

## Disciplinary Guidance Policy & Procedure Schools

### The Wensleydale School & Sixth Form

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**Guidance produced for Schools under Local Management of Schools, together with Early Years providers under the HR service provision of North Yorkshire County Council.**

**Access: If you require this information in an alternative format, such as large type, audio cassette or Braille, please contact NYHR.**

### **Section I: Introduction**

This guidance accompanies and should be read in conjunction with the Disciplinary Policy and Procedure for Schools. It has been produced for Schools and Colleges under Local Management of Schools, together with Early Years providers under the HR service provision of North Yorkshire County Council.

Each section of the guidance corresponds with the relevant section of the Disciplinary Policy and Procedure and is cross-referenced accordingly. Links are also provided to template letters and model documents to be used at relevant stages of the procedure.

This guidance has been produced both for managers and employees.

Managers are strongly advised to take advice from NYHR with regards the application of the Disciplinary Policy and Procedure and Guidance at all stages.

**Where reference is made to Manager within this policy, this could mean Headteacher, line manager, Head of Department/Faculty, School Business Manager or Governor.**

### **Section 2: Right to be accompanied**

*(Links to Policy and Procedure 4.1)*

Employees have the legal right to be accompanied by a trade union representative or work colleague at Disciplinary Hearings and Appeal Hearings. The school extends this right to other formal meetings of the Disciplinary Procedure e.g. investigatory interviews as part of a pre-disciplinary investigation. The accompanying representative has a statutory right to address the hearing or meeting but no statutory right to answer questions on the employee's behalf.

An Investigating Officer should establish the status of the person accompanying the employee before the start of an investigatory interview. A 'work colleague' is allowed to accompany the employee unless there is a risk that the colleague may 'interfere' with the investigation, particularly if he/she is implicated in the allegations or may be needed to give a management statement. If this is the case the employee should be asked to find a suitable alternative colleague to accompany them. The role of the work colleague is to support and assist the employee through the process but not answer questions on the employee's behalf.

A work colleague who supports at an investigatory interview will be given paid time-off to undertake this.

Employees or anyone accompanying employees must not make any electronic recordings of any meetings or hearings conducted under this procedure.

### **Section 3: Informal action**

*(Links to Policy and Procedure 4.2)*

The day to day supervision and monitoring of an employee's conduct is part of normal line management action. Line managers are able to bring to an employee's attention any concerns regarding the employee's standards of conduct. Management action is limited within informal action to advising the employee of the concern, identifying what remedies are necessary, and advising that formal disciplinary action will be considered if standards do not improve. **This action is outside of the formal disciplinary procedure.**

Managers should make a file note and provide a copy to the employee.

The employee has no rights to representation at any meeting where informal management action is taken.

### **Section 4: Pre-disciplinary investigation**

*(Links to Policy and Procedure 4.3)*

#### ***When is a pre-disciplinary investigation required?***

If there is an allegation or suspicion of misconduct sufficiently serious that informal action is not appropriate, or where an employee's conduct has failed to improve

following informal line management action, a manager should ensure a pre-disciplinary investigation is conducted.

An Investigating Officer will be appointed to establish facts, interview witnesses, take statements and gather documentary evidence.

### ***Who can be the Investigating Officer?***

An Investigating Officer may be the manager or, if this is inappropriate (e.g. if the manager may need to be called as a witness at any future potential Disciplinary Hearing), an alternative nominated senior member of staff. An external Investigating Officer may be commissioned to undertake the investigation on behalf of the school.

### ***Initial enquiries prior to the pre-disciplinary investigation***

In some circumstances where an allegation is made that would normally be regarded as potential gross misconduct, it may be advisable to conduct urgent preliminary enquiries, in order to establish quickly whether the allegations have any real basis for proceeding further. The employee can therefore be saved the distress of knowing serious allegations have been made when they have no foundation. Any consequent damage to trust and confidence can therefore be avoided.

### ***Informing the employee of a pre-disciplinary investigation***

In normal circumstances the employee will be informed of the general nature of the allegation(s) and that an investigation is going to take place. This should be confirmed in writing. [Link to letter 2: Letter informing the employee of a disciplinary investigation](#)

### ***In what order should I conduct a pre-disciplinary investigation?***

Normal practice would be to gather evidence and interview witnesses first prior to interviewing the employee. This allows a reasonable basis of fact to be established and avoids the employee having to be called to interview more than once.

### ***How to conduct an investigatory interview***

An Investigating Officer will need to conduct an investigatory interview both with the employee and any potential witnesses of the alleged misconduct in order to gather facts and evidence impartially in relation to the allegation. It is an opportunity for the employee to put forward his/her version of events and to seek a response from the employee in respect of the allegations made.

Employees should be given reasonable notice of the date of an investigatory interview, and the request to attend should be made in writing. [Link to letter 3a: Letter requesting the employee's attendance at an investigatory interview](#)

An Investigating Officer should not carry out an investigatory interview without another person being present, such as a note-taker, to prevent any later dispute on the conduct or content of the interview.

Both the employee and witnesses must be made aware that what they say during the investigation will be recorded in writing and may be used as evidence in any subsequent disciplinary proceedings. Witnesses should also be made aware that they may be required to appear in person at any subsequent disciplinary hearing and appeal.

The Investigating Officer should ensure that notes of the interview are taken and a written statement produced. The employee should be sent a copy and asked to agree, sign and return the statement. [Link to letter 4: Letter accompanying investigatory interview notes, requesting signature](#)

Witness statements should not be shared with the employee at this stage.

Any interview that becomes heated or where the employee is showing undue signs of stress should be adjourned. Also, adjournments can be requested to allow the employee to confer with their colleague/trade union representative, or for the Investigating Officer to confer with the NYHR representative.

If the investigatory interviews produce information that requires further verification or identifies additional witnesses, there may be a need for a second or, in exceptional circumstances, a number of additional interviews with the employee concerned. This can add to the stress of the situation and should be avoided wherever possible. The recommendation is that the investigation should be as complete as possible before the employee is interviewed.

### **Witnesses**

Witnesses should normally be given paid time off when requested by the Investigating Officer to attend an interview or subsequent hearing, to give a witness statement. The request to attend an interview can be put in writing. [Link to letter 3b: Letter requesting employee's attendance at Investigatory Interview as witness to the allegation/s](#)

Witnesses should be given a written statement of their interview response and asked to agree and sign the statement as it may be later required as part of a Disciplinary Hearing. [Link to letter 4: Letter accompanying investigatory interview notes, requesting signature](#)

### **How long should a disciplinary investigation take?**

Investigations should be concluded as quickly as possible and should normally take no longer than 4 weeks to conclude unless there are exceptional circumstances which make this impossible such as a police investigation, a Safeguarding investigation or the health/capability of the employee and/or the availability of witnesses to attend investigatory interviews or other complexities.

### **Section 5: Precautionary action**

*(Links to Policy and Procedure 4.4)*

In some cases it may be necessary to take precautionary action (temporary redeployment or suspension) whilst an investigation takes place: this is not prejudicial in any way to the outcome of the investigation and the employee will remain on normal pay. Precautionary action should be avoided wherever possible.

**Temporary Redeployment:** this may involve, for example, adjustment to the employee's working pattern and/or his/her duties or, more normally, the work-base or working from home. A temporary transfer to another suitable post/location or restricted duties should be considered first as an alternative to suspension. [Link to letter 1a: Letter confirming precautionary redeployment](#)

**Suspension:** the employee is not required to attend work during the investigation and any further part of the disciplinary process. The employee would continue to receive full pay and benefits.

Precautionary action may be appropriate where:

the allegation(s) constitute potential gross misconduct  
the employee continuing their work may hamper the investigation the  
employee may commit further misconduct, or  
the employee, or other people, may be put at risk by them remaining at work.

The following should be considered when deciding which form of precautionary action is appropriate:

Whether or not the employee's presence at work may prevent others from coming forward and giving evidence, or may influence the evidence they give.

Whether or not the employee's presence at work may give him/her access to documents and records which have a bearing on the case and which could be amended, destroyed or tampered with.

Whether there is a real risk that they may commit further misconduct, or where they, or other people, may be put at risk by their remaining at work.

Whether or not the investigation could be so uncomfortable for the employee that his/her continuous presence at work would be detrimental to his/her well-being. A decision on these grounds would normally be agreed with the employee.

Whether or not in cases of alleged gross misconduct it is considered wise to trust the employee until the investigation and any further disciplinary process is completed.

Whether or not it would be difficult to justify dismissing an employee if they have been allowed to continue at work during the period between knowledge of the allegation and the dismissal taking place. Employment Tribunals are likely to conclude that dismissal for gross misconduct is not justified if the employee has been allowed to continue at work. This indicates that knowledge of the allegation without suspension suggests that a breakdown of trust and confidence between employer and employee has not taken place rendering gross misconduct dismissal unfair.

**The decision to invoke precautionary action should only be made following full consultation by the Headteacher with the Chair of Governors and NYHR.**

Any precautionary action should be kept under periodic review during the investigation as a consequence of the evidence gathered. Periods of suspension should be kept to the minimum necessary.

***What should I do if I want to suspend from duty?***

The employee should be informed verbally, and without delay, that he/she is being suspended or temporary redeployment is being invoked. This should normally be face-to-face unless there are exceptional circumstances preventing this and should

be confirmed in writing at the time or as soon as possible. [Link to letter 1b: Letter confirming precautionary suspension.](#)

There is no right to be represented or accompanied when an employee is advised of suspension/precautionary action meeting but if a trade union representative or work colleague is available at the time the employee may be accompanied by such a representative.

It is good practice to inform the employee of the general nature of the allegations but to avoid entering into a discussion about matters. The employee should not be questioned at this stage.

Where schools buy into the Health Assured Service, the employee should be given the contact telephone number 0800 0305182 for Health Assured, as a source of confidential support. This confidential telephone number is available 24 hours a day.

The employee should be given a named person within work as a contact point. This should be mutually agreed. The role of the contact will be to pass on information relating to work, but not to discuss the case.

The employee should be advised that he/she must make him/herself available to be contacted for any interview that the Investigating Officer may require him/her to attend, which would normally be during the employee's contracted hours unless otherwise by mutual agreement. It should also be made clear that he/she must not visit their normal place of work unless asked to do so by the Investigating Officer, nor should he/she contact any parent, pupil or employee of the school in respect of the allegation or arrange for any documents to be forwarded without prior approval from his/her manager.

Employees subject to precautionary action may feel a sense of isolation and distress. However, normal social contact with colleagues is allowed, providing that the allegations are not discussed and the employee does not attempt to interfere in any way with the investigation. They should be made aware that any breach of those restrictions may become a further disciplinary matter to be investigated.

In some cases it may be necessary to require the return of school property (e.g. keys, identity cards and to allow the employee to remove personal effects if he/she wishes. This should be arranged discreetly and under the supervision of the line manager.

***The need to regularly review precautionary action.***

It is important that the Investigating Officer regularly reviews the need for precautionary action and in response to emerging evidence:

If the evidence suggests that an allegation of potential gross misconduct is likely to be downgraded to serious misconduct with no consideration of dismissal then the employee may be allowed to return to work whilst the investigation is completed.

The emerging evidence during the course of the investigation may suggest that the allegation(s) which were originally considered to be potentially less serious than gross misconduct may now be considered as such. In this circumstance it

may be appropriate to re-consider the need for precautionary action at that stage, part-way through the investigation.

