



Children and Young People's Services

DISCIPLINARY PROCEDURE - HEADTEACHERS

This procedure has been agreed by the following professional associations/ trade unions representing staff in schools:

- National Union of Teachers
- National Association of Schoolmasters Union of Women Teachers
- Association of Teachers and Lecturers
- National Association of Headteachers
- Association of School and College Leaders

Revised May 2009

DISCIPLINARY PROCEDURE - HEADTEACHERS

1. INTRODUCTION

- 1.1 This disciplinary procedure, agreed by Shropshire Council with the appropriate professional associations/trade unions representing staff employed in schools, is commended to Governors of Locally Managed Schools for adoption and use in the exercise of their powers. The aim of the procedure is to set standards for headteachers' conduct and to ensure fairness and consistency in the treatment of headteachers who are subject to disciplinary investigation and action. Copies of the procedure will be made available to all headteachers.
- 1.2 The procedure is drawn up to ensure compliance with relevant employment legislation (in particular the ACAS Code of Practice on Disciplinary and Grievance Procedures which came into effect from April 2009 and repealed the Employment Act 2002 (Dispute Resolution) Regulations 2004), the School Staffing (England) Regulations 2003 and relevant regulations relating to school governance and the relevant terms and conditions of service for staff employed within the school. It also reflects fully advice contained in the ACAS Code of Practice on Disciplinary and Grievance Procedures. A Local Authority (LA) representative will be available to provide advice to Headteachers and Governors on the operation of the procedure.
- 1.3 Headteachers are often perceived by the public at large and by parents as responsible for all that goes on in schools. They will often be the target of complaints and criticisms made against aspects of the school's life over which they may, in fact, have limited control. In considering any complaints or allegations made, those responsible for initiating this procedure will need to exercise considerable care that these are matters of a kind that relate to the headteacher's own conduct and warrant disciplinary action against the Headteacher. Other complaints or criticisms must be dealt with outside the scope of the procedure described here.

2. SCOPE

- 2.1 This procedure covers headteachers employed under the Conditions of Service for Schoolteachers in England and Wales, including those employed by the governors of an Aided school where adopted.
- 2.2 The procedure will be applied fairly and consistently to such staff regardless of:
- Race (i.e. race, colour, ethnic or national origin, nationality or citizenship)
 - Gender
 - Disability
 - Sexual orientation
 - Age
 - Religion or belief
 - Trade union membership
 - Contract type (i.e. it applies whether employment is on a full time or part time basis and applies within the course of a temporary or fixed term contract but not the non-renewal of such contract)

3. GENERAL

- 3.1 This disciplinary procedure will be used when the headteacher's conduct at work is considered to be unacceptable. Disciplinary action may also be considered in relation to acts of misconduct which take place outside of work depending on the nature of the misconduct in relation to the headteacher's role at the school. When considering action under this procedure in the light of concerns the Chair of Governors should seek advice from an appropriate LA Officer.
- 3.2 Under the terms of the School Staffing Regulations, 2003, the governing body may delegate its power to dismiss the headteacher at the school to one or more governors. In adopting this procedure the Governing Body has resolved to delegate such power for all staff to a Staff Dismissal Committee comprising at least three members to be appointed by the Governing Body. The Governing Body will also delegate to a committee responsibility for considering and deciding upon action short of dismissal in accordance with this procedure.
- 3.3 A Committee comprising at least three members to be appointed by the Governing Body will have delegated responsibility to hear and decide upon appeals against disciplinary action taken against the headteacher in accordance with this procedure. It shall also have the other functions delegated to it as outlined within the disciplinary procedure in connection with the review at predetermined dates of previous disciplinary decisions. Its decision in all matters of appeal is final. There is a right of appeal to a Committee with delegated responsibility against a decision to dismiss the headteacher.
- 3.4 Where a Committee is convened to hear an appeal against disciplinary action taken by a Committee of governors, including dismissal, then in accordance with the School Governance (Procedures) (England) Regulations 2003 no members of the first Committee responsible for the decision to take action shall take part in the proceedings of the Committee established to consider the appeal.
- 3.5 This procedure is written on the assumption that the Chair of Governors will take no part in considering any initial action within the formal procedure set out at Section 3. It therefore assumes, as set out in para 7.1 that the Chair of the Committee with formally delegated responsibility for taking any such action under this procedure will receive and consider any report and decide upon the need to consider matters under the formal procedure.
- 3.6 A Committee acting in accordance with this procedure shall report, as necessary, on its actions to the Governing Body.
- 3.7 The procedure shall not be construed as restricting the right of the Employer to dismiss a member of staff summarily after a hearing for gross misconduct or as requiring the Employer to give notice in any case where a contract of employment is terminated by expiration of time, frustration or any other rule of law.
- 3.8 The objective of this procedure at all stages before dismissal should be to encourage improvement in the headteacher's conduct. Both parties should adopt a constructive approach.

