

HAVEN HIGH TECHNOLOGY COLLEGE

DISCIPLINARY PROCEDURES

Introduction

Where an employee's conduct is in question the Executive Headteacher or other Line Manager should make arrangements for an investigation to take place and to collect evidence. In circumstances where the Executive Headteacher's conduct is in question the Chairman of Governors must make arrangements for this to be done.

The aims of the procedure are to:

- provide the college with a fair and consistent approach to dealing with misconduct issues
- help and encourage employees achieve a high standard of conduct.

Informal Procedure

Where an issue of conduct is of a relatively minor nature then it should wherever possible be resolved informally.

The Executive Headteacher/Manager may still have to carry out a brief investigation and would then have a discussion with the employee to state the concerns and resolve the matter. If at this time the Executive Headteacher/Manager believes this issue is more of a serious nature then this will be dealt with under the formal procedure.

The employee should be given the opportunity to explain his/her actions including any possible mitigating circumstances. At the end of the discussion the employee should understand what standard of conduct is expected of them and that the matter will go no further.

A record should be kept of the discussion and the employee provided with a copy. If in the future there are further issues then this may be used in evidence and it may also mean that it will be considered under the formal procedure. In accordance with formal procedures this should be disregarded for disciplinary purposes after a reasonable period of time.

Formal Procedure

Where an issue is of a more serious nature then it should be dealt with within the formal procedure.

In certain cases suspension from duty may be considered and the appropriate procedures should be followed (see guidance notes).

Investigation

Where there is an allegation of misconduct, arrangements should be made for the issue(s) to be investigated thoroughly.

In each case either the Chair of Governors or Executive Headteacher will appoint an Investigating Officer. This may be the Executive Headteacher, another senior member of

staff or an independent person who will take overall responsibility for the investigation even though other parties may have been initially involved. In addition to any earlier interview with the individual, the final part of the investigation will, be an interview with the employee. (see guidance notes and sample letter 2).

Following completion, the expectation will be that the case be referred to a formal disciplinary hearing unless the Investigating Officer decides, on the evidence available, that there is no substance to the allegation(s). This recommendation will be communicated to the Executive Headteacher, who will inform the employee concerned.

Disciplinary Hearing

In cases where it has been possible for the Executive Headteacher to remain untainted (see Appendix 6) the hearing will be held before the Executive Headteacher. Where this has not been possible then the hearing will be before a committee of Governors with the case presented by the Executive Headteacher regardless of whether he/she was the Investigating Officer. The Investigating Officer may act as a witness in the proceedings.

Where it has been decided to hold a disciplinary hearing the employee will be given at least 10 working days notice and be provided with a copy of the paperwork to be used as evidence at the hearing (see sample letter 3) and the opportunity to be accompanied by a work colleague, workplace representative or their trade union representative **but cannot be a qualified legal adviser or relative**. Witnesses may also be asked to attend to provide evidence.

The Executive Headteacher or Governors' Disciplinary Committee Chair will conduct the hearing and should be advised by a HR Adviser.

The complete history and background of a disciplinary case may be requested at an appeal hearing or at an employment tribunal. It is therefore essential that comprehensive records are made of any level of disciplinary action. The note taker will be either the College's Clerk to Governors or an appropriate member of the administration team. These notes will not be verbatim.

The purpose of the hearing will be for the Executive Headteacher/Governors' Disciplinary Committee to consider the evidence presented in respect of the employee's conduct and for the employee to have an opportunity of putting his or her side of the case.

The outcomes of a disciplinary hearing may be:

- (i) A decision to take no action.
- (ii) Informal written advice.
- (iii) A first formal written warning.
- (iv) A final formal written warning.
- (v) Dismissal.

The outcome will be dependent upon the seriousness of the matter and taking into account any mitigating circumstances.

The decision will be communicated to the employee orally immediately after it has been reached and will then be confirmed in writing. The letter confirming the decision will inform the employee that he/she can appeal against the decision to the Disciplinary Appeals Committee of the Governors. The employee will be given ten working days from the announcement of the decision date of the letter to lodge an appeal with the Clerk to the Governors.

Any warnings given will be issued with an appropriate timescale for them to remain 'live' on the employees file and may be taken into account as regards any future instances of misconduct within the set timescale (see Appendix 2).

In reaching this decision, consideration will be given to the nature and severity of the incident(s) which have resulted in the warning. Warnings are never expunged from an employee's file. They must, however, be disregarded for future disciplinary purposes after the time period has expired.