If an employee, already under investigation but continuing at work, is found to be interfering with the investigation then this may be due cause to consider precautionary action part-way through an investigation.

During the course of a suspension the employee should be advised that the review has taken place. [Link to letter 1c: Review of precautionary suspension](#)

Periods of suspension should be kept to the minimum necessary to ensure that suspension is appropriate and reasonable to the case. During such reviews temporary transfer to another post/location or restricted duties should also be assessed as potential alternatives to continuing with the suspension.

### **Section 6: Outcome of pre-disciplinary investigation**

*(Links to Policy and Procedure 4.5)*

Following a pre-disciplinary investigation and consideration of the facts and evidence obtained, a decision will be made as to whether no further action is required, or whether a Disciplinary Hearing needs to be convened to consider the allegations, in order to make a decision regarding disciplinary sanctions.

The employee must be informed of the outcome of the investigation and it must be confirmed in writing.

If the decision is taken not to proceed further with the investigation, the employee must be informed at the earliest opportunity and the decision confirmed in writing. [Link to letter 5: Letter informing outcome of investigation](#)

If the matter is to proceed to a hearing, the letter will ask the employee to attend the hearing when the arrangements are in place. [Link to letter 5: Letter informing outcome of investigation](#)

### **Section 7: Disciplinary Hearing**

*(Links to Policy and Procedure 4.6)*

#### ***Whose responsibility is it to arrange the Disciplinary Hearing and where should they be held?***

It is the responsibility of the school to arrange a suitable date, Disciplinary Panel and venue for a Disciplinary Hearing.

Disciplinary Hearing venues must ensure privacy, confidentiality and freedom from interruption. Separate rooms should also be provided for the employee and his/her representative and any witnesses. Sufficient time must be allowed for the Hearing to take place and to give consideration of the facts, documentary evidence to be examined, questions to be asked, summing up and deliberation and delivery of the outcome. Notices on doors should NOT state 'Disciplinary Hearing'.

#### ***Composition of Disciplinary Panel***

*(Links to Policy and Procedure 3 – Decision Making)*

The Disciplinary Hearing will be heard by either the Headteacher or a Disciplinary Panel in line with section 3 (decision making) of the Policy and Procedure as follows:

In line with Sections 35 and 36 of the Education Act 2002 and the School Staffing (England) Regulations 2009, Governing Bodies have the right to delegate initial staff dismissal decisions to the Headteacher or to a group of governors, either with or without the Headteacher. Staff dismissal decision relating to a Headteacher should be delegated to a group of governors.

Where staff disciplinary decisions are delegated to a group of governors, governing bodies must appoint 2 separate panels of not less than 3 governors each, to sit on a Disciplinary and an Appeals Committee. Where the minimum requirement of 3 governors cannot be met a panel may comprise of 2 governors, however the number of members on the Appeals Committee must be not less than the number on the Disciplinary Panel, and no governor may sit on both committees. In cases which may result in dismissal with or without notice, a representative of The Director of Children and Young People's Service is entitled to attend. In all cases, the Headteacher may attend to offer advice to all relevant proceedings.

A governor must not sit on a Disciplinary Panel where there may be any form of conflict of interest or personal connection with the employee or have had any prior involvement in the case. Staff governors should also not take any party in formal committees considering misconduct allegations.

In exceptional circumstances, a governor from a different school may form part of the composition of a Disciplinary Panel.

In cases where the Headteacher requires support from the Chair of Governors during the investigation and disciplinary process, the Chair of Governors should not sit on the Disciplinary Panel in order that he/she can provide this support.

It is advised that a representative of NYHR will attend Disciplinary and Appeals Hearings to offer advice to the panel.

Where there is a Disciplinary Panel, a Chairperson will be elected. It is recommended that a Governor should not accept a position of Chairperson of a Disciplinary Panel unless he/she has undertaken appropriate training or has the appropriate experience.

### ***Notification arrangements for the Disciplinary Hearing***

Where a Disciplinary Hearing is to be convened, the employee will be advised in writing (being given reasonable notice of the date of the hearing). [Link to Letter 6 - Letter requesting employee to attend Disciplinary Hearing](#)

The letter must include details of the allegations against the employee, the date, time and venue of the Hearing, the names and job titles of the Disciplinary Panel together with the names of any witnesses to be called and notification of the right to be accompanied. The range of possible sanctions available to the Disciplinary Panel should the allegations be founded must be set out in the letter. It is also important to place emphasis on allegations that may be viewed as gross misconduct or cumulative misconduct and therefore have dismissal as a potential outcome.

If the employee notifies that the colleague/trade union representative is unavailable on the date given he/she must offer an alternative date for a re-arranged hearing to take place within 5 days of the original date.

A copy of all documentary evidence to be presented in support of the management case should be sent to be received no less than 5 working days before the Disciplinary Hearing (see *Investigating Officer preparation for Disciplinary Hearing below*). [Link to letter: Letter enclosing documentary evidence for the Disciplinary Hearing](#)

The employee must likewise submit any documentary evidence he/she wishes to submit no less than 5 working days before the Hearing. The Chairperson of the Disciplinary Panel has the sole discretion to allow late submission of documentary evidence after considering the views of Management and the employee.

### ***Investigating Officers' preparation for Disciplinary Hearing***

The Investigating Officer should prepare all documentary evidence to be presented in support of the management case, which includes signed witness statements, signed copies of any investigation interviews. The documentary evidence should normally be presented in a paginated and indexed bundle in chronological order, for ease of reference by all parties at the Disciplinary Hearing.

The Investigating Officer should also normally prepare a statement of Management Case (a script to work from) for presentation at the Disciplinary Hearing, to enable cross reference to supporting information in the Management bundle. The statement of case should not be shared with the employee or representative before the Hearing. [Link to Management Case outline](#)

Where the Investigating Officer intends to call witnesses he/she should prepare questions to be put to the witnesses. To help overcome any anxiety about the process, the Investigating Officer should discuss the format of the Hearing with the witnesses beforehand.

The Investigating Officer should always consider any alternative explanations and mitigating circumstances that the employee may put forward to defend/deny/explain his/her conduct, both during the investigation and as part of their submission, in seeking an appropriate disciplinary sanction by the Panel.

### ***How are Disciplinary Hearings conducted?***

Disciplinary Hearings must be conducted in accordance with the procedure set out in the NYCC Hearings and Appeals Process. [Link to Schools Hearings and Appeals Process.](#)

The Disciplinary Hearing should be a two-way process. Both the Investigating Officer and employee or their representative should be given the opportunity to present their case regarding the alleged misconduct, and call any witnesses. The Headteacher or Disciplinary Panel will have the opportunity to ask questions to all parties, as will the Investigating Officer and employee or their representative, to clarify issues and to check that what has said has been understood. Committee members should not make personal or judgemental remarks during the course of the Hearing.

Both the Investigating Officer and employee or their representative should be given the opportunity to sum up their case following the submission of all evidence, prior to the Headteacher or Disciplinary Panel adjourning the hearing to consider the case.

The formality of the Disciplinary Hearing should reflect the seriousness of the allegations to encourage the employee and witness to talk freely. The parties can be allowed to call for an adjournment if the employee or witness becomes unduly stressed or emotional during the course of the Hearing, or if the Investigating Officer wishes to take advice from the member of NYHR supporting them or if the employee wishes to take advice from their trade union representative.

The Panel should not rush their deliberations because of time constraints. If there is insufficient time to give due consideration, the Panel should consider reconvening as soon as possible thereafter to ensure the judgement is considered and based on all the evidence presented. The Panel must always consider any mitigating circumstances put forward by the employee, for example, previous good conduct, a lack of induction/training and personal circumstances that may affect an employee's judgement. Where the facts are in dispute, the Panel must decide, on the balance of probabilities, what is reasonable to believe in the circumstances. In the absence of any clear evidence a subjective judgement is allowed, provided that Panel members have a reasonable and genuinely held belief that the allegations are likely to be true or not, on the balance of probabilities based upon a full and fair investigation.

In exceptional circumstances, where unexpected responses/arguments occur and the Panel is of the view that re-investigation is needed in full or part to clarify the situation, the Panel may wish to reconvene at a later date after further investigation has taken place.

The Disciplinary Panel will call a recess, in private, to consider the case; the facts and evidence presented by both parties and come to a reasoned judgement. The final decision will normally be delivered on the day and where that is the case, all parties must be called back into the room. This must be confirmed in writing normally within 5 working days of the date of the hearing. Alternatively, the Chair may wish to write to the respective parties to outline the outcome, normally within 5 working days of the date of the hearing.

Once the Headteacher or Disciplinary Panel has made a decision, the Disciplinary Hearing will be reconvened and the employee advised of the outcome, any disciplinary sanctions imposed, and their right to appeal. This must be confirmed in writing normally within 5 working days of the date of the hearing. [Link to letters 8 – 14 that provide the range of outcomes that can be applied.](#)

Notes of the Disciplinary Hearing should be taken by an appointed note-taker and retained for possible further use. [Link to template for Disciplinary Hearing notes.](#)

### **Calling witnesses to a Disciplinary Hearing**

Both the Investigating Officer and the employee has the right to call witnesses to support their case at a Disciplinary Hearing. Where the employee wishes to call a witness the responsibility lies with the employee to ensure that his/her witnesses are able to attend and are briefed on the process. The employee must advise the Investigating Officer at least 5 working days before the Hearing date of the intention to call witnesses and the names and status of the individuals.

It is not normally the practice of the school to call customers, parents, pupils or members of the public as witnesses though it is permissible to submit a witness statement. Should the employee or the Investigating Officer wish to do so, this must

be discussed with the Chairperson of the Disciplinary Panel and will be subject to his/her approval.

The expectation is that where a witness is an employee of the school, they will be prepared to attend hearings and appeals in person in most circumstances so that they are available to answer questions from all parties. Paid time off to attend will normally be given. However, they will only be required to attend to give evidence.

The Investigating Officer has the discretion to decide if some/all witnesses who have provided a statement should be called to support the key points of the management case. If Management do not want to call a particular witness, then a signed statement can be used in the alternative. The employee, however, may request that Management witnesses are called should he/she wish to cross examine them.

Giving evidence and attending a Disciplinary Hearing can be stressful and care must be taken that witnesses are supported throughout the process. Where a witness is likely to be unduly stressed thought must be given to providing the witness statement as an alternative to attendance. This circumstance may particularly occur in sexual harassment and bullying cases where the witness has to confront the alleged perpetrator. Counselling support may be considered where it is felt important that the witness attends the Hearing to support the case. [Link to Health and Wellbeing Guidance](#).

In some circumstances it may be expedient to call an 'expert witness' to advise the Panel on technical/operational/legal or regulatory matters.

### ***The role of the Chairperson at a Disciplinary Hearing***

It is the responsibility of the Chairperson of the Disciplinary Panel to ensure that the outcome letter is sent following the Disciplinary Hearing. Support should be obtained from NYHR. Letters 8 – 14 provide the range of outcomes that can be applied. [Link to letters 8 – 14](#). A copy of the letter should be placed on the employee's personal file.

### ***Retention of documentation following the Disciplinary Hearing***

The school should retain all relevant documentation from the Disciplinary Hearing including a copy of the bundles and hearing notes until it is known if an appeal is lodged, and if no appeal is lodged, until the deadline for lodging Employment Tribunal Claims has passed. All other copies of documentation should be confidentially shredded.

