in writing by the Local Authority.

You have the right of appeal against this decision. If you wish to appeal you should write to the Head Teacher, copied to the Chair of Governors, within five working days of the date of this letter. The appeal letter should specify clearly the full grounds of the appeal including why and in what respects the decision of the original meeting was unreasonable. The appeal needs to be set out clearly to enable [manager/head/governor/chair], whose decision is being appealed, to know what they will need to respond to at the appeal meeting.

Yours sincerely

[Hearing Manager's Name]
[Title]

Copies to: [Insert Name/Title] – Head Teacher/Manager (if applicable)
[Insert Name/Title] – HR Adviser
[Insert Name/Title] – Union Rep/Colleague

Appendix 7 – Stage 3, Disciplinary Hearing Outcome – Gross Misconduct

Private and Confidential (Special or Hand Delivery)

[Please edit, insert or delete as applicable, change blue text to black]

Dear [Name]

Stage 3 Conduct Hearing – Outcome – Gross Misconduct

Following the Conduct Hearing on [insert date], I am writing to confirm, on behalf of the panel of governors, the decision that you be summarily dismissed for gross misconduct in respect of: [list upheld allegation(s) and reasons for upholding these allegations]

As you are aware, summary dismissal means dismissal without notice and without pay or for any other contractual benefits or entitlements. Your final day of employment with [name] School is therefore [Date of meeting].

[For Community and Voluntary Controlled Schools include] – This decision will be confirmed in writing by the Local Authority.

You have the right of appeal against this decision. If you wish to appeal you should write to the Head Teacher, copied to the Chair of Governors, within five working days of the date of this letter. The appeal letter should specify clearly the full grounds of the appeal including why and in what respects the decision of the original meeting was unreasonable. The appeal needs to be set out clearly to enable [manager/head/governor/chair], whose decision is being appealed, to know what they will need to respond to at the appeal meeting.

Yours sincerely

[Hearing Manager's Name]
[Title]

Copies to: [Insert Name/Title] – Head Teacher/Manager (if applicable)
[Insert Name/Title] – HR Adviser
[Insert Name/Title] – Union Rep/Colleague

Appendix 8 – Conduct Hearing – Outcome – No further Action

Private and Confidential (Special or Hand Delivery)

[Please edit, insert or delete as applicable, change blue text to black]

Dear [Name]

Stage [1/2/3] Conduct Hearing – Outcome – No further Action

Following the above meeting, on [insert date] [if applicable – at which you were accompanied by [name]] I can confirm that no further action will be taken under this procedure [as the allegations of misconduct have not been substantiated].

[If applicable – Your suspension has therefore been lifted, so you can return to your usual working arrangements with immediate effect.]

If you have any questions in relation to this please contact [Manager's name] on [contact number].

Yours sincerely

[Hearing Manager's Name]
[Title]

Copies to: [Insert Name/Title] – Head Teacher/Manager (if applicable)
[Insert Name/Title] – HR Adviser
[Insert Name/Title] – Union Rep/Colleague

22 Grievance Procedure

A grievance is a concern, problem or complaint raised by an employee with their employer regarding their work, working conditions or relationships with colleagues. It is important to remember that in all instances, it is not what may have been intended by the perpetrator that is important in deciding whether unacceptable behaviour has occurred; it is whether the actions and comments can objectively be viewed as demeaning and unacceptable to the person making the complaint.

Employees should be aware that they cannot raise a grievance that is the same or similar to a grievance that has been investigated within the previous 12 months unless any action to redress the grievance has not been implemented.

Where an employee has not completed a Formal Grievance Form, the Head Teacher / Chair of Governors must seek clarification from the employee as to whether any such notification is a grievance so that the grievance process can then be applied. If the employee indicates that a grievance is not being formally raised, then a note should be prepared by the Head Teacher / Chair of Governors and shown to the employee to verify that outcome.

It is impossible to provide a comprehensive list of all the issues that might give rise to a grievance but some of the more common types are listed below:

- **General Work Issues**

For example, issues regarding terms and conditions of employment, health and safety, working practices or working relationships.

- **Bullying**

This is behaviour that is offensive, intimidating, malicious, insulting and the misuse of power. It is behaviour that has created working conditions or an environment that is hostile, degrading and/or humiliating and that a reasonable person could justifiably complain about.