In the case of gross misconduct the employee may be summarily dismissed.

In other cases of dismissal the effective date will be proposed in accordance with statute and the appropriate terms and conditions of service.

Following any initial dismissal determination, notification of the decision must be sent to the Authority who will within 14 days issue notification of the employment contract. If a subsequent appeal reverses the dismissal decision the termination notice will be rescinded. See sample letter 5a.

Appeal Process

The employee will be given ten working days from the announcement of the decision to lodge an appeal with the Clerk to the Governors. The letter from the employee **must** set out the basis for any appeal (see i to iv below). The employee will be given a least one working week's notice of the date of an appeal hearing.

The appeal process will consider disciplinary decisions on one or more of the following grounds:

- i. The procedure: the procedure was not followed.
- ii. The decision: the conclusions of the Executive Headteacher/Disciplinary Committee were unreasonable.
- iii. The penalty: the penalty is considered to be too harsh.
- iv. There is relevant new evidence.

The appeals committee can disregard any new evidence if they decide that it is unreasonable for it to be raised for the first time at the Appeal.

The hearing will not constitute a full rehearing of the case and will address the specific grounds of appeal set out in the notice given to the Clerk to Governors.

There may, however, be circumstances where it is appropriate for a re-hearing to take place and in such cases, the procedure to be followed will be that for the original disciplinary hearing. This will be a decision for the Chair of the Appeal Committee.

The Disciplinary Appeal Committee must be a properly constituted committee of governors. Members of the committee will be untainted and will not normally include staff governors. The committee will normally be made up of three Governors, one of whom will be nominated as Chair.

The management representative at the hearing will be the person who was responsible for the decision taken at the disciplinary hearing.

The committee will be advised by a HR Adviser on matters of procedure. The HR Adviser will also be able to participate in the meeting but the decision regarding the action to be taken will be taken by the committee members only although the HR Adviser will be present in an advisory capacity throughout their deliberations.

The committee can confirm the original disciplinary decision; impose a lesser penalty or overturn the original disciplinary decision completely. Where a dismissal decision is overturned then the original notice from the Authority or College will be rescinded.

Appendix 1

MANAGING THE PROCESS

All staff with any supervisory responsibilities should ensure that employees understand the standards of conduct that are expected of them and need to identify as soon as possible any potential problems. Employees should also be aware of the procedures adopted by the Governing Body.

With appropriate counselling and guidance most minor conduct issues can be dealt with in an informal way with the employee supported to improve or resolve the situation as soon as it becomes apparent. All discussions should however be documented as they may be referred to in the future if there is a recurrence of the problem.

Trade Union Officials

Where formal disciplinary action is being considered against a trade union official (including health and safety representatives) the case will be discussed with a full-time trade union officer/official in accordance with the ACAS Code of Practice. Advice in these cases should be sought from your HR Adviser.

Investigations

Where an issue cannot be resolved informally the Executive Headteacher should arrange to investigate the matter thoroughly. This can be done by the Executive Headteacher or by someone from either within or outside of the college. Advice should be sought from your HR Adviser.

The aim of any investigation is to establish the facts of the case and will include an interview with the individual concerned. The investigation may include talking with witnesses with written statements being made.

Financial Issues

Where the matter is of a financial nature it may be appropriate for the matter to be partly investigated by an appropriately qualified person. In such cases it may be that the Executive Headteacher (in consultation with the Chair of Governors) invites officers of the County Council's Audit Section to look into the matter and provide the college with a report. This will form part of the college's investigation into the issues. The report may also include wider recommendations as regards the financial management of the college.

The report will be used as evidence within any subsequent disciplinary hearing and officers from the Audit Section may also be invited to attend any hearing to assist in the presentation of the case.

Criminal Offences

Where an employee may have committed a criminal offence, the advice of the HR Adviser should be sought.

The disciplinary process does not have to be delayed pending the outcome of any criminal investigation, as the burden of proof is different in a disciplinary case to that of a criminal one, however there may be occasions where the college cannot proceed until the outcome of the police investigation is known. A college, however, should not carry out its own investigation before consulting the HR Adviser.