## **Section 8: Disciplinary sanctions**

*(Links to Policy and Procedure 4.7)*

Section 4.7 of the Policy and Procedure outlines details of the disciplinary sanctions available to Disciplinary Panels: Written warning, Final Written Warning and Dismissal.

In most circumstances the Investigating Officer will make recommendations to the Disciplinary Panel as to an appropriate level of sanction, should the allegation(s) be proven. Though the Committee may wish to take note of recommendations it must come to its own independent conclusions based on the evidence presented and mitigating circumstances. The Committee has the discretion to apply whichever sanction they feel to be appropriate.

If a current disciplinary sanction is 'live', a Disciplinary Panel will normally apply the next higher sanction depending on the circumstances of the case. Care must be taken in applying dismissal where a warning is in place if the subsequent misconduct in question is relatively minor, as dismissal may be viewed as vindictive and unwarranted in these circumstances if later challenged in an Employment Tribunal. However, if the Committee finds that misconduct has been persistent over a period of time and the employee has failed to take the opportunity to improve, dismissal, where a warning is in force, may be a legitimate action.

A lapsed warning cannot be taken into account for progression on cumulative grounds to the next stage of the procedure. However, the misconduct can still be taken into account if relevant to the current allegation(s) and will form part of an employee's record (advice should be sought from NYHR). A copy of the warning letter should be retained on the employee's personal file.

No employee will be dismissed for a first breach of conduct except in the case of gross misconduct. Dismissal without notice will normally result in cases of Gross Misconduct except where a Disciplinary Panel concludes mitigating circumstances allow Action Short of Dismissal, which can include redeployment/demotion to another post.

A Disciplinary Panel should not consider dismissal on the grounds of gross misconduct unless the employee has been advised in writing that the allegation(s) has been viewed as potential gross misconduct and that dismissal could occur as a result.

### **Section 9: Termination of Employment**

*(Links to Policy and Procedure 4.7)*

Where a decision to terminate employment is taken by a maintained school it is the responsibility of the local authority to effect the dismissal, whether this is a dismissal with notice or without notice. Therefore the school is required to request the local authority to issue a letter of termination to the employee and the LA then has 14 days in which to do so. The individual remains employed until the letter of dismissal is received by the individual in cases of gross misconduct or until the notice period expires in cases of dismissal with notice.

Normally, the employee will remain suspended during the interim period and the school remains responsible for payment of salary.

In the case of Aided/Foundation schools, the school directly terminates the individual's employment either with or without notice as appropriate.

### **Section 10: Appeals**

*(Links to Policy and Procedure 4.8)*

Employees have the right of appeal against any formal disciplinary sanction. They must give written notice of their decision to appeal within 10 working days of receipt of the letter confirming the sanction and set out the grounds of appeal.

The basis of an employee's appeal may include:

The facts of the case

The decision taken/sanction imposed  
Procedural fault(s);  
New evidence has emerged

Appeals should be heard at the earliest opportunity and will be heard by an Appeals Committee, as outlined in section 3 (decision making) of the Policy and Procedure. Reasonable notice of the date of the Appeal Hearing must be given. [Link to letter 17 requesting employee attend an Appeal Hearing](#). The timescales for exchange of documents/notification regarding witnesses are the same as they were for the original hearing.

### **Composition of Appeal Committee**

*(Please refer to Policy and Procedure 3 – Decision Making)*

The Appeal Hearing will be heard by an Appeal Committee as outlined in section 3 (Decision Making) of the Policy and Procedure:

The governing body must appoint an Appeal Committee of not less than 3 governors. Where the minimum requirement of 3 governors cannot be met a panel may comprise of 2 governors, however the number of members on the Appeals Committee must not be less than the number on the Disciplinary Panel, and no governor may sit on both committees. In cases which may result in dismissal with or without notice, a representative of The Director of Children and Young People's Service is entitled to attend. In all cases, the Headteacher may attend to offer advice to all relevant proceedings.

A governor must not sit on an Appeals Committee where there may be any form of conflict of interest or personal connection with the employee, or have had any prior involvement in the case. Staff governors should also not take any party in formal committees considering misconduct allegations.

In exceptional circumstances, a governor from a different school may form part of the composition of an Appeal Panel.

In cases where the Headteacher requires support from the Chair of Governors during the investigation and disciplinary process, the Chair of Governors should not sit on the Disciplinary Panel in order that he/she can provide this support.

It is advised that a representative of NYHR will attend Disciplinary and Appeals Hearings to offer advice to the panel.

A Chairperson of the Appeals Committee should be elected. It is recommended that a Governor should not accept a position of Chairperson of a Disciplinary Panel unless he/she has undertaken appropriate training or has the appropriate experience.

### **Notification of arrangements for the Appeal Hearing**

Where an Appeal Hearing is to be convened, the employee will be advised in writing (being given reasonable notice of the date of the hearing). [Link to letter 17 requesting employee attend an Appeal Hearing](#).

### **How are Appeal Hearings conducted?**

The focus of the Appeal Hearing should be the basis of the decision and sanction imposed by the Disciplinary Panel, in addition to the specific grounds of appeal.

This will not under normal circumstances require a full re-hearing of the case and consideration of all of the original evidence. The remit of the Appeal Committee is to satisfy itself that the decision taken by the Disciplinary Panel was reasonable in the circumstances and that due process was followed. In doing so, the Appeal Committee must be satisfied that:

The rules of natural justice have been applied

There has been a thorough and fair investigation

The Disciplinary Procedure has been followed or there are justifiable reasons if this has not happened.

The sanction imposed was reasonable in the circumstances.

Appeal Hearings should be conducted in accordance with the procedure set out in the NYCC Schools Hearings and Appeals Procedure. The employee or their representative will present the case focussing on the grounds for appeal.

[Link to NYCC Schools Hearings and Appeals Process](#)

Once the Appeal Committee has made a decision, the Appeal Hearing will be reconvened and the employee advised of the outcome. This must be confirmed in writing, normally within 5 working days of the date of the hearing.

Notes of the Appeal Hearing should be taken by an appointed note-taker and retained for possible further use. [Link to template for Appeal Hearing notes.](#)

***The role of the Chairperson from the Disciplinary Panel at an Appeal Hearing*** The only Disciplinary Panel member who will normally have a role to play as part of the Appeal Process would be the Chairperson, who will normally act as a witness at the Appeal to explain why the Disciplinary Panel came to the decision it did, or provide a response to the specific grounds for appeal. The Chairperson will have the same role as other witnesses and will only remain in the Appeal Hearing to give their evidence and answer questions.

### ***The role of the Investigating Officer at the Appeal Hearing***

If an appeal is lodged, the Investigating Officer will normally be expected to undertake the same role at an Appeal Hearing as he/she undertook at the original Disciplinary Hearing.

If the Appeal Hearing is limited to specific grounds only, the Investigating Officer may need to re-focus and limit the documentary evidence, statements and witnesses to be referenced or called as necessary.

If the grounds for appeal are that new evidence has emerged since the original hearing, the Investigating Officer may use the opportunity to conduct further enquiries in support of the Management case. A postponement may have to be sought in such circumstances, particularly if witnesses have to be interviewed or re-interviewed.

### **Calling witnesses to an Appeal Hearing**

Please refer to information provided in sub-section 'Calling witnesses to a Disciplinary Hearing' within section 7 (Disciplinary Hearing) as well as the following.

At an Appeal Hearing, where the appearance of a witness is fundamental to the management case and is relevant to the grounds of appeal, the witness should be

called. If, based on events at the Disciplinary Hearing, the Investigating Officer wishes to re-focus the presentation of the witnesses' evidence and ask different questions the witness should be informed of what to expect at the Appeal Hearing.

### ***The role of the Chairperson at an Appeal Hearing***

It is the responsibility of the Chairperson of the Appeal Committee to ensure that the outcome letter is sent following the Appeal Hearing. Support should be obtained from NYHR. A copy of the letter should be placed on the employee's personal file.

### ***Retention of documentation following the Appeal Hearing***

The school should retain all relevant documentation from the Appeal Hearing including a copy of the bundles and hearing notes until the deadline for lodging Employment Tribunal Claims has passed. All other copies of documentation should be confidentially shredded.

## **Section 11: Disciplinary action and impact on increment**

*(Links to Policy and Procedure 4.9)*

**Support Staff:** When any formal disciplinary warning is applied it will have an effect on the individual's pay increment position as follows: the loss of any incremental progression while the warning is live or, for staff already on the top spinal column point of the pay band or qualification bar, their salary will be reduced by one incremental point only with effect from the following April. The loss or withholding of incremental progression will not span two financial years.

**Teaching Staff:** Where any formal disciplinary warning is applied, and the school has adopted discipline as a performance criterion under the school's pay policy, there will be no entitlement to incremental progression at the next review point.

Schools should refer to their Pay policies in respect of their treatment of increments in relation to disciplinary matters.

## **Section 12: Child protection/criminal offences/financial irregularity cases**

*(Links to Policy and Procedure 4.10)*

### ***Child protection***

Where child protection offences are suspected, these procedures will normally take precedence. A pre-disciplinary investigation may be delayed which matters are considered under statutory procedures.

Schools should refer to Safeguarding information on the CYPS website, in particular 'Managing Allegations against Staff'.

### ***Criminal offences***

Where criminal offences are suspected, these procedures will normally take precedence. A pre-disciplinary investigation may be delayed which matters are considered under statutory/criminal procedures.

Special attention should be paid to situations involving employees who are alleged to have committed criminal offences, whether connected to employment or not.

If a criminal offence is suspected in the workplace, a decision needs to be taken as to whether the Police should be informed. The matter should be reported immediately to a senior manager with the delegated authority to make a decision.

However, if a case is the subject of a strategy meeting under safeguarding procedures, that will determine how the case is progressed.

If an alleged criminal offence in the workplace is of a financial nature, Veritau should be informed at the earliest opportunity (see financial irregularity cases below).

Precautionary action should always be considered if the evidence suggests that the criminal charges/sanctions and the resulting impact will lead to a breakdown of trust and confidence in the employment relationship.

If the matter is reported to the Police, who indicate that a criminal investigation will take place, the employer is not obliged to wait for the outcome of that investigation or a Court hearing before commencing a disciplinary investigation. However, extreme care needs to be taken to not allow an internal investigation to interfere with a criminal investigation. In most circumstances internal disciplinary processes will be set aside until the criminal investigation has been concluded. Advice should be taken from the school's legal services provider on the advisability of pursuing a disciplinary investigation concurrent with a Police investigation. Liaison should take place with the Police so that both parties are aware of the approach being taken.

A disciplinary investigation, concurrent with or subsequent to a Police investigation and/or prosecution, must be carried out independently and in accordance with the Disciplinary Policy & Procedure, and draw its own conclusions with regard to any appropriate disciplinary sanction.

If a decision is taken in a criminal court not to prosecute or the defendant is acquitted, this does not mean that disciplinary action against the individual is unfair, unjustified or unreasonable. The standard of proof required to justify disciplinary action is less than in criminal proceedings and if the employer can establish a reasonable belief, on the balance of probabilities, that the allegations are founded after a thorough and fair investigation, then any subsequent action would be likely to be seen as fair.

