



Woodlawn
School

DISCIPLINARY POLICY & PROCEDURE

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Section One: Policy

Introduction

101 This policy and procedure has been developed for employees of the school who, in accordance with Employment Law, work under a contract of employment with Woodlawn Governing Body

102 This policy and procedure has been compiled in accordance with the requirements of appropriate statutory legislation as well as the ACAS Code of Practice.

Purpose

201 The purpose of this policy and procedure is to achieve and maintain an employee's conduct to a level acceptable to the employer. In this respect employees are reminded of the need to maintain agreed standards of conduct and behaviour and adhere to agreed school policies and procedures.

202 To achieve these aims it is expected that concerns relating to conduct will be resolved as quickly as possible in a fair and transparent manner and at an appropriate level within school.

Principles

301 The Governing Body strongly support the view that this policy and procedure is not in itself a means for simply imposing sanctions against employees, rather it is a tool to ensure a fair and transparent method of investigating concerns and addressing unsatisfactory behaviour where this has been identified.

302 Where possible, identified concerns will be managed through encouraging improvements in employees conduct. In recognising this, the Governing Body wishes to encourage a working environment where minor concerns can be resolved informally, together with implementing more formal procedures when they become necessary in an objective manner, without undue delay.

303 In line with the statutory guidance - Keeping Children Safe in Education - all school employees have a responsibility to provide a safe environment in which children can learn.

304 Minor cases of misconduct will be dealt with on an informal basis, without reference to this policy.

305 Where consideration is being given to invoking the formal procedure, no decision should be taken until advice has been obtained from the Link HR Business Partner.

- 306 Where concerns are made that conduct appears unsatisfactory, no formal sanctions will be imposed under this policy until the case has been impartially and fully investigated.
- 307 Where the outcome of an investigation identifies improvements required by the employee they will be informed of these in writing. This communication will include any support to be provided, relevant timescales and the consequences of failing to improve.
- 308 The level of formal sanction will be proportionate to the seriousness of the offence, having regard to the need for fairness, transparency and consistency of approach.
- 309 Where an individual has been involved at a previous stage of an ongoing disciplinary case, they will not hear the case or be a member of an appeal panel¹.
- 310 Where the formal procedure has been invoked those conducting the hearing, the appeal panel, together with the appointed Investigating Officer will seek appropriate support from the HR Service (Schools).
- 311 In addition to an employee having the right at every stage to be accompanied by a work colleague or trade union/professional association representative², they will have the right to be represented by a work colleague or trade union/professional association representative at any subsequent hearing or appeal.
- 312 Any information obtained by the Investigating Officer, as part of the investigation, will be provided to the employee prior to any hearing and/or appeal, as appropriate.
- 313 There will be a right of appeal against any sanctions under the formal disciplinary procedure to a panel of Governors.
- 314 An appeal should not be used as an opportunity to punish the employee for appealing the original decision. To ensure this, the options for any appeals panel will not include an increase in the sanction as this may deter individuals from appealing.
- 315 Where it becomes apparent that the matter is not one of discipline, but one of capability, then the disciplinary process will stop at this point and the matter will be referred to the school capability policy & procedure.
- 316 Any decision reached will be based on evidence presented and will be taken in line with good practice, particularly that advocated by the Advisory, Conciliation and Arbitration Service (ACAS) and taken without regard to a person's race, age, disability, gender, sexual orientation, gender identity,

¹ Please note this does not refer to the membership of a hearing or appeals where there has been a further breach of this policy by an employee for the same/similar reason managed previously.

² Contact names and addresses are available at pages 23/24

religion, marital status, pregnancy/maternity, belief or position within the school.

Application

Employees

401 This policy and procedure applies to all employees of the Governing Body working at the school under a contract of employment or apprenticeship whether full-time, part-time, permanent or temporary. It does not apply to individuals based at the school under a contract for service/third party arrangements or individuals employed by the Council whose employment relationship is not directly managed by the school.

Where an individual is on a secondment/temporary assignment to another school, Local Authority or organisation, that organisation's policies & procedures will govern the employee's employment relationship.

Separate procedures may be referred to in cases where the employee is subject to a probationary period. Advice should be sought from the Link HR Business Partner before proceeding in such cases.