- 3.9 The existence of this procedure must not prevent the Chair of Governors and others from dealing with matters of concern about the headteacher's conduct on an informal basis where appropriate. In such cases the headteacher should be spoken to informally, the cause for concern should be outlined and the headteacher should be given a right of reply. The Chair of Governors should seek advice from the Director of Children & Young People's Services, or an appropriate LA Officer as his/her representative, where issues are raised concerning the headteacher's conduct. Advice will be given to the Chair of Governors on the appropriateness of conduct and on what action may be required.
- 3.10 No formal disciplinary steps should be initiated against a headteacher who is an official of a recognised professional association/trade union unless the circumstances of the case have been discussed beforehand with a full-time paid official of the union concerned. (N.B. Suspension is not a disciplinary step although whenever possible there will be similarly such discussion prior to suspension).
- 3.11 In cases where gross misconduct may have occurred, or where there are grounds for doubt as to the suitability of the headteacher to continue at work pending investigation by the police, he/she will be suspended. During a period of suspension a headteacher will continue to receive full pay subject to their Conditions of Service (see Section 4 - Suspension from Duty).
- 3.12 The procedure is based upon the assumption that the investigation of disciplinary matters is normally carried out by an appropriate person appointed by the Chair of Governors on advice from the Director of Children & Young People's Services or representative. It may be appropriate, following discussion with an LA representative, to involve Officers or Advisers of the LA or of other County Council directorates. The task of the investigating officer is to establish, as far as possible, the facts of the case, calling on assistance as necessary in order to do so.

4.0 SUSPENSION FROM DUTY

- 4.1 Under the School Staffing Regulations, 2003 the Governing Body have the power to suspend without loss of emoluments any member of staff at the school where, in their opinion, exclusion from the school is required. It is the duty of the Governing Body, when exercising that power, to inform the LA (and each other) forthwith. This procedure assumes that an action to suspend the headteacher will be instigated by the Chair of Governors. Any suspension may only be ended by the Governing Body. The Governing Body, on ending a suspension, shall immediately inform the LA. (In practice suspension by the Governing Body or the lifting of suspension will be an action taken by the Chair of Governors under emergency powers)
- 4.2 A headteacher may be suspended in cases where they are thought to have committed an act of gross misconduct or where misconduct may have occurred and there are grounds for doubt as to the suitability of the person to continue at work pending an investigation.
- 4.3 A suspension should not be imposed automatically however, and in all cases where the suspension of a headteacher is being considered, an appropriate LA Officer should be notified and consulted. Specific reasons for the suspension must be included in the letter of suspension which should be issued within one working day of the headteacher being suspended.

- 4.4 Wherever possible, the headteacher, if he/she is a trade union/professional association member, should be given opportunity to have a representative present at any meeting where suspension is to be considered. Where this is not possible, a meeting to include a representative will then be organised to discuss the terms of suspension. In an emergency where immediate advice is not available, the Chair of Governors may send the headteacher home whilst advice is sought over whether a suspension is required. As referred to in paragraph 3.10, if the member of staff is an official of a recognised trade union, then prior to suspension there should be discussion with a full-time paid official of the union concerned.
- 4.5 Suspension in itself does not constitute disciplinary action. During a period of suspension a headteacher will normally continue to receive basic pay in accordance with the relevant conditions of service, provided they comply with the conditions outlined in the letter of suspension.
- 4.6 On being suspended, a headteacher will be assigned an appropriate LA Officer, who is not involved in the investigation, as a named point of contact with whom he/she may keep in contact throughout the period of their suspension. They will also have support available to them from the Counselling Service.
- 4.7 If during suspension, there is a change in the headteacher's contact address or other personal circumstances, he/she should notify their named contact immediately. They should also be available during the period of the suspension to attend an interview at any time during normal working hours. This includes attendance at either an interview with the investigating officer or the formal disciplinary interview itself.
- 4.8 If the headteacher is certified as sick and produces a doctor's certificate during their suspension, this will be treated as sickness in accordance with the rules of the relevant sick pay scheme. Medical certificates should be sent to the school. The terms of the suspension will continue to apply during any such period of sickness.