Where a custodial sentence is imposed, special care must be taken not to assume that the contract of employment can safely and immediately be brought to an end due to the employee being unavailable for work. The concept of 'frustration of contract' does not automatically apply in the case of custodial sentences. Each case should be taken on its merits and investigated in the normal way and a decision taken in accordance with the Disciplinary Policy & Procedure. Advice should be taken from NYHR, and from the Legal Services provider, where necessary, in such cases.

### ***Offences unconnected with Employment***

Offences outside the workplace whilst the employee is not on duty would normally be regarded in the first instance as 'unconnected'. Offences unconnected with employment should not normally be a matter of concern for the school. The Human Rights Act, article 8, establishes a right to privacy, where an employer should not interfere with its employees private lives. Disciplinary action taken against an employee because of a criminal sanction for an offence outside of the workplace can be seen to be a breach of Article 8 unless the rights and protections of others have to be considered. The main considerations would be where the offence is one that makes the employee unsuitable for his/her type of work or puts other employees and/or service users at risk, or whether he/she has genuinely brought

the school into disrepute or harmed the trust and confidence the school has in the employee.

Criminal charges/sanctions that allegedly bring the school into disrepute must be treated with the utmost care. If a disciplinary case is to be established on these grounds it is insufficient to justify a case solely on the basis of media publicity of the employee/event and the related offences and sanctions. There must be evidence that real and substantial damage has been done to the reputation of the school, the service provided and/or the relationship with partner agencies to justify bringing such a disciplinary allegation. In the absence of evidence to this effect Article 8 could apply.

### ***Financial irregularity cases***

Where matters of financial irregularity are suspected or other matters within an internal audit remit, Veritau at North Yorkshire County Council must be informed. They may carry out a separate Audit investigation (or investigate jointly) and make recommendations to the Investigating Officer and manager. A formal interview with the employee may be required to establish facts and gather information. Such an interview would normally form part of the Disciplinary Policy and Procedure and the same rights to representation would occur. An audit interview may be undertaken jointly with an Investigating Officer if one has been appointed at that stage. If Veritau conduct an interview under the Police and Criminal Evidence Act an employee is entitled to be accompanied by a solicitor.

An audit investigation will make recommendations as to future action to the Investigating Officer, if one has been appointed, or to the appropriate senior manager if an Investigating Officer has not been appointed at that stage.

The Audit report may necessitate a further pre-disciplinary investigation and interviews. There may be a range of allegations not all consisting of financial irregularities. In that circumstance a pre-disciplinary investigation may take place concurrent with an audit investigation.

### **Section 13: Referrals to external agencies**

*(Links to Policy and Procedure 4.11)*

Where an employee is dismissed consideration must be given as to whether the matter should be reported to any professional bodies which require the reporting of misconduct issues e.g. Disclosure and Barring Service (DBS), National College of Teaching & Leadership (NCTL). Referrals should not be made until all internal procedures have been exhausted.

### ***Disclosure and Barring Service***

Where a case involves abuse of children (up to age 18) or Vulnerable Adults and the case is proven and the employee is dismissed or has resigned, steps must be taken to refer the employee to the Disclosure & Barring Service and to provide information upon request. The duty to refer applies when two main conditions have been met:

One: permission is withdrawn for an individual to engage in regulated activity due to:  
Dismissal  
Redeployment

Retirement/Redundancy  
Resignation

Two: referring party thinks that the person has either  
Engaged in relevant conduct or  
Satisfied the harm test or  
Received a caution for or been convicted of a relevant offence

This is likely to apply when an employee has been investigated and dismissed under the Disciplinary Policy and Procedure. For most cases, the DBS only has the power to bar a person who is, has been, or might in future, engage in regulated activity.

All disciplinary evidence and notes will need to be supplied in the event of a referral. Any referral will be made by the Line Manager with support from NYHR.

In any of the circumstances described above, the Authority (or school in the case of Foundation/Aided schools) must refer relevant cases to the DBS. When in doubt, advice should be taken from the Authority's Safeguarding service. The DBS exists to prevent unsuitable people obtaining work with children or vulnerable adults. Admittance to the barring list will largely depend upon all the circumstances surrounding the case.

The DBS has no investigatory powers.

The address for referrals to the DBS is:

Disclosure & Barring Service  
PO Box 181  
Darlington  
DL1 9FA

Helpline:01325 953795

### ***National College of Teaching and Leadership (NCTL)***

Where a teacher is dismissed as a result of the disciplinary process on the grounds of serious professional misconduct or resigned in advance of a likely dismissal, steps should be taken to refer the individual to the National College of Teaching & Leadership (NCTL).

For more detailed guidance see "teacher misconduct: the prohibition of teachers" [www.gov.uk/nctl/teachermisconduct](http://www.gov.uk/nctl/teachermisconduct).

Referral of dismissals for teacher serious misconduct, must be made to: -

National College of Teaching & Leadership  
Teacher Qualification  
Regulation and Exam Delivery Support Division  
53 – 55 Butts Road  
Earlsdon Park  
Coventry  
CV1 3BH

### **Section 14: Resignations**

*(Links to Policy and Procedure 4.12)*

There may be cases in which an employee offers to resign or resigns prior to a Disciplinary Hearing. In these circumstances it should be made clear to the employee that the Disciplinary Hearing may still go ahead and reach a decision that:

the outcome will need to be referred to in any references provided  
where required, the outcome will be reported to any professional bodies  
which require the reporting of misconduct issues in such circumstances.

NYHR service should be contacted for guidance in such instances.

### **Section 15: Employee support**

*(Links to Policy and Procedure 4.13)*

It is important to recognise and be sensitive to the concerns and feelings of all those involved in the disciplinary process. Consideration must be given to the implementation of support arrangements and all those involved should be given details of Health Assured Tel:0800 0305182 (applies only to schools that buy in to this service). The allocation of an appropriate contact person not involved in the investigation should be offered to an employee.

### **Section 16: Unavailability and sickness absence**

*(Links to Policy and Procedure 4.14)*

#### ***Sickness Absence***

If an employee is absent due to sickness during the disciplinary process (either when required to attend an investigatory interview or a Disciplinary Hearing) a first postponement should be considered. An explanation and supporting medical evidence may be sought. An alternative date will normally be offered, allowing a reasonable time for the employee to recover.

Where it is apparent that the sickness absence will be for a prolonged period, advice should be sought from the Health and Wellbeing service (normally via an Occupational Health referral) to enquire if the employee is fit or when they are likely to be fit to take part in the disciplinary process.

Reasonable time should be allowed for the employee to recover. However if it is likely that the absence will be prolonged, with the employee continuing to be unfit to take part in an investigation/hearing, the disciplinary process may proceed in his/her absence. The employee's representative may give evidence and state the case for the employee. The employee may provide a written statement.

Where an employee is suspended and subsequently notifies Management that they are unwell, normal notification/medical certification requirements will apply. Such absence will count against the employee's occupational sick pay entitlement and their absence record.

#### ***Unavailability***

If the employee notifies that he/she cannot attend an investigatory interview due to sickness the interview should be re-arranged. The employee may be asked to supply a sickness certificate to confirm the reason for non-attendance.

If the employee notifies that the colleague/trade union representative is unavailable on the date given he/she must offer an alternative date for a re-arranged interview to take place within 5 days of the original date. The same would apply to a Disciplinary Hearing or appeal date.

If the Investigating Officer/s cannot comply with the re-arranged date the employee must be informed of a further interview/hearing/appeal date to take place at the earliest opportunity.

***What happens if an employee wants to take annual leave during an investigation?***

The employee should be informed that any pre-arranged and approved holiday can be taken as normal and will count against annual leave entitlement. During a suspension period an employee may wish to take further holiday. The employee should be informed that further annual leave should be booked through the school but subject to the needs to interview the employee

**Section 17: Disciplinary action against a trade union official**

No disciplinary action should be applied to a Trade Union Official until the circumstances of the case have been discussed with a Senior or Full-time Trade Union Official. Although an investigatory interview or precautionary action is not disciplinary action, management should still consult with the Senior or Full-time Trade Union Official as soon as possible.

## **Section 18: Model Letters**

### **Disciplinary**

**These model letters are included to assist during the disciplinary process and as such are only intended as a guide. Advice, guidance and support is available NYHR.**

<b>Letter number</b>	<b>Letter name</b>	<b>Description</b>
<a href="#"><u>Letter 1a</u></a>	Letter confirming precautionary redeployment	Informing employee of temporary redeployment as precautionary action
<a href="#"><u>Letter 1b</u></a>	Letter confirming precautionary suspension	Initial letter provided to the employee if they are suspended
<a href="#"><u>Letter 1c</u></a>	Review of precautionary suspension	Outcome of suspension review and decision to end or continue suspension.
<a href="#"><u>Letter 2</u></a>	Letter informing the employee of a disciplinary investigation	Advises the employee they are subject to a disciplinary investigation
<a href="#"><u>Letter 3a</u></a>	Letter requesting the employee's attendance at an investigatory interview	Request includes the right to be accompanied
<a href="#"><u>Letter 3b</u></a>	Letter requesting employee's attendance at Investigatory Interview as witness to the allegation/s	Details the request for their attendance at an interview
<a href="#"><u>Letter 4</u></a>	Letter accompanying investigatory interview notes, requesting signature	Requests interviewee to check the notes and advise of any amendments required. Otherwise to sign and date
<a href="#"><u>Letter 5</u></a>	Letter informing outcome of investigation	Informing employee of outcome of investigation – whether the case will/will not progress to a hearing
<a href="#"><u>Letter 6</u></a>	Letter requesting the employee to attend Disciplinary Hearing	Details of the Disciplinary Hearing including date/time/venue
<a href="#"><u>Letter 7</u></a>	Letter enclosing documentary evidence for the Disciplinary Hearing	Letter to accompany the management documentation
<a href="#"><u>Letter 8</u></a>	Dismissal letter (gross misconduct)	Confirms gross misconduct dismissal (includes right of appeal)
<a href="#"><u>Letter 9</u></a>	Dismissal for cumulative misconduct (dismissal with notice)	Confirms dismissal with notice (includes right of appeal)
<a href="#"><u>Letter 10</u></a>	Action Short of Dismissal	Confirms action short of dismissal (includes right of appeal)

<a href="#">Letter 11</a>	Final Written Warning (no other current warnings in place)	Confirms final written warning (includes right of appeal)
<a href="#">Letter 12</a>	Final Written Warning (cumulative misconduct)	Confirms final written warning – cumulative misconduct (includes right of appeal)
<a href="#">Letter 13</a>	Written Warning (no other current warnings in place)	Confirms written warning (includes right of appeal)
<a href="#">Letter 14</a>	No Sanction applicable	Confirms no sanction applicable (with reasons)
<a href="#">Letter 15</a>	Action outside the Formal Procedure (1)	Initial letter where action outside formal procedure is proposed
<a href="#">Letter 16</a>	Action outside the Formal Procedure (2)	Second letter where action outside formal procedure is confirmed.
<a href="#">Letter 17</a>	Letter requesting the employee to attend Appeal Hearing	Requesting employee to attend appeal hearing

## **Disciplinary**

### **Letter 1a - Confirming Precautionary Redeployment** **(Following verbal notification)**

Dear **(Name)**

#### **Precautionary Redeployment**

Acting on behalf of the Governing Body of the School, I write to confirm that a decision has been made to temporarily redeploy you from your current post as a precautionary measure, with immediate effect, pending the outcome of the investigation into the following allegation(s) of misconduct:

**(Insert allegations of misconduct)**

**(Provide details of temporary redeployment)**

I must emphasise that this redeployment is precautionary and is not prejudicial in any way to the outcome of the investigation. You will continue to receive your current rate of pay, but must not visit your normal place of work or discuss the matter with any pupils, parents, governors or staff of the school or arrange for any documents to be forwarded without prior permission from **(insert name of line manager/Headteacher/relevant contact)**

If you fall sick during this period you must notify your line manager on the first day of absence. You will then be required to follow the sickness absence reporting procedures for the duration of your absence.