Headteacher

402 Where the Headteacher is the subject of concerns of a disciplinary nature, the implementation of this policy & procedure becomes the responsibility of the Chair of the Governing Body (or their designate); taking the role that otherwise would have been performed by the Headteacher. The Manager (or their designate) of the HR Service (Schools) will provide advice as appropriate.

Delegated Authority within Disciplinary Procedure

501 The delegation arrangements for conducting hearings and appeals at this school will be considered in line with the options available to all Governing Bodies contained within Regulation 4 of the School Staffing (England) Regulations 2009.³

Investigating Officer

The Governing Body has delegated the responsibility for the appointment of an Investigating Officer⁴ to the Headteacher (Chair of Governors where the

³ Schools are reminded to consider impartiality when determining Hearing/Appeal panel membership.

⁴ The investigating officer will be at an appropriate level in relation to the employee under investigation. Where the Headteacher is the subject of investigation the investigating officer will be a member of the Governing Body with knowledge of staffing matters (e.g. member of

concerns relate to the Headteacher). The Investigating Officer appointed may have prior knowledge of the allegation(s) to be investigated, but will not be permitted to conduct the hearing or sit as a member of any appeal panel appointed to consider the outcomes of the investigation. The Investigating Officer will receive advice and support via the Link HR Business Partner.

Suspension

601 Suspension is not disciplinary action and will be without prejudice and on full pay. The school recognises that though there is no assumption of guilt, this suspension from duty will be a traumatic experience for any employee and their family and although the school will maintain confidentiality wherever possible they are aware that other people may draw unwarranted inferences from the suspension.

602 Suspension whilst investigations are carried out, may be appropriate where:

- gross misconduct is alleged⁵
- there are pending criminal investigations, or proceedings
- it is necessary for the protection of pupils, staff or property
- there are sufficient concerns that the presence at work of the employee under investigation may be an obstacle to a proper investigation.

The decision to suspend will only be taken after full consideration is given to all alternatives, such as working from a different workplace or undertaking alternative duties. Any proposal to suspend an employee will be discussed with the Link HR Business Partner, outlining reasons why alternatives to suspension are not feasible, prior to any implementation. In such circumstances, the Governing Body and Headteacher both have power to suspend.

603 When exercising this power the Headteacher will, where feasible, meet with the employee concerned⁶. The action of suspension will be followed up in writing within a maximum of two (2) standard working days of the suspension outlining the alternatives to suspension that were considered as well as confirming the reasons for the decision to suspend. Reference will be made of their right to contact their trade union/professional association representative for advice and support.

604 During a period of suspension the school will expect that the employee suspended does not:

- attend school at any time (except with the prior agreement of the

the staffing committee) or an external investigator appointed by them. Advice should be sought from the school link HR Business Partner as to who is deemed "appropriate" on a case-by-case basis.

⁵ Page 25 provided examples of gross misconduct

⁶ Where there is a need to suspend the Headteacher, this will be undertaken by the Chair of Governors following discussion with the Head of the HR Unit (Schools) or their designate.

Headteacher/Chair/investigating officer);

- communicate in any way with parents, pupils or governors (except: with the prior agreement of the Headteacher/Chair)
 - o discuss their suspension or the nature of the allegations with any member of staff (except: with the prior agreement of the Headteacher/Chair /investigating officer)

605 During a period of suspension the employee may approach work colleagues, parents, pupils and governors as potential witnesses in support of their case. However, this should only take place after seeking the approval of the Investigating Officer, this may be done via the trade union representative.

606 During a period of suspension the school may suspend access to the employees email account and to the schools' electronic learning environment.

607 Any suspension of an employee of the school can only be lifted with agreement of the Chair of Governors (acting on behalf of the Governing Body) following discussion with the Link HR Business Partner. Where the Chair of Governors is unavailable this responsibility will fall upon the Vice Chair of Governors for action.

Confidentiality

701 Any employee who is subject to this disciplinary policy & procedure or those taking part in the proceedings will maintain confidentiality in accordance with this document. Any breach of confidentiality may be deemed a potential disciplinary act within the terms of this policy.