5. DISCIPLINARY ACTION

5.1 Formal Warning

- 5.1.1 If the circumstances warrant, the headteacher will be given a formal warning unless it is a case where dismissal is regarded as the appropriate disciplinary action. The reason for the warning, the period of review and the corrective action required must be stated clearly (see paragraph 7.9).
- 5.1.2 In the case of minor offences headteacher may be given a formal oral warning. A note of the oral warning should be retained on the individual's school file.
- 5.1.3 In the case of more serious offences or where there is more than a single minor offence the headteacher may be given a formal written warning setting out the precise nature of the offence, the likely consequences of further offences and specifying, if appropriate, the improvement necessary. A period over which the warning will be subject to review will also be confirmed.
- 5.1.4 In the case of further offences or of serious misconduct the headteacher may be given a final written warning setting out the precise nature of the offence, the period over which the warning will be subject to review and indicating that any recurrence of this or other misconduct may lead to dismissal.
- 5.1.5 It should not be considered that there is a graduated system of warnings which will apply in all cases. Depending on the nature of the offence, it may be appropriate to issue a warning at any of the levels described.

5.2 Dismissal

5.2.1 Normally, dismissal will follow an earlier warning or warnings to which the headteacher has failed to respond or to respond adequately. In a case of gross misconduct, however, a headteacher may be dismissed without a prior warning. Where the reason for dismissal is other than for gross misconduct, the headteacher's statutory and contractual notice entitlements shall be observed, although payment in lieu of notice may be appropriate.

5.2.2 Acts of gross misconduct fundamentally breach the trust and confidence required in any employment relationship and will normally lead to dismissal without notice. Whilst such acts cannot be comprehensively defined, the following list gives examples of offences which are deemed to fall into this category and may warrant dismissal:

- a) theft, fraud, unauthorised possession of school property, deliberate falsification of records or any other form of dishonesty
- b) acts or threats of physical violence, obscene or abusive behaviour
- c) acts that seriously breach the schools adopted Equal Opportunities policy, including any form of unlawful discrimination, victimisation, bullying or harassment of pupils or colleagues.
- d) deliberate and serious damage or misuse of school property
- e) deliberate and serious misuse or abuse of the school's ICT facilities or equipment
- f) serious acts of insubordination
- g) incapability whilst on duty through use of alcohol or illegal or non-prescribed drugs
- h) unauthorised disclosure of confidential information, bringing the school into serious disrepute

6. COMPLIANCE WITH STATUTORY PROCEDURES

New disciplinary standards came into force from April 2009 under the ACAS Code of Practice on Disciplinary and Grievance Procedures which has repealed the Employment Act 2002 (Dispute Resolution Regulations). The new Code of Practice

- a. applies to all stages of disciplinary action from written warnings to dismissal.
- b. removes automatic unfair dismissal for a failure to follow the new Code.
- c. does not apply to any redundancy dismissals or non-renewal of fixed- term contracts

This procedure has been amended to reflect the change in legislation and to allow employers to deal with disciplinary matters fairly and consistently as follows:

7. PROCEDURE AT AND AFTER FORMAL DISCIPLINARY INTERVIEWS

- 7.1 Following the investigation, which should be fair and thorough, the person(s) appointed by the Chair of Governors will provide a written report of findings. The report will be received and considered by the Chair of the Committee with delegated responsibility to consider and decide upon action under this procedure. Where the decision is to hold a formal disciplinary interview the appropriate administrative steps will be taken by the Clerk to the Governors.
- 7.2 The headteacher must be told in writing at least five clear working days (Monday to Friday excluding bank holidays) in advance of the date and time of the interview and its purpose. In that communication a summary will be given of the matters giving rise to concern in sufficient detail for a response at interview to be prepared. A copy of this disciplinary procedure should also be attached to the letter requiring the headteacher to attend. The letter should be delivered by hand or by prepaid recorded delivery post to the individual's last notified home address. A copy of the letter should be sent to the Director of Children and Young People's Services or representative without delay.
- 7.3 The headteacher must be informed in the letter that he/she may be accompanied by a trade professional/union association representative or any other person of his/her choice.
- 7.4 The disciplinary interview shall be postponed for a reasonable period if the Chair of the Committee is satisfied on medical or other grounds that the headteacher is unavailable or is unable to be represented at the time given. Where a member of staff is persistently* unable or unwilling to attend a disciplinary hearing without good cause, a decision made be made on the basis of the available evidence.
- * Persistent non-attendance is likely to imply at least two meetings have been convened which the employee was unable to attend.
- 7.5 The headteacher is entitled to know the evidence which has given rise to the disciplinary interview. Any documentary evidence which the investigating officer or interviewing officer wishes to introduce into the proceedings shall be supplied to the headteacher and his/her representative. Where other employees, pupils or individuals are named it may not be appropriate to release complete documents but an extract must be provided sufficient to enable the headteacher to respond to the matters which have given rise to the disciplinary interview. This documentary evidence will normally be attached to or included in the letter convening the interview.
- 7.6 Each interview held within this procedure shall normally be conducted on the basis set out at Appendix A. The Director of Children and Young People's Services or nominated representative will normally attend the interview in order to provide advice.
- 7.7 Witnesses will not necessarily be called at formal disciplinary interviews, although the report by the investigating officer should give sufficient detail about information provided by witnesses which is relevant to the proceedings.
- 7.8 Where the Committee decides that action short of dismissal is appropriate it will make a decision, taking into account any advice received from the LA representative at the interview. Wherever possible an oral decision will be given following the interview and followed up in writing. Where this is not possible confirmation of the decision should be sent by letter to the headteacher as soon as possible after the interview, with a copy provided for the headteacher to give to the representative involved, if he/she so wishes. A copy should also be sent to the Director of Children and Young People's Services.

- 7.9 Where the Committee decides that in the light of evidence presented dismissal is appropriate they shall wherever possible inform the headteacher orally following the interview. Where this is not possible the Chair of the Committee shall write and confirm the decision as soon as possible after the interview and provide a second copy of the letter for the headteacher to give to the representative involved, if he/she so wishes. The letter will indicate the reasons for the decision and confirm the headteacher's right of appeal. A copy of the letter will be sent without delay to the Director of Children & Young People's Services. Formal notice of dismissal will be issued (by the Authority in accordance with the provisions of the School Staffing (England) Regulations 2003) following receipt of written notification of the initial dismissal decision. Notice will be withdrawn should an appeal be successful.
- 7.10 In any case a record of the interview will be prepared and attached to the letter, or if this is not practicable, provided as soon as possible. The record will reflect the content of the interview but will not be a verbatim report. If the headteacher is dissatisfied with the record of the interview, the reasons for his/her dissatisfaction shall be considered and, unless satisfactorily resolved, shall be recorded.
- 7.11 Where the decision of the Committee is to issue the headteacher with a warning, the letter confirming the decision should include:
- confirmation of the status of the warning
 - a summary of the reasons for the decision
 - clear details of the corrective action required of the headteacher
 - confirmation of the period over which the warning will be reviewed
 - a statement of the consequences of failing to achieve the desired improvement. This will usually involve reference to further disciplinary action being considered, or, in the case of a final written warning, to the possibility of dismissal
 - confirmation of the headteacher's right of appeal against the decision.
- 7.12 Where, after a formal disciplinary interview, the Committee is satisfied that the grounds for complaint against the headteacher have not been substantiated, no disciplinary action shall be taken. The Committee will be responsible for ensuring that all papers relating to the matters giving rise to the interview are removed from the headteacher's file. The headteacher shall be notified of the position in writing.