During the period of temporary redeployment you are required to make yourself available to attend an investigatory interview arranged by the School. You will be entitled to be accompanied by a Trade Union representative or a work colleague at any such investigatory interview. You should also ensure that we are able to contact you as may be necessary during the investigatory process.

I have enclosed a copy of the Governing Body's Disciplinary Policy and Procedure for your information.

**(Insert name of school)** is sensitive to the concerns and feelings of all those involved in the disciplinary process and can provide confidential support through Health Assured, the **(Insert name of school)** employee assistance programme. This can be contacted on 0800 030 5182.

**(Manager please note – this only applies if your school subscribes to the Health Assured service)**

Should you have any queries about the procedure to be followed you should contact **(name of Investigating Officer)** on **(number)**.

Yours sincerely

**(Name)**  
**(Job Title)**

**Enc. (Disciplinary Policy and Procedure)**

## **Disciplinary**

### **Letter 1b – Letter confirming Precautionary suspension**

Dear **(Name)**

#### **Suspension from Duty**

Acting on behalf of the Governing Body of the School, I write to confirm that a decision has been made to temporarily suspend you from your current post of **(insert job title)** as a precautionary measure, with immediate effect, pending the outcome of an investigation into the following allegation(s) of misconduct:

**(Insert allegations of misconduct)**

I must emphasise that this suspension is precautionary and is not prejudicial in any way to the outcome of the investigation. If sufficient evidence of misconduct is found, then the matter will progress to a Disciplinary Hearing at a later date.

During the period of suspension, you will continue to receive your normal rate of pay. You must not visit your place of work or discuss the matter with any pupils, parents, governors or staff of the school or arrange for any documents to be forwarded to you without prior permission from **(Insert name of line manager/Headteacher/relevant contact)**.

If you fall sick during this period you must notify your line manager on the first day of absence. You will then be required to follow the sickness absence reporting procedures for the duration of your absence.

During the period of suspension you are required to make yourself available to attend an investigatory interview arranged by the School. You will be entitled to be accompanied by a Trade Union representative or a work colleague at any such investigatory interview. You should also ensure that we are able to contact you as may be necessary during the investigatory process.

I have enclosed a copy of the Governing Body's Disciplinary Policy and Procedure for your information.

**(Include where appropriate – I have arranged for NAME to be available to offer you support during this period. S/He can be contacted on Tel No).**

**(Insert name of school)** is sensitive to the concerns and feelings of all those involved in the disciplinary process and can provide confidential support through Health Assured, the **(Insert name of school)** employee assistance programme. This can be contacted on 0800 030 5182.

**(Manager please note – this only applies if your school subscribes to the Health Assured service)**

Should you have any queries about the procedure to be followed you should contact **(name of Investigating Officer)** on **(number)**.

Yours sincerely

**(Name)**  
**(Job Title)**

**Enc. (Disciplinary Policy and Procedure)**

## **Disciplinary**

### **Letter 1c- Review of precautionary suspension**

Dear **(Name)**

#### **Review of Suspension from Duty**

I am writing to advise you that a review of your current suspension has been carried out. As you are aware, you were suspended on **(Insert Date)** following an allegation of:

**(Insert allegations of misconduct)**

The investigation is ongoing, therefore the continuing need for suspension has been considered, and I can confirm that **it will remain in place (or) it has been lifted and that you may return to your duties as post on (Insert Date)**, with the following conditions **(Give details if appropriate)**.

I would confirm that this suspension is precautionary and is not prejudicial in any way to the outcome of the investigation. The conditions of your suspension, as outlined in my letter dated **(Insert Date)**, remain in force.

The School is sensitive to the concerns and feelings of all those involved in the disciplinary process and can provide confidential support through Health Assured, the School's employee assistance programme. This can be contacted on 0800 030 5182.

**(Manager please note – this only applies if your school subscribes to the Health Assured service)**

Yours sincerely,

**(Name)**

**(Job Title)**

## **Disciplinary**

### **Letter 2 - Informing employee of Disciplinary Investigation**

Dear **(Name)**

#### **Disciplinary Investigation**

Further to our discussion / the meeting held on **(Insert Date)**, where I advised you about the following allegation(s) of misconduct:

**(Insert allegations of misconduct)**

I am writing to confirm that a decision has been made that a disciplinary investigation will be undertaken in relation to this/these allegation(s). I can confirm that **(Insert Name)** has been appointed as the Investigating Officer.

As part of the disciplinary investigation, you will be invited to attend an investigatory interview, at which you will have the right to be accompanied by a Trade Union representative or work colleague.

I must advise you that you must not discuss the allegation(s) with any pupils, parents, governors or staff at the school without prior permission from your line manager or the Investigating Officer/Headteacher.

During the investigation you are required to undertake your normal duties. Should you have any concerns in this respect you should bring this to your line manager's attention immediately.

**(Insert name of school)** is sensitive to the concerns and feelings of all those involved in the disciplinary process and can provide confidential support through Health Assured, the **(insert name of school)** employee assistance programme. This can be contacted on 0800 030 5182

**(Manager please note – this only applies if your school subscribes to the Health Assured service)**

I have enclosed a copy of the Governing Body's Disciplinary Policy and Procedure for your information.

In the meantime, should you have any queries on the process to be followed please do not hesitate to contact me.

Yours sincerely,

**(Name)**  
**(Job Title)**

Enc. (Disciplinary Policy and Procedure)

## Disciplinary

### Letter 3a - Requesting employee's attendance at investigatory interview

Dear **(Name)**

#### **Investigatory Interview**

I am writing to advise you that you are required to attend an investigatory interview in relation to the following allegation(s) of misconduct:

**(Insert allegations of misconduct)**

The investigatory interview has been scheduled as follows:

Date: **(Insert Date)**  
Time: **(Insert Time)**  
Venue: **(Insert Venue)**

You should report to **(insert venue)**

The interview will be conducted by **(Insert Name of Investigating Officer)** who will be accompanied by **(Insert Name)**

You have the right to be accompanied at the interview by a Trade Union representative or work colleague.

The information that you give at the interview will be drawn up into a record of notes of the interview or a written statement (where the interview relates to wide ranging and complex matters). You will be asked to sign the notes of the interview as an accurate record or as a written statement which reflects your responses to the questions asked and also to confirm that you are aware that it may be used in formal disciplinary proceedings. You will be given the opportunity to check the accuracy of the statement/notes and make any necessary amendments or additions.

Please confirm both by telephone and by signing and returning a copy of this letter that you will be attending this interview. If for any reason you are unable to attend please confirm your reasons for non-attendance.

**(Insert name of school)** is sensitive to the concerns and feelings of all those involved in the disciplinary process and can provide confidential support through Health Assured, the **(insert name of school)** employee assistance programme. This can be contacted on 0800 030 5182.

I have enclosed a copy of the Governing Body's Disciplinary Policy and Procedure for your information.

In the meantime should you have any queries about this matter please contact **(Insert Name of Investigating Officer)** on **(Insert Number)**.

Yours sincerely,

**(Name)**  
**(Job Title)**

<b>Signed</b>	
<b>Date</b>	
<b>Name of Companion</b>	
<b>Status of Companion</b>	
<b>Reason for non attendance if applicable</b>	

## **Disciplinary**

### **Letter 3b- Letter requesting employee at investigatory interview as witness**

Dear **(Name)**

#### **Investigatory Interview**

I write to request your attendance at an investigatory interview to be held as follows:

Date: **(Insert Date)**  
Time: **(Insert Time)**  
Venue: **(Insert Venue)**

You should report to **(insert venue)**.

The purpose of the interview is to seek information from you that may be able to help an investigation into a potential disciplinary matter involving another member of staff.

This interview is being carried out in accordance with the Governing Body's Disciplinary Procedure, a copy of which is enclosed. For the purpose of this procedure you are considered to be a potential witness to the allegations that are being investigated. I need to stress that this is not an investigation into your conduct or behaviour. Nevertheless you are entitled to have support at the interview and you may be accompanied by a work colleague or trade union representative. It is important to emphasise that this matter must be treated as confidential.

The information that you give at the interview will be drawn up into a record of notes of the interview or a written statement (where the interview relates to wide ranging and complex matters). You will be asked to sign the notes of the interview as an accurate record or as a written statement which reflects your responses to the questions asked and also to confirm that you are aware that it may be used in formal disciplinary proceedings where you may be called as a witness. You will be given the opportunity to check the accuracy of the statement/notes and make any necessary amendments or additions.

If it is determined that there is a disciplinary case to answer against the member of staff under investigation and it progresses to a Disciplinary Hearing, you may need to be called in person as a witness by Management to answer questions based on your statement. I must stress if this situation occurs you will be fully briefed and supported in advance of and during the Hearing. However witnesses are only called where necessary.

Please confirm by telephone or Email that you will be attending the above interview.

In the meantime if you have any queries or concerns about this matter, please get in touch, or do not hesitate to raise these matters before the commencement of the interview,

**(Insert name of school)** is sensitive to the concerns and feelings of all those involved in the disciplinary process and can provide confidential support through Health Assured, the **(insert name of school)** employee assistance programme. This can be contacted on 0800 030 5182.

Yours sincerely,

**(Name)**  
**(Job Title)**

Enc. (Disciplinary Policy and Procedure)

## Disciplinary

### Letter 4- Letter accompanying statement or interview notes requesting signature

Dear **(Name)**

#### **Notes from Investigatory Interview**

I am writing further to the investigatory interview held on **(Date)**.

I enclose, for your signature, 2 copies of the notes of the interview (*in the form of a statement*). If you were accompanied by a union representative at the interview, it is advisable that you provide a copy of the notes to them (**where applicable**). The second copy is for your retention. If you believe the notes to be an accurate record of the meeting, please sign accordingly. If, however, you (*or your union representative **where applicable***) notice any factual errors or misinterpretations and wish to make any amendments to the text, make your alterations and place a line through the wording to be amended. You will still need to sign the notes as representing an accurate record following your amendments.

In addition, you and/or your union representative, **where applicable** may wish to add comments that have occurred to you after the interview. If so, please supply additional comments or information on a separate sheet of paper. Please make sure that you sign and date this supplementary information.

I enclose a stamped addressed envelope for your return of the notes by **(Date)**. If I have not received a signed copy of the notes from you by this date I will assume that you wish to make no changes and will proceed on that basis.

If you have any queries or concerns please do not hesitate to contact me on **(number)**.

Yours sincerely,

**(Name)**  
**(Job Title)**

## **Disciplinary**

### **Letter 5 - Informing outcome of Investigatory Interview**

Dear **(Name)**

#### **Outcome of Investigation**

Acting on behalf of the **Governing Body of the school** I am **writing** to advise you of the outcome of the investigation undertaken in relation to the following allegation(s) of misconduct, further to your attendance at the investigatory interview on **(Insert Date)**.