- **Harassment**

This is unwanted behaviour which has the purpose or effect of violating an individual's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for that individual. Employees can complain of behaviour they find offensive even if it is not directed at them.

- **Victimisation**

This occurs where a person is treated less favourably than another because they have brought proceedings, given evidence or information, rejected advances or complained about the behaviour of someone who has been harassing, discriminating against or in some other way intimidating them.

23 Resolving a grievance

It is in the best interests of everyone to ensure that grievances are dealt with quickly, equitably and resolved informally wherever possible. In the first instance, employees are asked to try to discuss the issue with their Head Teacher / Chair of Governors or the person concerned to try to reach an early resolution.

23.1 Informal process

Where an employee has concerns about the behaviour of an individual, they should tell them that their behaviour is causing concern or offence, explain the effect that it is having on them and that it must stop. The employee may not be aware that their actions cause offence to others and once it is highlighted this may resolve the situation.

If an employee feels unable to discuss the matter with the person causing offence, they may wish to speak to their Head Teacher / Chair of Governors or ask a work colleague or trade union representative to raise the matter on their behalf.

If the matter is not resolved informally or if there are specific circumstances that make the informal route inappropriate, the formal grievance procedure should be followed.

23.1.1 Mediation

In some cases, mediation can help resolve problems, especially those involving working relationships, and can be a positive and supportive way of resolving a grievance.

Where a Head Teacher / Chair of Governors has been unable to resolve the issue through discussion with the employee(s), formal mediation carried out by a trained and independent mediator, may be considered. Participation in mediation must be by mutual agreement and in consultation with the Human Resources Advice and Support Team, who will be able to provide details of mediation services. The school should be aware that there will be a cost associated with this.

Where mediation is successful and an outcome is achieved, it will be binding upon both parties and will close the grievance procedure regarding the issue.

23.2 Formal Process

Where it has not been possible to resolve a grievance informally, the employee can choose to raise a formal grievance. The employee must set out their concerns in writing, providing as much information as possible to enable the grievance to be dealt with effectively.

The document should be submitted to the Head Teacher, where the grievance concerns a colleague. If the grievance concerns the Head Teacher, it should be submitted to the Chair of Governors.

It is recommended that the employee should retain a copy for reference purposes.

If an employee submits a formal grievance without attempting to resolve the situation informally and where there are no specific circumstances that make the informal route inappropriate, the Head Teacher should encourage the employee to participate in the informal process in the first instance.

23.3 Grievance investigation

Where it is felt that the informal process has been exhausted, a thorough investigation of the allegations and/or issues should be carried out. Any investigation must look impartially at the issues raised in the grievance and reach any conclusion based on the facts and evidence.

23.4 Investigating Officer

In most circumstances, where a grievance is raised against a colleague, the Head Teacher will be the Investigating Officer.

Where a grievance is raised about the Head Teacher, the Chair of Governors will be responsible for investigating the concerns. The Chair of Governors may invite an Investigating Officer to look into the grievance on their behalf. In this situation, after thoroughly investigating the grievance, the Investigating Officer will report their findings back to the Chair of Governors who will consider the recommendations and make a decision as to the appropriate outcome.

23.5 Timescales

It is important for the investigation to be concluded as soon as reasonably practicable. The Investigating Officer should endeavour to investigate the grievance and provide the outcome to the employee who raised the grievance within 30 school days of the Formal Grievance Form being received or where an Investigating Officer needs to be appointed, within 30 school days from the date of that appointment. All parties should be aware that an extension to this timescale may need to be agreed, depending on the complexity of the case.

23.6 Grievance meetings

23.6.1 Employee raising the grievance

The Investigating Officer will arrange a meeting with the employee raising the grievance to discuss the issues in more detail within 10 school days of the Formal Grievance Form being received or where an Investigating Officer is appointed, within 10 school days of that appointment.

The employee is entitled to be accompanied at the meeting by a trade union representative or a work colleague. The individual accompanying the employee must not be someone whose presence would prejudice the meeting or who has a conflict of interest. An employee may ask an official from any trade union to accompany them, regardless of whether or not

they are a member, or the union is recognised. A trade union representative who is not an employed official must have been reasonably certified by their union as being competent to accompany the employee.

If the person accompanying the employee cannot attend on the date suggested, the Investigating Officer should suggest another date, not more than 5 school days after the original date. This time limit may be extended by mutual agreement.