8. APPEAL AGAINST DISCIPLINARY ACTION UNDER THIS PROCEDURE

- 8.1 A headteacher shall have a right of appeal to the Governors' Committee with delegated responsibility against any formal disciplinary action, including dismissal, taken against him/her and must be notified of this right in the written confirmation of the action taken. In all cases an intention to appeal must be notified in writing to the Clerk to the Governors stating the grounds of appeal within ten working days of receipt of the letter confirming the disciplinary action that has been taken. The grounds of appeal should make it clear whether the appellant contests the evidence put forward by way of new evidence or otherwise or whether the appeal is on the grounds of undue severity or inconsistency of the disciplinary sanction. The meeting will normally be held during working hours.
- 8.2 The appeal will allow for a re-hearing of the evidence, including any new evidence arising. Evidence which has been submitted at the earlier hearing should be circulated in advance of the appeal. Where possible this should indicate where evidence is disputed.
- 8.3 The procedure to be followed at the meeting will be as set out at Appendix B. The member of staff may be accompanied by a trade union/professional association representative or other person of his/her choice. An LA representative will be invited to attend the meeting in an advisory capacity. The decision of the Committee

hearing any appeal, which may be to vary the sanction determined in accordance with this procedure, shall be final.

9. CURRENCY, REVIEW AND REMOVAL OF WARNINGS

- 9.1 Other than in the case of a final written warning, where it will be indicated that any recurrence of this or other misconduct may lead to dismissal, it will be appropriate for future disciplinary purposes only to remove and disregard a warning on a headteacher's record after a period of satisfactory conduct. In the case of a formal oral warning the period will be three months from the issue of the disciplinary sanction. In the case of a formal written warning the period will normally be six months from the issue of the disciplinary sanction.
- 9.2 During the periods of time referred to above the headteacher's conduct should be monitored. This monitoring should result in a review meeting half way through the period and again before the period terminates. Reviews will be conducted by the Committee responsible for the original decision. Immediately prior to the review meeting, a written report on the member of staff's conduct by an appropriate officer or adviser of the Local Authority should be provided for consideration at the meeting. If the review indicates that there has been a satisfactory improvement in conduct, a note to that effect should be placed on the headteacher's personal file. If the review indicates insufficient improvement in conduct further disciplinary steps may need to be initiated in accordance with this procedure.
- 9.3 When deciding what disciplinary action is to be taken against a headteacher after an earlier formal warning or warnings, the Committee will consider all relevant factors including periods of satisfactory service, the length of time which has elapsed since any disciplinary action, any instructions previously issued, and any pattern in conduct which is a cause for concern.
- 9.4 In the case of a final written warning the Committee shall monitor the warning for a period not more than two years from the issue of the disciplinary sanction. A review meeting should be held following a period of one year and again one month before the period terminates. If the Committee decides not to remove the warning following the final review meeting, the headteacher may request a written statement of the reasons for the decision and shall be entitled to appeal against the decision to the Governors' Committee with delegated responsibility for hearing appeals under this procedure.
- 9.5 Other than where on an appeal the Committee decides that a final written warning should remain in force for a specified period, the Committee shall thereafter review the warning normally at intervals of two years and inform the headteacher of the decision. At each such review, if dissatisfied with the Committee's decision, the headteacher shall be entitled to appeal as above.
- 9.6 Where it is decided to remove and disregard a disciplinary warning for future disciplinary purposes, a note recording this decision shall be placed on the headteacher's personal file. A copy will be sent to him/her for information. A copy should also be sent to the Director of Children and Young People's Services.

GOVERNORS' STAFF DISCIPLINARY/DISMISSAL COMMITTEE (Procedure at the Formal Disciplinary Interview)

Where under this procedure a meeting is called to consider disciplinary action, this will be conducted by the Governors' Committee with formally delegated responsibility on the basis set out below. The 'investigating officer' is the person appointed to conduct the investigation and provide a report for the Committee's consideration. A representative of the Director of Children & Young People's Services will attend the meeting to provide advice.