**(Insert allegations of misconduct)**

#### **SELECT OPTIONAL PARAGRAPHS...**

I can confirm that a decision has been made that the matter should progress to a Disciplinary Hearing.

You will therefore be contacted in due course to inform you of the date, time and venue of the Disciplinary Hearing. You will also receive copies of the notes of the Investigatory Interview and all other evidence to be considered at the hearing. You are entitled to be accompanied to this hearing by a Trade Union representative or a work colleague.

#### **OR**

I can confirm that a decision has been made that the matter should not progress to a Disciplinary Hearing as there is insufficient evidence to support the allegations. Your line manager will contact you in due course to discuss the issues relating to the investigation.

-----  
**(Insert name of school)** is sensitive to the concerns and feelings of all those involved in the disciplinary process and can provide confidential support through Health Assured, the **(insert name of school)** employee assistance programme. This can be contacted on 0800 030 5182.

**(Manager please note – this only applies if your school subscribes to the Health Assured service)**

Yours sincerely,

**(Name)**  
**(Job Title)**

## Disciplinary

### Letter 6 – requesting employee to attend disciplinary hearing

Dear **(Name)**

#### **Disciplinary Hearing**

Acting on behalf of the Governing Body of the School, I write to advise you that following an investigation you are now required to attend a Disciplinary Hearing in relation to the following allegations of misconduct:

**(Insert allegations of misconduct)**

The Disciplinary Hearing has been scheduled as follows:

Date: **(Insert Date)**  
Time: **(Insert Time)**  
Venue: **(Insert Venue)**

You should report to **(insert venue)**.

The case will be heard by **(Insert names and job titles – where relevant - of panel members)**, supported by **(name of NYHR representative)**.

The Hearing will be held in accordance with the Governing Body’s Disciplinary Policy and Procedure and will take into consideration evidence presented by yourself and by the Investigating Officer **(Insert name of Investigating Officer)** regarding the alleged misconduct.

Witnesses to be called by management are:

**(insert name)**

#### **OPTIONAL PARAGRAPH...**

There are also witness statements from **(insert name)** and **(insert name)**. We do not believe that it is necessary to call these witnesses to appear in person but if you wish to question their evidence then you must let me know at least five working days in advance of the hearing **(you are advised to confer with your representative about this)**.

.....

If the allegations of misconduct are upheld, the Disciplinary Procedure has a range of sanctions available up to and including dismissal.

.....

#### **OPTIONAL PARAGRAPH...**



If upheld, please be advised that this matter may constitute gross misconduct and may therefore result in dismissal\*.

.....

You have the right to be accompanied at the hearing by your Trade Union representative or a work colleague.

I enclose for your information a copy of the procedure that will be followed at the Disciplinary Hearing together with (some of) the written evidence/documentation that will be presented by management at the Disciplinary Hearing.

**(list documents)**

**OPTIONAL PARAGRAPH...**

Please be aware that if these allegations do result in dismissal, we are legally obliged to make a referral to (as applicable) the Disclosure & Barring Service (DBS) and **(insert name of external agency)**.

.....

**OPTIONAL PARAGRAPH FOR USE WHEN ALL WRITTEN EVIDENCE IS NOT SUBMITTED AT THIS STAGE...**

The (remainder of) the written evidence/documentation will be submitted to you as soon as possible but, in any event, no later than five working days before the Disciplinary Hearing.

**(Then use [Letter 7](#))**

.....

**OPTIONAL PARAGRAPH FOR USE WHEN THE EMPLOYEE HAS A CURRENT 'LIVE' SANCTION IN PLACE...**

As you are aware, you have previously been issued with a disciplinary sanction which has not yet lapsed. The Panel will be asked to take this into account should the allegation be proven.

.....

Should you wish to call any witness(es) to the Hearing, you must inform me of their names prior to the Hearing. Any documentary evidence you intend to submit in support of your case must also be provided prior to the Hearing. In accordance with the requirements of the Disciplinary Policy & Procedure you should aim to provide the names of witnesses and documentary evidence as soon as possible but, in any event, no later than five working days before the Disciplinary Hearing.

**(Insert name of school)** is sensitive to the concerns and feelings of all those involved in the disciplinary process and can provide confidential support through Health Assured, the **(insert name of school)** employee assistance programme. This can be contacted on 0800 030 5182.

**(Manager please note – this only applies if your school subscribes to the Health Assured service)**

---

Please confirm your attendance at this meeting by signing and returning a copy of this letter. If you or your companion is unable to attend please confirm the reasons for non-attendance on the copy letter.

---

**OPTIONAL PARAGRAPH FOR REARRANGED HEARINGS...**

If you are unable to attend please be aware that the panel may decide to hear the evidence and reach a conclusion in your absence. Your representative may still attend in your absence.

---

Any queries you may have should be directed to me on **(number)**.

Yours sincerely,

**Name)**  
**(Job Title)**

-----

**Manager please note –**

**\* Very careful consideration must be given as to whether or not the matter may constitute gross misconduct, based on the evidence available to date (i.e. witness statements and investigatory interview notes). This is NOT intended to predict the outcome of the Disciplinary Hearing, but to give the employee and his / her companion an advance indication of whether or not there is a strong potential for dismissal. The degree of seriousness of the case may influence the employee’s presentation.**

-----

**Please complete the form below in full and return with the copy letter**

<b>Signed</b>	
<b>Date</b>	
<b>Name of Companion</b>	
<b>Status of Companion</b>	
<b>Reason for non attendance if applicable</b>	

**Disciplinary**  
**Letter 7 – Enclosing Documentary Evidence to be used at the**  
**Disciplinary Hearing**

Dear **(name)**

**Remainder of written evidence/documents for the Disciplinary Hearing**

I refer to my letter of **(insert date)** ([Letter 6](#)), copy enclosed.

I have enclosed with this letter the (remaining) written evidence/documents to be referred to at the Disciplinary Hearing, as follows:-

***LIST DOCUMENTS (OPTIONAL)...***

Any queries you may have should be directed to me on <insert number>.

Yours sincerely,

**Name)**  
**(Job Title)**

**Encl: Letter 6**

**Disciplinary**  
**Letter 8- Dismissal letter (summary dismissal)**

Dear **(name)**

**Outcome of Disciplinary Hearing**

I am writing to confirm the outcome of the Disciplinary Hearing held on **(insert date)** in connection with the following allegations of misconduct:

**(Insert allegations of misconduct)**

At the hearing you were accompanied by **(insert name/status)**

The case was heard by **(insert names of panel members)..**

Full consideration was given to the points raised by you and by your companion (describe specific points if appropriate). However it was **(my/the Panel's)** opinion that your actions constitute gross misconduct under the terms of the Governing Body's Disciplinary Policy & Procedure. The reasons for the decision are as follows:-

**(Summarise main points)**

I therefore write to confirm the decision to dismiss you from your employment. This dismissal is without notice or notice pay and effective when North Yorkshire County Council confirms this decision to you in writing. *(Alternative for aided/foundation schools - ...and effective immediately.)*

Your last day of employment with North Yorkshire County Council will be the date given by the Council in its letter to you. *(Alternative for aided/foundation schools*  
– Your last day of employment with **(insert name of school)** is **(date of hearing or date of notification if decision not communicated on the day)**. Your **(Line manager/the Headteacher)** will contact you to make arrangements for the collection of any personal belongings. Your final payment will be made on **(insert date)**.

-----

**OPTIONAL PARAGRAPH...**

As the decision has been taken to dismiss you, we are legally obliged to make a referral to (as applicable) the Disclosure & Barring Service (DBS) and/or **(insert name of external agency)**

-----

I must advise you that you do have the right of appeal against your dismissal, which would be heard by a separate panel of Governors. If you wish to appeal you should do so in writing to **(insert name)** within 10 working days of receipt of this letter stating the grounds for your appeal.

The outcome of this Disciplinary Hearing will be referred to in any references provided.

Yours sincerely,

**Name)**  
**(Job Title)**

## **Disciplinary**

### **Letter 9- Dismissal for cumulative misconduct (dismissal with notice)**

Dear **(name)**

#### **Outcome of Disciplinary Hearing**

I am writing to confirm the outcome of the Disciplinary Hearing held on **(insert date)** in connection with the following allegations of misconduct:

**(Insert allegations of misconduct)**

At the hearing you were accompanied by **(insert name/status)**

The case was heard by **(insert names of panel members)**.

Full consideration was given to the points raised by you and by your companion **(insert description of specific points if appropriate)**. However it was **(my/the Panel's)** opinion that your actions constitute misconduct under the terms of the Authority's/ Governing Body's Disciplinary Policy & Procedure. The reasons for the decision are as follows:-

**(Summarise main points)**

Taking into consideration your disciplinary record and the fact that you are currently subject to **(enter details of previous warning(s) still active)**, I confirm **(my/the Panel's)** decision to dismiss you on the grounds of cumulative misconduct.

You are entitled to **(insert number)** week's **(or month's)** notice and your employment will therefore be terminated on **(insert date at the end of notice period)**. However during the period of your notice you will not be required to report for work. Your final payment will be made on **(insert date)**.

As the decision has been taken to dismiss you, please be aware we are legally obliged to make a referral to (as applicable) the Disclosure & Barring Service (DBS) and **(insert name of external agency)**.

I must advise you that you have the right of appeal against your dismissal, which would be heard by a member of Management Board (who will act as Chair) and a County Councillor. If you wish to appeal you should do so in writing to **(insert name)** within 10 working days of receipt of this letter stating the grounds for your appeal.

The outcome will be referred to in any references provided.

Yours sincerely

**Name)**  
**(Job Title)**

**Disciplinary**  
**Letter I0- Hearing Outcome- Action short of Dismissal**

Dear **(name)**

**Outcome of Disciplinary Hearing**

I am writing to confirm the outcome of the Disciplinary Hearing held on **(date)** in connection with the following allegations:

**(Insert allegations of misconduct)**

At the hearing you were accompanied by **(name, status/position)**. *If applicable: You did not attend, and the Disciplinary Hearing took place in your absence>.*

The case was heard by **(names of panel members)**.

Full consideration was given to the points raised by you and your companion. **(insert description of specific points if appropriate)**. It was **(my/the Panel's)** opinion that your actions constitute gross misconduct under the terms of the School's Disciplinary Policy & Procedure and this would normally result in dismissal. However, **(I/the Panel)** also took into consideration the exceptional circumstances **(insert description as appropriate)**. For this reason, I confirm that **(my/the Panel's)** decision was to apply action short of dismissal. **(Insert details of the action short of dismissal)**

There are no provisions for protection of pay applicable to this demotion\* and your pay will therefore be reduced to **(details) AND/OR**. Details of this warning will be kept on your personal file, but will be disregarded for disciplinary purposes after **(insert duration)** satisfactory conduct **(unless a 'life of employment' warning)**.

In applying this sanction, I must stress that in the event of any further misconduct, in accordance with the Governing Body's Disciplinary Policy & Procedure, this may lead to your dismissal. (NB: If removed from Regulated Activity there is a duty to refer to DBS)

You should be aware that while this disciplinary warning remains 'live' you will not be entitled to be considered for any incremental progression/ (or) your salary will be reduced by one incremental point, in accordance with the terms of the Increments Policy\*– (Schools must refer to their Pay Policy, for the impact on teachers).