Child Protection Issues

Where an allegation relates to the sexual, physical or other abuse of a child the procedures within the LSCB Guidance should be followed and the matter should be discussed as soon as possible with the Local Authority Designated Officer or nominated Deputy. No action should be taken until the Designated Officer or nominated Deputy have offered advice. At this stage the employee should not be told that an investigation is under way in order to avoid the employee from discussing the issue with the child before the child has been spoken to by the appropriate officers.

It is important that hasty decisions to suspend an individual are not made before any assessment has been made as to the substance of an allegation. This can be a traumatic experience for the employee concerned and potentially could have a detrimental effect on an individual's career.

The Safeguarding Manager will liaise with the college to determine the necessity for a strategy meeting. If a strategy meeting is deemed necessary it will be convened with the Executive Headteacher/manager of the establishment present. The planning and coordination of enquiries will be agreed at this meeting.

Suspension

Suspension from duty may be necessary where the circumstances of the case are such that the employee cannot remain at work until the case has been investigated. Such circumstances may include:

- where the allegations are so serious that dismissal for gross misconduct is possible;
- where children and/or staff may be put at risk;
- where the investigation needs to proceed unhindered.

The Executive Headteacher or Governing Body may suspend an employee at any time during the course of the investigation. Advice should also be sought from the HR Adviser before any decision to suspend is taken. Suspension will be on full pay.

After a decision to suspend has been taken a discussion should take place with the employee who may be accompanied by a work colleague, workplace representative or their trade union representative **but cannot be a qualified legal adviser or relative**. This may, however be at very short notice.

The employee should be given as much information as possible about the allegation and the reasons for the suspension. It should be made clear that the action being taken is not formal disciplinary action and is a neutral act to allow the investigation to take place and may also be in the best interests of the employee. Written confirmation of the suspension must follow (see Sample letter 1).

Suspended employees may experience significant levels of stress and sensitivity must be shown throughout the suspension. Executive Headteachers should be sensitive about dispatching letters to suspended employees which will arrive on a Friday or Saturday where employees may have no opportunity to contact someone in the college who has left for the weekend.

The period of suspension should be **as brief as possible** and may only be lifted by the Governing Body although this will be carried out by the Chair of Governors without the need of any formal meeting of the governors.

The suspension may be lifted following the investigation or may remain in place until after any other stage within the procedure.

During the period of suspension the employee should be provided with the appropriate support and should include a contact who may be a representative of the Authority to provide information as to the progress of the investigation (see Sample letter 1).

The employee may also wish to contact the Employee Support and Counselling Service as well as using their work colleague, workplace representative or their trade union representative **but cannot be a qualified legal adviser or relative**.

SICK PAY AND HOLIDAY DURING THE PROCEDURE

Absence which is triggered by the disciplinary procedure, and that the Executive Headteacher/Manager believes is likely to be long term should be referred immediately to the Occupational Health Adviser for an assessment regarding the individual's fitness for work and/or fitness to undergo an investigative interview or attend a disciplinary hearing. The process will be the same as for any other medical referral.

If the employee becomes ill during the suspension the normal contractual sick pay entitlements will come into force for the period of the illness however the suspension rules remain unchanged. Holidays will continue to be accrued throughout the suspension and the employee may request annual leave in the normal way.

Short absences should not delay any part of the formal stages of the procedure.

CONDITIONS OF SERVICE

Conditions of Service are not affected by the application of the disciplinary procedures.

EMPLOYEE REPRESENTATION

During each stage of the formal procedure an employee is entitled to be accompanied by a work colleague, workplace representative or their trade union representative **but cannot be a qualified legal adviser or relative**.

If the employee's chosen companion is unavailable to attend the hearing at the time specified by the college, but proposes an alternative time and date, the hearing must be postponed until the later date provided that the latter is within 5 working days of the original. If this is not practical then the governors should arrange a suitable alternative. Hearings will not normally be held during college closure periods.

ROLE OF GOVERNORS

Depending upon the circumstances, Governors may or may not be involved in the decision making process as regards formal disciplinary action but will always be involved in any appeal hearing. Where it is the Executive Headteacher's conduct that is in question the Chair of Governors or other appropriate Governor assumes the role of the Manager.

Governing bodies need to ensure that they have a properly established disciplinary and appeal committee, the members of which are untainted by earlier proceedings and would not normally include staff governors.

ROLE OF THE LOCAL AUTHORITY

The LA has advisory rights as regards all proceedings of a Governing Body of all community, voluntary controlled, community special and maintained nursery colleges where potentially a dismissal may take place. This will normally be done through the HR Adviser as a representative of the Authority and will include Governors appeal hearings.