1. The Chair will introduce those present, confirm the purpose of the meeting and process to be followed and confirm that either side may request an adjournment at any stage of the proceedings.
2. The investigating officer will be invited to present the case (calling such witnesses as may be necessary).
3. The headteacher, or his/her representative, may ask questions of the witnesses (where called) and of the investigating officer.
4. The investigating officer may re-examine the witnesses (where called).
5. The headteacher, or his/her representative, will be invited to present the case (calling such witnesses as may be necessary).
6. The investigating officer may ask questions of the witnesses (where called), the headteacher and, where the headteacher's representative gives evidence, of the representative.
7. The headteacher or his/her representative may re-examine the witnesses (where called).
8. Members of the Committee may ask questions of the parties or witnesses at any stage but will seek to confine questioning until after questioning of witnesses is completed and prior to re-examination of the parties.
9. The investigating officer will be invited to sum up the case.
10. The headteacher or his/her representative will be invited to sum up the case.
11. At the conclusion of the hearing the parties and any other persons present with the exception of the Director of Children and Young People's Services, or representative, shall withdraw whilst the Committee deliberates. The decision will be notified in accordance with paragraph 7.6 to 7.10 of this disciplinary procedure.

Notes:

- Arrangements will be made for a record of the meeting to be taken. This record will not normally be a verbatim report but should aim to accurately reflect the content of the meeting and will be provided for both parties' information.
- The Chair of the Committee may during the process above recall witnesses or call for further evidence on specific points but if it becomes necessary to act in this way following conclusion of the hearing (i.e. at 11. above) then both parties must be recalled.

- Either party may present documentary evidence, copies of which shall be served upon the other party at least five working days in advance of the hearing date.
- The headteacher, in addition to his/her representative or friend who may present his/her case, may be accompanied by one other assistant who takes no active part in the proceedings.
- Witnesses shall only be present whilst giving evidence unless the Chair of the Committee directs otherwise.
- Any party may call for an adjournment during proceedings. Whenever possible a room will be provided for the headteacher and his/her representative for use outside of the hearing.

**GOVERNORS' STAFF DISCIPLINARY/DISMISSAL APPEAL
COMMITTEE
(Procedure at appeal hearing against action under this disciplinary
procedure)**

The appeal will be heard by the Governors' Committee with formally delegated responsibility to hear such an appeal. Under this procedure the Committee has the power to confirm or vary any decision of the previous Committee. In varying the decision the Committee will determine what action, if any, is to be taken under the provisions of the procedure. The Director of Children & Young People's Services, or a representative, will attend the meeting to provide advice. Where this is a representative it will be a different representative to the person who provided advice to the previous Committee. The decision of the Appeal Committee is final.

The Chair of the Committee responsible for the disciplinary action will attend the meeting as 'Presenting Officer'.

1. The Chair will introduce those present, confirm the purpose of the meeting and process to be followed and confirm that either side may request an adjournment at any stage of the proceedings.
2. The presenting officer will present the case, i.e. grounds for the previous decision (calling such witnesses as may be necessary).
3. The headteacher or his/her representative may ask questions of the witnesses (where called) and the presenting officer.
4. The presenting officer may re-examine the witnesses (where called).
5. The headteacher or his/her representative will be asked to present the grounds for the appeal (calling such witnesses as may be necessary).
6. The presenting officer may ask questions of the witnesses (where called) and the headteacher.
7. The headteacher or his/her representative may re-examine the witnesses (where called).
8. Members of the Committee may ask questions of the parties or witnesses at any stage but will seek to confine questioning until after questioning of witnesses by the parties is completed.
9. The presenting officer will be invited to sum up the case.
10. The headteacher or his/her representative will be invited to sum up the case.
11. At the conclusion of the hearing the parties and any other persons present, with the exception of the LA representative providing advice, shall withdraw whilst the Committee deliberates.

Notes:

- Arrangements will be made for a record of the meeting to be taken. This record will not normally be a verbatim report but should aim to accurately reflect the content of the meeting and will be provided for both parties' information.
- The Chair of the Committee may during the proceedings above recall witnesses or call for further evidence on specific points but if it becomes necessary to act in this way following conclusion of the hearing (i.e. at 11. above then) both parties must be recalled.
- Either party may present documentary evidence, copies of which shall be served upon the other party at least five working days in advance of the hearing date.
- The headteacher, in addition to his/her representative or friend who may present his/her case, may be accompanied by one other assistant who takes no active part in the proceedings. The presenting officer may receive advice from an assistant who will take no active part in the proceedings.
- Witnesses shall only be present whilst giving evidence unless the Chair of the Committee directs otherwise.
- Any party may call for an adjournment during proceedings. Whenever possible a room will be provided for the employee and his/her representative for use outside of the hearing.