I must also emphasise the standards of conduct required by **(insert name of school)**, which are **(insert details of standards required)**. To assist you in achieving these standards I have made the following provisions **(insert details of support/guidance available)**. In the meantime should you have any doubts or concerns you should contact either myself or <insert name of contact>.

I have enclosed 2 copies of this letter; you should sign the declaration below and return the top copy to me at **(Insert location/address)** by **(insert date)** and you should retain the second copy for your own information.

Finally I have to advise you that you have a right of appeal against this disciplinary action. If you wish to appeal you should do so in writing to **(insert name)** within 10 working days of receipt of this letter stating the grounds for your appeal.

The outcome will be referred to in any references provided.

**(Insert name of school)** is sensitive to the concerns and feelings of all those involved in the disciplinary process and can provide confidential support through Health Assured, the **(insert name of school)** employee assistance programme. This can be contacted on 0800 030 5182.

**(Manager please note – this only applies if your school subscribes to the Health Assured service)**

Yours sincerely,

**Name)**  
**(Job Title)**

**Declaration**

Please sign below to acknowledge receipt of this letter and to confirm that you understand that a disciplinary sanction has been applied to you. Should you wish to appeal you will need to do so in writing within 10 working days.

<b>Signed</b>	
<b>Date</b>	

**\*Note to Managers –** Where a ‘life of employment Final Written Warning’ is issued, this will impact upon incremental progression for 2 years only (does not apply to teachers).

## **Disciplinary**

### **Letter 11 - Hearing outcome- final written warning- no other warnings in place**

Dear **(name)**

#### **Outcome of Disciplinary Hearing**

I am writing to confirm the outcome of the Disciplinary Hearing held on <insert date> in connection with the following allegations of misconduct:

**(Insert allegations of misconduct)**

At the hearing you were accompanied by **(insert name/status)**. **(Insert if applicable: You did not attend, and the Disciplinary Hearing took place in your absence).**

The case was heard by **(insert names of panel members)**.

Full consideration was given to the points raised by you and by your companion **(insert description of specific points if appropriate)**. However it was **(my/the Panel's)** opinion that your actions constitute serious misconduct under the terms of the School's Disciplinary Policy & Procedure. The reasons for the decision are as follows:-

**(insert summary of main points emphasising seriousness of the matter that leads straight to final warning)**

I therefore write to confirm **(my/the Panel's)** decision to issue you with a final written warning. Details of this warning will be kept on your personal file, but will normally be disregarded for disciplinary purposes after 15 months satisfactory conduct. In applying this sanction, I must stress that in the event of any further misconduct, in accordance with the Governing Body's Disciplinary Policy & Procedure, this may ultimately lead to your dismissal.

I must also emphasise the standards of conduct required by **(insert name of school)**, which are **(insert details of standards required)**. To assist you in achieving these standards the following provisions have been made **(insert details of support / guidance available)**. In the meantime should you have any questions you should contact either myself or **(insert name of contact)**.

You should be aware that while this disciplinary warning remains 'live' you will not be entitled to be considered for any incremental progression/ (or) your salary will be reduced by one incremental point, in accordance with the terms of the Increments Policy– (Schools must refer to their Pay Policy, for the impact on teachers).

I have enclosed 2 copies of this letter; you should sign the declaration below and return the top copy to me at **(insert location/address)** by **(insert date)** and you should retain the second copy for your own information.

Finally I have to advise you that you have a right of appeal against this disciplinary sanction. If you wish to appeal you should do so in writing to **(insert name)** within 10 working days of receipt of this letter stating the grounds for your appeal.

The outcome will be referred to in any references provided.

**(Insert name of school)** is sensitive to the concerns and feelings of all those involved in the disciplinary process and can provide confidential support through Health Assured, the **(insert name of school)** employee assistance programme. This can be contacted on 0800 030 5182.

**(Manager please note – this only applies if your school subscribes to the Health Assured service)**

Yours sincerely,

**Name)**  
**(Job Title)**

**Declaration**

Please sign below to acknowledge receipt of this letter and to confirm that you understand that a disciplinary sanction has been applied to you. Should you wish to appeal you will need to do so in writing within 10 working days.

<b>Signed</b>	
<b>Date</b>	

**Disciplinary**  
**Letter 12- Hearing Outcome- Final Written Warning- Cumulative**  
**Misconduct**

Dear **(name)**

**Outcome of Disciplinary Hearing**

I am writing to confirm the outcome of the Disciplinary Hearing held on <insert date> in connection with the following allegations of misconduct:

**Insert allegations of misconduct)**

At the hearing you were accompanied by **(insert name/status)**. **(Insert if applicable: You did not attend, and the Disciplinary Hearing took place in your absence).**

The case was heard by **(insert names of panel members)**.

Full consideration was given to the points raised by you and by your companion **(insert description of specific points if appropriate)**. However it was **(my/the Panel's)** opinion that your actions constitute serious misconduct under the terms of the Governing Body's Disciplinary Policy & Procedure. The reasons for the decision are as follows:-

**(insert summary of main points)**

Taking into consideration your disciplinary record and the fact that you are currently subject to a written warning **(enter details of previous warning(s) still active)**, I confirm **(my/the Panel's)** decision to issue you with a final written warning on the grounds of cumulative misconduct. Details of this warning will be kept on your personal file, but will normally be disregarded for disciplinary purposes after 15 months of satisfactory conduct.

In applying this sanction, I must stress that in the event of any further misconduct, in accordance with the Governing Body's Disciplinary Procedure, this may ultimately lead to your dismissal.

I must also emphasise the standards of conduct required by **(insert name of School)**, which are **(insert details of standards required)**. To assist you in achieving these standards the following provisions have been made **(insert details of support / guidance available)**. In the meantime should you have any questions you should contact either myself or **(insert name of contact)**.

You should be aware that while this disciplinary warning remains 'live' you will not be entitled to be considered for any incremental progression/ (or) your salary will be reduced by one incremental point, in accordance with the terms of the Increments Policy– (Schools must refer to their Pay Policy, for the impact on teachers).

I have enclosed 2 copies of this letter; you should sign the declaration below and return the top copy to me at **(insert location/address)** by **(date)** and retain the second copy for your own information.

Finally I have to advise you that you do have a right of appeal against this disciplinary sanction. If you wish to appeal you should do so in writing to **(name)** within 10 working days of receipt of this letter stating the grounds for your appeal.

The outcome will be referred to in any references provided.

**(Insert name of school)** is sensitive to the concerns and feelings of all those involved in the disciplinary process and can provide confidential support through Health Assured, the **(insert name of school)** employee assistance programme. This can be contacted on 0800 030 5182.

**(Manager please note – this only applies if your school subscribes to the Health Assured service)**

Yours sincerely,

**Name)**  
**(Job Title)**

**Declaration**

Please sign below to acknowledge receipt of this letter and to confirm that you understand that a disciplinary sanction has been applied to you. Should you wish to appeal you will need to do so in writing within 10 working days.

<b>Signed</b>	
<b>Date</b>	

## Disciplinary Letter 13- Hearing outcome- written warning

Dear **(name)**

### **Outcome of Disciplinary Hearing**

I am writing to confirm the outcome of the Disciplinary Hearing held on **(insert date)** in connection with the following allegations of misconduct:

**(Insert allegations of misconduct)**

At the hearing you were accompanied by **(insert name/status)**. **(Insert if applicable: You did not attend, and the Disciplinary Hearing took place in your absence).**

The case was heard by **(insert names of panel members)**.

Full consideration was given to the points raised by you and by your companion **(insert description specific points if appropriate)**. However it was **(my/the Panel's)** opinion that your actions constitute serious misconduct under the terms of the Governing Bodies Disciplinary Policy and Procedure. The reasons for the decision are as follows:-

**(insert summary of main points emphasising seriousness of the matter which leads straight to first written warning)**

I therefore write to confirm **(my/the Panel's)** decision to issue you with a written warning. Details of this warning will be kept on your personal file, but will normally be disregarded for disciplinary purposes after 12 months satisfactory conduct. In applying this sanction, I must stress that in the event of any further misconduct, and in accordance with the Governing Body's Disciplinary Policy & Procedure, this may lead to a further warning or ultimately, to your dismissal.

I must also emphasise the standards of conduct required by **(insert name of school)**, which are **(insert details of standards required)**. To assist you in achieving these standards the following provisions have been made **(Insert details of support / guidance available)**. In the meantime should you have any questions you should contact either myself or **(insert name of contact)**.

You should be aware that while this disciplinary warning remains 'live' you will not be entitled to be considered for any incremental progression/ (or) your salary will be reduced by one incremental point, in accordance with the Increments Policy– (Schools must refer to their Pay Policy, for the impact on teachers).

I have enclosed 2 copies of this letter; you should sign the declaration below and return the top copy to me at **(insert location/address)** by **(insert date)** and retain the second copy for your own information.

Finally I have to advise you that you do have a right of appeal against this disciplinary sanction. If you wish to appeal you should do so in writing to <insert name> within 10 working days of receipt of this letter stating the grounds for your appeal.

The outcome will be referred to in any references provided.

**(Insert name of school)** is sensitive to the concerns and feelings of all those involved in the disciplinary process and can provide confidential support through Health Assured, the **(insert name of school)** employee assistance programme. This can be contacted on 0800 030 5182.

**(Manager please note – this only applies if your school subscribes to the Health Assured service)**

Yours sincerely,

**Name)**  
**(Job Title)**

Declaration

Please sign below to acknowledge receipt of this letter and to confirm that you understand that a disciplinary sanction has been applied to you. Should you wish to appeal you will need to do so in writing within 10 working days.

<b>Signed</b>	
<b>Date</b>	

**Disciplinary**  
**Letter 14- No Sanction applicable**

Dear **(name)**

**Outcome of Disciplinary Hearing**

I am writing to confirm the outcome of the Disciplinary Hearing held on **(insert date)** in connection with the following allegations of misconduct:

**(insert allegations of misconduct)**

At the hearing you were accompanied by **(insert name/status)**. **(Insert if applicable: You did not attend, and the Disciplinary Hearing took place in your absence)**.

The case was heard by **(insert names of panel members)**

Full consideration was given to the points raised by you and by your companion **(insert description of specific points if appropriate)**. It was **(my/the Panel's)** opinion that no further action should be taken in respect of this matter.

I consider however that there are a number of issues which should be discussed with you in further detail, and I will ask your Manager to arrange a meeting with you to discuss these.

**(Insert name of school)** is sensitive to the concerns and feelings of all those involved in the disciplinary process and can provide confidential support through Health Assured, the **(insert name of school)** employee assistance programme. This can be contacted on 0800 030 5182.

**(Manager please note – this only applies if your school subscribes to the Health Assured service)**

Yours sincerely,

**Name)**  
**(Job Title)**

Declaration

I acknowledge receipt of the letter and confirm that I will attend the meeting as described above.

<b>Signed</b>	
<b>Date</b>	

## **Disciplinary**

### **Letter 15 – Action outside the Formal Disciplinary Procedure**

Dear **(name)**

#### **Action Outside the Formal Disciplinary Procedure**

I refer to the Investigatory Interview you attended on **(insert date)** with **(insert name)** and myself.

The meeting was held to discuss the allegation **(insert details of misconduct)**.

Full consideration was given to the points raised by you and by your companion **(insert description of specific points if appropriate)**.