Support

801 An employee will be informed at every stage of the procedure, of their right to be accompanied by a work colleague or trade union/professional association representative. In addition, they will have the right to be represented by a work colleague or trade union/professional association representative at any subsequent hearing or appeal.

802 It is the responsibility of the Investigating Officer, where formal procedures have been invoked, to ensure that updates are provided to the employee throughout the investigation.

803 In cases of unacceptable conduct it is important that consideration be given to additional advice and counselling for the employee – for example through a supportive action plan. Should the school feel that they do not have such resources available or require further information on how this role should operate they should contact their school Link HR Business Partner who will be able to provide advice and guidance.

Meetings, Hearings & Appeals

- 901 Such persons or panel members as designated by the Governing Body's Standing Orders will carry out their official duties at all hearings and appeals under this policy & procedure and in accordance with relevant statutory requirements. Advice will be sought from the appropriate service provider, such as Governor Services as necessary, to ensure compliance with these requirements.
- 902 It is acknowledged that a disciplinary process is a difficult time for all parties, especially for the employee subject to allegations. Hearings and appeals must be conducted in a manner that enables all parties to explain their views.
- 903 All parties being involved in a disciplinary process at any stage are required to act in accordance with the principles outlined within this document.
- 904 The appointed Investigating Officer will lead the investigation and may be supported through this process, for example by a link School HR Business Partner or another management colleague.

Formal Sanctions

- 1001 The school operates a model of progressive discipline, this allows the employer to deal with inappropriate conduct at work through a defined process which is designed to help the employee achieve and maintain the standard expected.
- 1002 The following sanctions are available for consideration, having taken into account whether the allegation is proven and warrants a sanction.

| Level of sanction | Period sanction remains live |
|-------------------------------------|--|
| Level one warning | A formal written warning which will expire after a period of 6 months |
| Level two warning | A formal written warning will expire after a period of 12 months. |
| Final warning | A formal final written warning will expire after a period of 18 months. |
| Dismissal (misconduct) ⁷ | Where there is failure to improve or change in the timescale set or the matter is sufficiently serious the employee may be dismissed with appropriate notice. ⁸ |

⁷ The panel may consider alternatives to dismissal such as transfer to another post, with reference to STPCD.

⁸ Arrangements will be made by the school to pay the employee their contractual notice and any other outstanding monies due to them. For calculation purposes, the employee's last day at work will be the date of the outcome of the disciplinary hearing.

- 1003 When considering the level of sanctions the following factors should be considered
- the nature and severity of the misconduct,⁹
 - whether this is a first 'offence' or repeated behaviour,
 - whether there are any warnings in place,
 - whether or not there are any mitigating factors, such as provocation,
 - the disciplinary action taken at this school in the past for similar types of misconduct,.
 - whether the proposed outcome is reasonable given all of the circumstances.

1004 Where the time limits of a sanction have expired it will be kept on file. However, it will be disregarded for future disciplinary purposes.