The purpose of the meeting is to:

- clarify the nature of the grievance;
- determine if mediation is an option;
- identify what further information is needed;
- discuss the employee's proposals for resolving the issues; and
- establish if a longer timescale will be necessary.

At the end of the meeting the Investigating Officer should give the employee an indication of when they might reasonably expect a response to the grievance. If the Investigating Officer feels that a response cannot be provided within 30 school days, bearing in mind any additional investigations they feel may be necessary, an extension to the timescales should be agreed at this time.

Where unavoidable delays occur, e.g. due to annual leave or sickness, the Investigating Officer should contact the employee, in writing, to agree revised timescales and to provide an update on the progress of the investigation.

23.6.2 Employee who is the subject of grievance

Where a grievance is raised against another employee, it is important to approach the situation sensitively and carefully. The Investigating Officer should generally start by talking privately to the employee to alert them to the fact that a concern has been raised by a fellow employee. Following this, the employee will be invited to a meeting to discuss the issue(s) in more detail as part of the investigation process. The employee is entitled to be accompanied at the meeting by a work colleague or trade union representative.

During the grievance investigation meeting, the Investigating Officer will explain the allegation(s) that have been made against the employee and will provide them with an opportunity to put forward their understanding of the situation.

23.6.3 Witnesses

In some circumstances, the Investigating Officer will be required to interview witnesses. Every effort should be made to avoid disclosing any confidential information unnecessarily by the Investigating Officer; however, the confidentiality of any witness cannot be guaranteed.

Where the Investigating Officer feels it is necessary to meet witnesses, they should also write to invite them to a meeting. The Investigating Officer must think carefully about who

to interview as a witness, bearing in mind the need to show a balanced investigation. Where particular witnesses are chosen from a group, the Investigating Officer must ensure that they have applied a clear and robust method of identifying which individuals to meet with.

The witness is entitled to be accompanied at the meeting by a trade union representative or a work colleague. The individual accompanying the employee must not be someone whose presence would prejudice the meeting or who has a conflict of interest. An employee may ask an official from any trade union to accompany them, regardless of whether or not they are a member, or the union is recognised. A trade union representative who is not an employed official must have been reasonably certified by their union as being competent to accompany the employee.

The Investigating Officer must make a note of why each person was interviewed and what their relationship is to the investigation. The Investigating Officer should also record any decision not to interview a witness, together with the reason why the witness was not interviewed.

Where witnesses are involved in the investigation, the Investigating Officer must ensure that they explain the need to complete the investigation confidentially and that they must not discuss the details with colleagues. The meaning of 'confidential' should be explained clearly to those interviewed; in this context it means that whilst the interview is held in a confidential setting the subsequent statement may be read as part of the formal procedures.

23.7 Final grievance meeting

To conclude the investigation, the Investigating Officer will arrange a final meeting with the employee who raised the grievance. The purpose of this meeting is to enable the Investigating Officer to:

- outline the key points of the investigation i.e. who has been interviewed;
- clarify that all areas of the grievance agreed in the initial meeting have been covered;
- allow the employee the opportunity to highlight any areas they feel have not been sufficiently investigated; and
- allow the employee the opportunity to respond to any key issues that have come up during the investigation that were not covered at the initial meeting.

23.8 Notes of meetings

Detailed notes should be taken during investigation meetings in case the Investigating Officer's recall is called into question at a later date - it may be appropriate for the Investigating Officer to arrange for a note taker to be present at the meeting. Following an investigation meeting, notes should be typed up within 5 school days and sent to the individual to check and sign. The notes should record the facts as stated during the interview, written, where possible, in the language used by the individual and following the train of events as experienced by them. If there is any ambiguity or gap in the account, the

individual should be asked to clarify the information. It is important that the Investigating Officer does not put their own interpretation on the notes.

In signing and returning the notes, the individual is confirming that they believe it to be a complete and accurate version of the interview. It may be that the individual would like modifications to be made to the notes before signing it and these should be agreed with the Investigating Officer. If agreement cannot be reached on the content of the notes, copies of both notes should be included in the report.

It is often useful to ask an independent person to accompany the Investigating Officer to take notes and act as a witness to what was said. The Investigating Officer needs to give careful consideration to who they ask to attend the meeting and make it clear to the individual that they must not discuss the case with colleagues.