After careful consideration as to what would be an appropriate outcome, the Management decision was that the matter should progress to a formal Disciplinary Hearing.

The arrangements for a formal Disciplinary Hearing were explained to you. It was also explained to you that there are occasions when it may be appropriate to take disciplinary action outside of the formal process. This applies when the individual is prepared to accept a sanction without going through the formal hearing process.

You were advised of your rights with regard to this and it was proposed that you should consider this option carefully and take separate advice, should you wish, from your representative, a colleague or take independent advice before making a decision.

It was then proposed to you that an appropriate sanction in respect of the allegation made against you would be a **(Written Warning/Final Written Warning)**. You were given time to consider this proposal and came to an initial decision that the proposed sanction was acceptable, subject to further consideration.

If you decide to accept this **(Written Warning/Final Written Warning)** you should be aware that details of this warning will be kept on your personal file, but will normally be disregarded for disciplinary purposes after **(insert duration)** satisfactory conduct. In applying this sanction I must stress that further misconduct may, in accordance with the School's Disciplinary Policy and Procedure, lead to a further warning or to your dismissal.

I must also emphasise the standards of conduct required by the School, which are **(insert details of standards required)**. To assist you in achieving these standards the following provisions have been made **(insert details of support / guidance available)**. In the meantime should you have any questions you should contact either myself or **(insert name of contact)**.

You should be aware that while this disciplinary warning remains 'live' you will not be entitled to be considered for any incremental progression/ (or) your salary will be reduced by one incremental point, in accordance with the terms of the Increments Policy– (Schools must refer to their Pay Policy, for the impact on teachers).

I have enclosed 2 copies of this letter, and would be grateful if you could sign the declaration below and return the top copy to me in the envelope provided within 10 working days of the date of this letter, to indicate your decision in this matter. You should retain the second copy for your own information.

Finally I must advise you that, if you accept the warning, you do have a subsequent right of appeal against this disciplinary sanction.

The outcome will be referred to in any references provided.

**(Insert name of school)** is sensitive to the concerns and feelings of all those involved in the disciplinary process and can provide confidential support through Health Assured, the **(insert name of school)** employee assistance programme. This can be contacted on 0800 030 5182.

**(Manager please note – this only applies if your school subscribes to the Health Assured service)**

Yours sincerely,

**Name)**  
**(Job Title)**

.....

**Declaration**

\*I wish to accept the above Disciplinary Warning. I understand that this warning will normally be disregarded for disciplinary purposes after # months.

**OR**

\*I do not wish to accept the above Disciplinary Warning and understand that a formal Disciplinary Hearing will be arranged at which I may be accompanied by a Trade Union Representative or Work Colleague.

\*Please delete as appropriate

Signed ..... (employee) Date .....

## **Disciplinary**

### **Letter 16 – Action Outside the Formal Disciplinary Procedure**

Dear **(name)**

#### **Action outside the Formal Disciplinary Procedure**

I refer to the investigatory interview you attended on **(insert date)** with **(insert name)** and myself to discuss the allegation of <insert details of misconduct>.

I advised you that the Management decision was that the matter should progress to a formal Disciplinary Hearing, but that I felt it appropriate on this occasion to take disciplinary action outside of the formal process. You were made aware of your rights to a formal Hearing and I proposed that an appropriate sanction in respect of the allegation made against you would be a **(Written Warning/Final Written Warning)**. You were given 10 working days to consider these proposals before making a decision.

I acknowledge receipt of your signed declaration confirming your decision to accept the disciplinary sanction, and therefore confirm decision to issue you with a **(written warning/final written warning)**. Details of this warning will be kept on your personal file, but will normally be disregarded for disciplinary purposes after **(#duration)** satisfactory conduct. In applying this sanction I must stress that further misconduct may, in accordance with the School's Disciplinary Policy & Procedure, lead to a further warning or to your dismissal.

I must also emphasise the standards of conduct required by the Authority/school, which are **(insert details of standards required)**. To assist you in achieving these standards the following provisions have been made **(insert details of support / guidance available)**. In the meantime should you have any questions you should contact either myself or **(insert name of contact)**.

You should be aware that while this disciplinary warning remains 'live' you will not be entitled to be considered for any incremental progression/ (or) your salary will be reduced by one incremental point, in accordance with the terms of the Increments Policy– (Schools must refer to their Pay Policy, for the impact on teachers).

Finally I have to advise you that you do have a right of appeal against this disciplinary sanction. If you wish to appeal you should do so in writing to **(insert name)** within 10 working days of receipt of this letter stating the grounds for your appeal.

The outcome will be referred to in any references provided.

**(Insert name of school)** is sensitive to the concerns and feelings of all those involved in the disciplinary process and can provide confidential support through Health Assured, the **(name of school)** employee assistance programme. This can be contacted on 0800 030 5182

**(Manager please note – this only applies if your school subscribes to the Health Assured service)**

Yours sincerely,

**Name)**  
**(Job Title)**

Declaration

Please sign below to acknowledge receipt of this letter and to confirm that you understand that a disciplinary sanction has been applied to you. Should you wish to appeal you will need to do so in writing within 10 working days.

<b>Signed</b>	
<b>Date</b>	

## Disciplinary

### Letter 17 - Letter requesting employee to attend Disciplinary Appeal Hearing

Dear **(name)**

#### **Disciplinary Appeal Hearing**

Acting on behalf of the Governing Body of the School, I write to advise you that in response to your letter of appeal you are now requested to attend an Appeal Hearing.

The Appeal Hearing has been scheduled as follows:

Date: **(Insert Date)**  
Time: **(Insert Time)**  
Venue: **(Insert Venue)**

Please report to **(insert name/venue)**.

The Appeal will be heard by **(insert names of Governors)**

The Hearing will be held in accordance with the Governing Body's Disciplinary Policy and Procedure and will take into consideration evidence presented by yourself and by the Investigating Officer **(Insert name of Investigating Officer)** regarding the alleged misconduct.

Witnesses to be called by management are: (names – if any)

.....  
*OPTIONAL PARAGRAPH...*

There are also witness statements from **(insert name)** and **(insert name)**. We do not believe that it is necessary to call these witnesses to appear in person but if you wish to question their evidence then you must let me know at least five working days in advance of the hearing (you are advised to confer with your representative about this).

.....

You have the right to be accompanied at the appeal hearing by your Trade Union representative or work colleague.

I attach for your information a copy of the procedure that will be followed at the Appeal Hearing.

The documentation to be used at the Appeal Hearing is the same as that used at the first Disciplinary Hearing.

Should you wish to call any witness(es) to the Appeal Hearing, you must inform me of their names prior to the Hearing. Any additional documentary evidence you intend to submit in support of your case should also be provided prior to the Hearing. In accordance with the requirements of the Disciplinary Policy &



Procedure you should aim to provide the names of witnesses and documentary evidence as soon as possible but, in any event, no later than 5 working days before the Appeal Hearing.

**(Insert name of school)** is sensitive to the concerns and feelings of all those involved in the disciplinary process and can provide confidential support through Health Assured, the Council's / **(name of schools)** employee assistance programme. This can be contacted on 0800 030 5182.

**(Manager please note – this only applies if your school subscribes to the Health Assured service)**

Please confirm your attendance at the Appeal Hearing by signing and returning a copy of this letter. If you or your companion is unable to attend please confirm the reasons for non-attendance on the copy letter.

---

*OPTIONAL PARAGRAPH FOR REARRANGED HEARINGS...*

If you are unable to attend please be aware that the panel may decide to hear the evidence and reach a conclusion in your absence. Your representative may still attend in your absence.

---

Any queries you may have should be directed to me on <insert number>.

Yours sincerely,

**Name)**  
**(Job Title)**

<b>Signed</b>	
<b>Date</b>	
<b>Name of Companion</b>	
<b>Status of Companion</b>	
<b>Reason for non attendance if applicable</b>	

**Section 19. Templates**

**Disciplinary investigation statement**

1. My name is **(name)** and I work as a **(Job Title)** at **(Location)**. I have been employed in this post for **X** months/years.
2. I give this statement freely and have no objection to the County Council making it available to whoever it deems necessary.
3. I confirm that the following is an accurate summary of the statements I made in response to the questions asked at an investigatory interview conducted by **(name)**, **(job title)** in the presence of **(name)**, **(job title)**.

The remainder should be a record of the witnesses' account of events, in their own words, using numbered paragraphs for ease of reference.

Signature of Interviewee.....Date.....

Signature of Interviewer.....Date.....

Signature of Note-taker.....Date.....

*(The above should sign and date at the foot of each page)*

## **Example Bundle items for use in Disciplinary Hearings and Appeals**

NB: Precise items will depend upon what is relevant, depending upon the circumstances of the case

### INDEX

#### Background Information

Summary Sheet to include Heading (i.e. type of panel) contents page, time line summary, context

Structure Chart

Application Form

Statement of Particulars

Job Description

Training Record

Induction Record

Probationary Record

Disciplinary Record

#### Main Documents relating to the case (usually listed in chronological order)

Correspondence

Notes of Meetings

Witness Statements

Diary entries

Forms

Diagrams

#### Policies and Procedures

Any relevant NYCC Policies, Procedures, Schemes, Guidance

Pages should be numbered in sequence for ease of reference

## **Example management case outline for a disciplinary hearing**

### Introduction

Explanation of how the case came to management's attention – what the nature of the case is – why it is viewed seriously; Use a prepared statement or bullet points

### Chronology of Events

Using a prepared brief, go through the sequence of events in detail in chronological order

Make reference to documents in the bundle to evidence the points raised

Introduce and question witnesses at appropriate points to substantiate their evidence, using prepared questions

### Conclusion

Summarise what the evidence shows

Consider addressing any weaknesses in own case

Briefly summarise any relevant case law

Confirm why the employee's misconduct is viewed seriously

Make reference to the NYCC Disciplinary Policy/Examples of Misconduct

Make reference to the necessary standard of proof (i.e. on the balance of probabilities)

### Final Summary

Summarise the key evidence in relation to the allegations (Ensure you do not introduce any new evidence at this stage) State why you feel you have 'proved your case' Emphasise the seriousness of the disciplinary offence(s)

Make a recommendation as to an appropriate disciplinary penalty

## Notes of a disciplinary investigation meeting

These are notes of a disciplinary investigation meeting held on **(Date)** at **(Location)**.

Present:

- (Name), (Job Title)** – Interviewer
- (Name), (Job Title)** – Interviewee
- (Name), (Job Title)** – Note taker
- (Name), (Job Title)** – Trade Union Representative/work colleague

Introduction

**(Name)** explained the purpose of the interview – this is a formal interview held under the Disciplinary Policy & Procedure, and does not constitute a Hearing. It is part of a fact finding process.

The allegations/concerns that had been raised were outlined, as follows.....

He/she advised **(Name)** that the questions and answers given would be noted and typed up for subsequent verification. He/she informed **(Name)** that the notes of the interview would be used in a Disciplinary Hearing, should the matter proceed in that way.

**(Name)** was notified that he/she could request an adjournment should they feel it necessary.

Interview

Q 1.

A1.

Q 2.

A 2.

The remainder should be a continuing record of the questions and answers, using a numbering sequence for ease of reference.

I agree that these notes provide an accurate account of the interview.

Signature of Interviewee.....Date.....

Signature of Interviewer.....Date.....

Signature of Note-taker.....Date.....

*(The above should sign and date at the foot of each page)*