Summary Dismissal

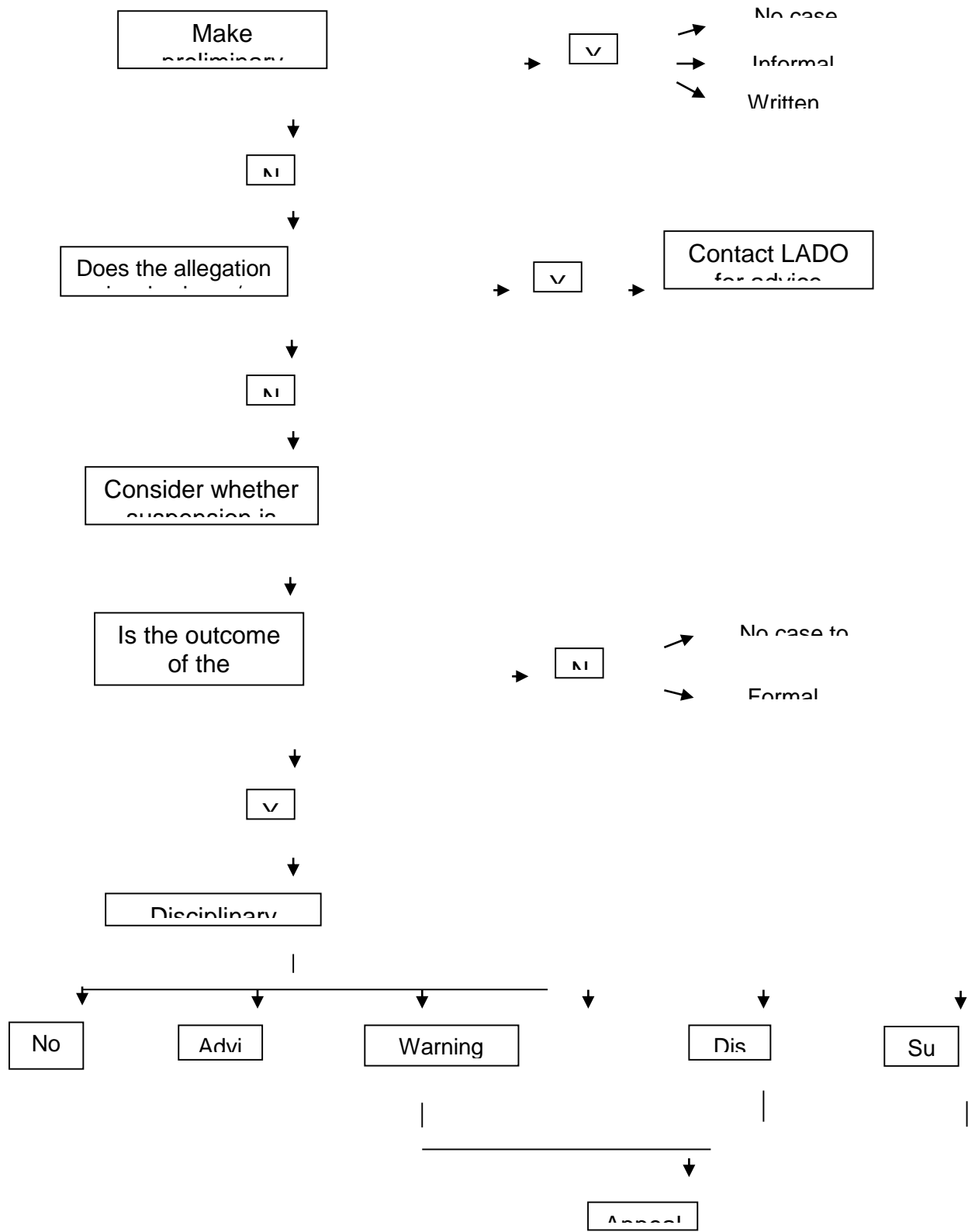
1005 Summary Dismissal only applies to acts of gross misconduct. Because of the nature of alleged acts of gross misconduct, the employee may be suspended from work, whilst his/her line manager completes an investigation. The employee will remain in receipt of full pay.

1006 If it is found that an act of gross misconduct has taken place, the employee may be summarily dismissed; the decision will be confirmed in writing. The last day of service will be the date the outcome of the disciplinary hearing and the dismissal may be actioned without payment of contractual notice.

Appeal

1007 In cases of misconduct and gross misconduct employees have the right to an appeal following the outcome of the hearing.

⁹ Examples are contained at page 25 of misconduct and gross misconduct



Section Two: Procedure

Informal Stage

- 1101 The Governing Body expect that in most cases, where a disciplinary matter involves minor infringements of conduct, it will be resolved informally through additional advice/guidance/training and support arrangements from the Headteacher or Line Manager¹⁰, with the aim of improving the employee's conduct.

Such informal action may enable concerns over conduct to be dealt with early, before any potential escalation, resulting in an improvement in behaviour and thus avoiding a need to use the formal procedure.

- 1102 In some instances a discussion with the employee will be sufficient. The aim of the discussion is to ensure that the employee understands the concerns and is made fully aware of the standards expected of them.
- 1103 The employee should be given the opportunity to access information, review the facts and respond. Should the employee have any objections, as part of the discussion then these should be recorded by the manager.
- 1104 The Headteacher, may consider the matter warrants the advice to be put to the employee in writing, noting how the conduct has fallen short of the school's standards and expectations, the change or improvement that is expected from the employee and that a failure to achieve the standards in the future may result in disciplinary action being taken.
- 1105 The Headteacher may wish to include a review period if it is believed monitoring is required.
- 1106 A letter of management advice is not a formal disciplinary warning. The letter forms part of the employment record and will remain on the employees file.¹¹

Assessment of need to enter the Formal Stage

- 1201 Where informal advice and support have been ineffective, or there has been a more serious breach of discipline requiring formal action, the matter will be referred to the Headteacher (or their designate) to determine whether the formal disciplinary process should be invoked and the employee will be advised of this action.