This also applies to foundation, aided, and foundation special colleges where the Governing Body have afforded the Authority those rights of attendance and giving advice.

The dismissal of an employee could be the subject of an appeal to an employment tribunal, which may involve costs being awarded against the college and Authority who will have been named as co-respondents. Unless the Authority has good reason, costs will not normally be met from a college's budget share. The potentially unfair or unlawful dismissal of an employee however, may be such a reason.

Where an employee has been dismissed on the grounds of conduct the Authority will consider the facts of the case and decide whether or not in future the individual would be considered to be suitable to be placed on its supply teaching or relief staff panels. This will also be the case where an employee has resigned but where dismissal would have been contemplated had a disciplinary hearing taken place.

In the case of teaching staff the case will also be referred, by the employer to the Teachers' Misconduct Team within the Department for Education and Skills for consideration under its own procedures. They in turn may refer the case onto the General Teaching Council (England) for consideration under its own disciplinary procedures.

Appendix 2

LOCAL AUTHORITY PROCEDURE FOR COLLEGES' CONDUCT CASES – SUPPLY TEACHERS AND RELIEF EMPLOYEES.

Where it is brought to the attention of the Authority that there is an issue surrounding the conduct of a supply teacher or relief employee it will arrange for the matter to be investigated thoroughly and take action accordingly.

In some cases it may be appropriate for an individual to be suspended from the panel whilst an investigation is carried out and because of the nature of employment this will be without pay.

The individual will be notified that they should not seek employment within the Council until the matter has been concluded.

On completion of the investigation the Colleges Supply and Relief Disciplinary Panel will hear the case. The panel will consist of the Head of Strategic HR for Children's Services (Chair), another member of the Directorate's Senior Management Team and a representative from Legal Services. A HR Adviser will advise the panel.

The procedure for any hearing will be as detailed below.

The Panel will consider the individual's suitability to remain on the Authority's supply teaching and relief employees' panel and for further employment in colleges.

The LEA has a responsibility to consider any such cases for possible referral to the Department of Education and Skills (Teachers' Misconduct Section) and this will form a part of their deliberations.

Where it is deemed that an individual is not suitable this will be confirmed in writing to them and will be given the opportunity to challenge this decision in writing.

Where it is challenged a member of the Directorate Management Team who took no part in the original decision will review the decision.

Supply and Relief Panel Disciplinary Hearing Procedure and Guidance Note.

1. Individual and friend or representative and investigator enter together.
2. HR Manager for Children's Services (Chair) makes introductions and describes the procedure. Any procedural questions are resolved at this point.
3. Investigator presents findings regarding the employee's conduct (witnesses may be called).
4. Individual and/or representative question Investigator (and witnesses) on statement(s).

5. Panel members and HR Adviser question Investigator (and witnesses) on statement(s).
6. Individual or representative makes statement (witnesses may be called).
7. Panel members and HR Adviser question Individual or friend/representative (and witnesses) on statement(s).
8. Investigator summarises and concludes
9. Individual and/or representative summarises and concludes.
10. Individual and/or representative and Investigator withdraw whilst the Panel advised by the HR Adviser considers the case.
11. Individual and/or representative and Investigator return and decision is announced.

Guidance for Panel:

- Have the requirements of the disciplinary procedure been properly complied with up to this point
- Has there been as much investigation as is reasonable in the circumstances
- Has sufficient regard been paid to any explanation put forward by or on behalf of the employee
- Is there a genuine belief that the employee has committed the misconduct alleged
- Are there reasonable grounds on which to sustain that belief on the balance of probabilities (i.e. is it more likely than less likely that the employee did what is alleged)

'YES' answers to each of these questions will mean a finding that the employee has committed the act of misconduct. Three further questions will help with what to do about it:

- Is the misconduct sufficiently serious to justify the disciplinary action being contemplated
- Has regard been given to any mitigating circumstances put forward by or on behalf of the employee
- Is the decision within the band of reasonable responses of a reasonable employer in the circumstances

If the panel wishes to put further questions to either party, both parties will be recalled even if the question is to be directed at one party only. At no time should the panel be alone with either the employee/representative, or with the management representative.

Chair makes a written summary of the decision and related action plans.

All parties are recalled.