Where a witness refuses to sign the notes or wishes to withdraw altogether, the Investigating Officer should discuss the situation with the individual and establish the reason for the refusal. If the situation remains unresolved, the Investigating Officer may decide to still include the notes, making it clear that it is unsigned and therefore not validated by the individual.

23.9 Responding to the grievance

Once the Investigating Officer feels they have all the necessary facts and evidence to enable them to make a decision, they will compile a report summarising their findings and recommendations.

This information will be used by the Head Teacher / Chair of Governors to determine whether or not the grievance should be upheld. If the grievance is upheld, the Head Teacher / Chair of Governors will also be responsible for determining what actions, if any, need to be taken.

24 Outcomes

The list below is not exhaustive but gives some examples of the possible outcomes of a grievance investigation.

24.1 Grievance not upheld

Where the Head Teacher / Chair of Governors has not found sufficient evidence to support any of the allegations made, the grievance will not be upheld and there will be no further action taken.

24.2 Grievance upheld (either in whole or in part)

Where the Head Teacher / Chair of Governors has found sufficient evidence to support all or some of the allegations made, there are a number of outcomes to consider in relation to each allegation:

- no further action;
- formal mediation - mediation may be suggested as an outcome as a way to resolve the grievance. This may have been entered into or suggested earlier in the process; however, in light of the findings of the investigation the Head Teacher / Chair of Governors may feel that it would help resolve the situation.
- action plan - the Head Teacher / Chair of Governors may recommend the production of an action plan aimed to address the behaviour which has caused the problem. The action plan may include objectives, target setting and training;
- alternative working arrangements – the Head Teacher / Chair of Governors should consider whether contact between the parties is likely to occur during the course of their job and the impact on the individuals and service delivery. Reasonable operational requirements may need to be considered if this is the case for example employees moving desks, change of line management or change of location where operationally feasible;
- disciplinary action - where it is clear that a conduct issue exists and there is a case to answer, disciplinary action will be considered.

25 Communicating the outcome

The Head Teacher / Chair of Governors may feel that it is appropriate to arrange a meeting with the employee who raised the grievance to talk through the findings and explain how they reached their decision.

The Head Teacher / Chair of Governors will provide a written response to the employee, summarising the outcome of the grievance investigation. The employee should also receive a copy of the investigation report.

If the grievance was raised against another employee, the Head Teacher / Chair of Governors should prepare a letter for them, summarising the outcome of the investigation. The full report will **not** be sent to the employee who the grievance was raised against.

If the grievance was upheld and further action is required e.g. implementation of an action plan or disciplinary action, the Head Teacher / Chair of Governors must progress this in a timely manner.

26 Appeal

If the employee is dissatisfied with the decision of the Head Teacher / Chair of Governors, the employee has 10 school days from receipt of this decision to submit an appeal. The employee should appeal, in writing, setting out the grounds of appeal and send it to the Clerk of the Governing Body, School and Governors Support Service, who will then facilitate the arrangement of a meeting of the School's Appeal Committee.

The Appeals Committee of the school, which will consist of a three independent Governors, shall consider the grounds of the appeal as well as the evidence as originally presented.

This committee can uphold or amend the original decision, this committee constitutes the final forum for consideration of grievance issues.

27 Other types of grievance

27.1 Collective grievances

The provisions within the Employment Act 2002 (Dispute Resolution) Regulations 2004 allow grievances to be dealt with collectively where more than one employee has the same grievance:

- the parties will be treated as having complied with the relevant grievance procedure if the grievance is raised in writing on behalf of at least two employees (including the complaining employee) by an 'appropriate representative'; and
- the 'appropriate representative' is defined as an official of an independent trade union recognised by the employer for the purpose of collective bargaining or an employee of that employer who was elected or appointed to represent employees and has authority to do so under an established procedure to resolve grievances.

27.2 Post-employment grievances

This procedure applies where an employee has ended their employment with the school and the school was not aware of the grievance before their employment ended or were aware, but the formal procedure had not been started before the employment ended.

The former employee should put their grievance in writing within 3 months of the effective date of termination, to their former Head Teacher, where the grievance is against the former employee's Head Teacher, the grievance should be put to the Chair of Governors.

The Head Teacher / Chair of Governors must investigate the grievance, although there is no requirement to meet with the former employee, and should respond, in writing, within 10 working days of receiving the grievance. This is the end of this procedure for the school; there is no right of appeal.

28 Other linked policies

- Appraisals and Capability of Staff
- Child Protection and Safeguarding Policy