¹⁰ Line Manager – the person who undertakes this role may vary from school to school and is dependent upon the structure in place within school. It is important that each School are clear on whom within their school they require to undertake this role.

¹¹ Referral to this letter may be relevant, as part of an assessment, where there is a further recent occurrence which is intrinsically linked.

- 1202 In determining whether the formal disciplinary procedure should be invoked the Headteacher (or their designate)¹² will undertake an initial assessment, taking into account the nature of the concerns and whether informal support to correct the behaviour is an appropriate alternative to proceeding with a formal investigation.
- 1203 Where the decision is not to proceed to a formal investigation the matter will be referred back to the line manager to provide support to the employee concerned. However, where the Headteacher determines that a formal investigation should be undertaken they (or their designate) will arrange a “notification meeting” with the employee.

Notification Meeting

- 1301 At this notification meeting the Headteacher (or their designate) will provide the employee with an outline of the concerns and, where known at this stage, the name of the Investigating Officer¹³ and date for an initial meeting. The employee will be reminded of the support available from their trade union/professional association and provided with a copy of the disciplinary procedure.
- 1302 Where a decision is made to suspend¹⁴, the employee will be informed of the rationale for this decision and reminded not to make contact with any other work colleague to discuss the matter to be investigated, nor visit school except in circumstances as identified within paragraph 604 of the disciplinary policy.
- 1303 The outcomes arising from this meeting will be confirmed in writing from the Headteacher (or designate) to the employee within 5 standard working days following the conclusion of the ‘notification meeting’.

Formal Disciplinary Procedure

- 1401 The formal disciplinary procedure has three steps:
Step 1 - Establishing the facts via thorough investigation;
Step 2 - Hearing;
Step 3 - Appeal.

¹² Where the Headteacher is the sole witness to the concern then it may not be appropriate for them to undertake the initial assessment.

¹³ The Headteacher will be required in appointing the Investigating Officer to ensure that they have time/resources made available to them to undertake the investigation as per the timescales outlined within this policy & procedure. The Governing Body has delegated the authority to select an appropriate Investigating Officer to the Headteacher. In doing so the Headteacher will also take into account that any Investigating Officer cannot conduct a hearing or be part of an appeal panel.

¹⁴ Regard should be taken of advice from the Link HR Business Partner prior to any consideration of suspension.

1402 Timelines are indicated within this procedure to allow concerns to be resolved in a timely manner. However the parties referred to may on occasion and by mutual agreement modify the time limits referred to in the disciplinary procedure – the responsibility for coordinating timescales, where there is a need to modify from those indicated within this policy & procedure, will rest with the Investigating Officer (Step 1); those conducting the hearing (Step 2) or Chair of Appeal Panel (Step 3) following advice from the appropriate supporting HR Business Partner.

Step 1 – Establishing the facts through an investigation

- 1501 The Investigating Officer will seek advice from the HR Business Partner with regard to the proposed investigation and the appropriate support that can be provided.
- 1502 The role of the Investigating Officer is to carry out an appropriate and thorough investigation of all facts relating to the case, ensuring a balanced report of the matter under investigation is obtained. Having concluded their investigation the Investigating Officer, with the support of the HR Business Partner, will determine the next steps and, where necessary, attend and present their findings at the Hearing.
- 1503 The Investigating Officer will make arrangements to meet with the employee (and their representative if applicable)¹⁵ at the earliest opportunity to begin their investigation. Where necessary there may be a requirement to hold a series of such meetings as part of their investigation.
- 1504 The Investigating Officer and supporting HR Business Partner may be required to meet with other named parties as part of the investigation into the concerns¹⁶.
- 1505 Where it becomes apparent during the investigation that the matter is not one of discipline, but one of capability, then the disciplinary process will stop at this point and the matter will be referred to the school's capability policy & procedure for determination.
- 1506 The investigation must be concluded as soon as reasonably possible whilst allowing sufficient time to interview all relevant parties. It should take no longer than 6 standard working weeks.