Chair reads out the panel's decision and any related performance improvement plans and/or action plans and advises the employee this will be confirmed in writing

Chair advises the employee of their right to appeal

Chair brings the hearing to a prompt close, without further discussion or debate.

Possible outcomes:

- A decision to take no action.
- A first formal warning.
- A final formal warning.
- Removal from supply or relief panel and referral to DfES Teachers Misconduct team.

Appendix 3

STANDARDS OF CONDUCT/DISCIPLINARY RULES AND SANCTIONS

STANDARDS OF CONDUCT

In any organisation, it is necessary to maintain high standards of conduct if it is to function in a harmonious, orderly and effective manner.

It is the policy of the college to ensure that lawful, fair and effective arrangements exist for dealing with disciplinary matters. Usually, discipline is voluntary and self-imposed, but occasionally, an employee may fall short of the expected standards. The disciplinary procedure provides a consistent framework for informing you of such shortcomings, and for developing ways of correcting the problem whenever possible.

DISCIPLINARY RULES

The rules given below are intended to help employees understand the standards required of them by the Governing Body of the college. No set of rules can cover all disciplinary matters and this list is therefore illustrative and not exhaustive.

Attendance at Work

Examples of unacceptable standards:

- deliberate provision of false or misleading information on applications for employment or promotion
- failure to wear or use appropriate equipment/attire made available or necessary for the job (including safety equipment)
- unauthorised absence
- poor timekeeping: late starting, early finishing, excessive break periods
- failure to comply with sickness absence procedures
- falsification of official accounts or documents e.g. overtime/additional hours claims, travel/expenses claims
- incapacity at work, due to the effects of alcohol or non-prescribed drugs

Behaviour

Examples of unacceptable standards:

- physical violence
- indecent behaviour, action or language that is likely to cause offence, including racial or sexual abuse
- harassment, bullying or victimisation of others, including racial or sexual intimidation or prejudice
- disruption of others by unruly or disorderly behaviour
- discourteous or improper treatment of members of the public, colleagues, pupils, governors or parents
- acceptance of bribes or involvement in similar corrupt practice
- lack of integrity that would damage public confidence in the college

Behaviour out of Work

Examples of unacceptable standards:

- unauthorised employment, e.g. engaging in unauthorised employment during hours when contracted to work for the college/County Council, or engaging during off-duty hours in employment that is detrimental to the interests of the college/County Council
- engaging in political activity whilst occupying a politically restricted post, as defined in the Local Government and Housing Act 1989 (e.g. acting as a party election agent or sub-agent, failure to give notice of an intention to stand in a pending general or parliamentary by-election)
- neglect of health (e.g. activities or conduct which seriously affect your recovery during sickness)
- conviction of a criminal offence that is inconsistent with the position held by you

Care of Property

Examples of unacceptable standards:

- use of the college's time or property for personal reasons without permission
- misuse of property or equipment to which you have access through your work
- damage to or neglect of property in the course of an employee's work
- theft

Neglect

Examples of unacceptable standards:

- failure to report actual or suspected abuse of any pupil by another member of staff or any other person who has contact with a pupil
- disregard for the health and safety of others, including reckless driving or operation of vehicles or equipment, and smoking in prohibited areas
- conviction of a criminal offence that is inconsistent with the position held by the employee

Standards of Work

Examples of unacceptable standards:

- failure to follow operating instructions and procedures
- failure to achieve required levels and/or quality of performance, through carelessness or lack of application
- maladministration
- failure to carry out a reasonable instruction

DISCIPLINARY ACTION AS A CONSEQUENCE OF BREACH OF RULES

This is a guide to the main types of disciplinary action that the college may take in accordance with its Disciplinary Procedure. The level of disciplinary action taken will depend on how serious the employee's behaviour is viewed, whether it is a first or repeated breach of rules, the nature of the employee's work, the employee's position, work record and performance, and all the circumstances surrounding the case.

Informal Written Advice, First and Final Written Warnings

Where informal advice and guidance has not resulted in sufficient improvement in an employee's behaviour, or if the offence is more serious, a formal disciplinary hearing will be convened.

If the case is found to be proved, an appropriate level of warning will be issued, which may be a first and final warning in serious cases. The employee has the right of appeal against any level of formal warning.

The warning will be placed on file for a specified period and the following guidance should be followed:

Informal Written Advice – Between 6 months and 1 year.

First Warning – Between 6 months and 1 year.

Final Written Warnings – Between 1 year and 18 months.

Dismissal with Notice

Where an employee's conduct or behaviour continues to be significantly below acceptable standards, despite previous warnings and appropriate support, advice and guidance his/her employment may be terminated by giving the appropriate period of notice in accordance with statute and conditions of service.

Summary Dismissal

This is dismissal without notice or pay in lieu of notice, normally as a result of gross misconduct. This sanction will only apply where the employee's conduct is so serious that all trust and confidence has been lost.

Examples of conduct or behaviour for which summary dismissal is the normal penalty are as follows:

- theft;
- fraud and deliberate falsification of records;
- fraudulent misuse of the college's property or name;
- serious physical violence;
- serious sexual or racial harassment/misconduct;
- malicious damage to property;
- serious breaches of health and safety regulations which would endanger other people;
- serious acts of insubordination;
- corrupt or improper practice;
- serious breach of confidence.

This list is neither exclusive nor exhaustive.

Appendix 4

Sample letters

Sample letter 1 sent by Executive Headteacher or Chair of Governors to employee

SUSPENSION FROM DUTY

I am writing to confirm the decision to suspend you from duty with immediate effect.

The reason for the suspension is _____
and will remain in place whilst investigations into these issues are carried out.

Please understand that suspension is a neutral act, is not a disciplinary sanction and you will continue to be paid as normal.

If, as a result of the investigation, there are grounds for the governors to instigate disciplinary proceedings you will be informed in writing of the reasons for this action and given adequate notice of any disciplinary hearing and your rights of representation.

In the meantime during the period of your suspension from work you are not permitted to attend your normal workplace and you should not have any contact with staff within the college in respect of this issue. If you have any personal belongings you require from the college please let me know and I will make arrangements to have them brought to you.

I appreciate that suspension from work can cause concern and that you may wish to share those concerns or discuss any aspects of this procedure. In this respect you may wish to contact _____ on _____. _____ will also keep you up to date with the procedure.

The County Council's Employee and Support Service is also available and can be accessed on 01522 836198. You can also make your own independent arrangements for support during the investigation by contacting your staff/union representative or someone who is a friend from outside of the work setting.

May I remind you again that being suspended from duty is not a disciplinary sanction and can I assure you that the investigation will be undertaken as speedily as possible. On completion of these enquiries I will write to you again.

Yours sincerely

Sample letter 2 sent by the Executive Headteacher/Investigating officer to the employee.

Dear

INVESTIGATION INTERVIEW

I am writing to request that you attend an interview at _____(time) on _____
(date) to be held in _____ (place) to discuss the concerns in respect of your conduct.

The purpose of the interview will be to allow me as the Investigating Officer to look into these issues, within the formal disciplinary procedure and allow you to respond to the concerns. The issue(s) of concern is(are) _____.

Following the interview I shall consider the evidence and decide whether **there is potentially a case to answer** and if so make a formal recommendation that the matter be referred to a formal Disciplinary Hearing to be heard by the Executive Headteacher/Governors' Disciplinary Committee*. They will then decide whether a formal sanction is appropriate. A copy of the College's Disciplinary policy is enclosed for your information.

At the interview you are entitled to be accompanied by a work colleague, workplace representative or trade union representative but cannot be a qualified legal adviser or relative.

Yours sincerely

Investigating Officer/Executive Headteacher*

**If the investigating officer is not the Executive Headteacher then the hearing will be held in front of the Executive Headteacher. If the Executive Headteacher investigates the matter the hearing should be referred to a Governors Disciplinary Committee.*

Sample letter 3 sent by the Executive Headteacher to the employee.

Dear _____

DISCIPLINARY HEARING

I am writing to request that you attend a formal disciplinary hearing held under the College's disciplinary procedure.

At the hearing I/the Governor's Disciplinary Committee will consider the following allegations as regards your conduct.

(Insert paragraph giving details)

The meeting will take place at _____ (time), on _____ (date) and be held _____ (place). Enclosed is the procedure to be followed at the hearing and the documentation that will be presented. Witnesses may also be called to give evidence.

You may be accompanied by a work colleague, workplace representative or trade union representative but cannot be a qualified legal adviser or relative and I will be grateful if you could let me know in writing if you intend to be present at the hearing and whether or not you will be accompanied. Should you wish to provide any written evidence at the hearing please let me have copies as soon as possible.

Please note that a range of sanctions may be taken against you *(insert possibilities)* up to and including your dismissal from the college. *(Include only where dismissal is a possible sanction)*

Yours sincerely

Appendix 5

Disciplinary Hearing Procedure and Guidance Note.

1. Employee and representative and Executive Headteacher/Investigating Officer enter together.
2. Executive Headteacher/Chairman of Committee describes the procedure. Any procedural questions are resolved at this point.
3. Executive Headteacher/Investigating Officer presents investigation and findings as regards the employee's conduct (witnesses including investigator may be called).
4. **Committee Members and HR Adviser question Executive Headteacher/Investigating Officer (and witnesses) on statement(s).**
5. Employee and/or representative question Executive Headteacher/Investigating Officer (and witnesses) on statement(s).
6. Employee or representative makes statement (witnesses may be called).
7. Committee Members and HR Adviser question employee or representative (and witnesses) on statement(s).
8. **Executive Headteacher/ Investigating Officer questions employee or representative (and witnesses) on statement(s).**
9. Executive Headteacher/Investigating Officer summarises and concludes.
10. Employee or representative summarises and concludes.
11. Investigating Officer, employee and representative withdraw whilst Executive Headteacher/Committee advised by the HR Adviser considers the case.
12. Investigating Officer, employee and representative return and decision is announced.

Guidance for Executive Headteacher/Committee Members:

- Have the requirements of the disciplinary procedure been properly complied with up to this point?
- Has sufficient regard been paid to any explanation put forward by or on behalf of the employee?
- Is there a genuine belief that the employee has committed the misconduct alleged?
- Are there reasonable grounds on which to sustain that belief on the balance of probabilities (i.e. is it more likely than less likely that the employee did what is alleged)?

'YES' answers to each of these questions will mean a finding that the employee has committed the act of misconduct. Three further questions will help with what to do about it:

- Is the misconduct sufficiently serious to justify the disciplinary action being contemplated?
- Has regard been given to any mitigating circumstances put forward by or on behalf of the employee?
- Is the decision within the band of reasonable responses of a reasonable employer in the circumstances?

Appendix 6

Disciplinary Appeal Hearing Procedure.

1. Management representative, employee or representative enter together.
 2. The Chairman of the Committee describes the procedure. Any procedural questions are resolved at this point.
3. The appellant and/or representative present case based on the grounds specified when submitting the appeal. The appellant can refer to documentation and call witnesses.
4. The management representative may ask questions of the appellant and/or friend/representative and any witnesses.
5. Members of the Committee and HR Adviser may ask questions of the appellant and/or representative and any witnesses.
6. The management representative responds to appellant's presentation and may call any witnesses in connection with the grounds for appeal.
7. The appellant and/or representative may ask questions of the management representative and any witnesses.
8. Members of the Committee and HR Adviser may ask questions of management representative and any witnesses.
9. The appellant and/or representative summarise and conclude.
10. The management representative summarises and concludes.
11. The management representative, appellant and representative withdraw whilst Committee advised by the HR Adviser consider the appeal.
12. All parties return and the decision is announced.

Appendix 7

DISCIPLINARY PROCEDURE - ALTERNATIVE ARRANGEMENTS

The Executive Headteacher will normally be expected to lead in determining staff dismissals including those where the reason is conduct.

The disciplinary procedure therefore delegates this responsibility to the Executive Headteacher although in certain circumstances in accordance with the provisions of the Education Act 2003 the governing body should apply alternative arrangements if the process reaches the potential dismissal stage.

These arrangements may include decisions being taken by an individual governor or a group of governors with or without the Executive Headteacher. Regardless of the approach adopted the Executive Headteacher has the right to attend to offer advice.

The circumstances are as follows:

- A Executive Headteacher who is unwilling to perform these functions and whose previous history of service at the college did not include any such responsibilities.
- A Executive Headteacher subject to suspension, disciplinary procedures (including capability), or disciplinary action.
- Where the LA has made representations to the chair of the governing body on grounds of serious concerns about the performance of the Executive Headteacher.
- Where the Executive Headteacher has failed to abide by financial limits agreed by the governing body for any college purpose.
- Where the governing body of a faith college has agreed staffing policies, which provide for governor involvement in the interests of preserving the college's religious character.

Where any of the above circumstances apply, colleges are strongly advised to consult the Head of Strategic HR, Children's Services and/or your HR Adviser.

Updated May 2009