The Employee must be informed should the Investigating Officer believe that they will be unable to conclude their investigation within this timescale. The Investigating Officer should advise the Employee of the expected timescale for completion.

¹⁵ The employee will be granted approval for reasonable time away from their duties to meet with their representative.

¹⁶ Where a request is made to gather information from a particular source this should be undertaken unless there is good reason not to do so as decided by the investigating officer. Any decision not to follow up such requests (and rationale) should be included in the completed investigators report.

1507 At the conclusion of the investigation the Investigating Officer will inform the employee verbally of the outcome of their investigation¹⁷, to be followed up in writing within 5 standard working days. This letter, which the Investigating Officer sends to the employee will provide a brief synopsis of the concern(s), together with confirmation of one of the following options as the outcome of the investigation:

Option 1 - the concerns are unfounded and the employees conduct is deemed to be satisfactory therefore no further action against the employee is required.

Option 2 - formal additional support/advice/direction has been identified as the means of correcting the employee's conduct in respect of the concerns investigated.¹⁸

Option 3 - there is substance to the concern(s) and the Investigating Officer has referred the matter to a hearing¹⁹ to make a determination regarding outcomes and appropriate sanction.

1508 Where the Investigating Officer finds for:

Option 1 - the Investigating Officer and supporting HR Business Partner will liaise with the Headteacher (or their designate) to ensure that, where they have been identified, actions are put into place to amend school practices / procedures.

Option 2 - the Investigating Officer and supporting HR Business Partner will liaise with the Headteacher (or their designate) to ensure that the actions identified of the employee and the school are put in place as agreed. That the monitoring takes place and that the timescale for concluding the matter is adhered to.

Option 3 - the Investigating Officer and supporting HR Business Partner will notify the employee who will be advised of the requirements for their attendance at a disciplinary hearing.

1509 Where the outcome is Option 3, the Investigating Officer, at the same time as they advise the employee, will verbally notify the Clerk to Governors²⁰ of the need for a hearing. They will also submit a copy of the letter to the employee (referenced in paragraph 1507) to the Clerk to Governors, this being deemed the formal request for the clerk to arrange a disciplinary hearing.

¹⁷ Except where alternative arrangements have been made such as via their trade union/professional association representative.

¹⁸ The investigating officer determines that although this should be considered misconduct, it appears to be less serious and therefore can be modified through guidance/direction recorded within an action plan with a set monitoring period an example is shown at page 27.

¹⁹ Hearing will be held in line with the delegated authority arrangements in place at the school

²⁰ This is reference to the Clerk to the Governing Body or Clerk appointed (for example this may be a member of the school admin team). It is the responsibility of the School/Governing Body to arrange for appropriate clerking.

1510 At this time the Investigating Officer will provide the Clerk to Governors their investigative report (including all information obtained as part of their investigation together with any witnesses they propose to call).

Step 2 – Hearing

1601 Following a request to arrange a disciplinary hearing the Clerk to Governors will in line with the school's delegation arrangements arrange a hearing. In doing so they will liaise with all parties to agree a suitable date for the disciplinary hearing as soon as practicable, providing at least 10 standard working days notice to the employee.²¹

1602 This notice (inclusive of investigators report/witnesses) confirming the date of the hearing will be sent to the employee (and their representative) within 5 standard working days following receipt of the formal request to convene the meeting.

In addition a copy of this formal notice will be issued to the Investigating Officer, those conducting the hearing, as well as their respective HR support and any note taker for the meeting.

1603 This formal notice to the employee will include a request for the employee to confirm their attendance and submit any information (inclusive of witnesses) they intend to make reference to during the hearing, at least 5 standard working days prior to the hearing²²

1604 Following the receipt of any information from the employee, the Clerk to Governors will collate all of the information from both parties into one pack and will forward this pack to the Investigating Officer, their HRBP, the employee and representative as well as those conducting the hearing and their respective HR support and any note taker for the meeting, no later than 4 standard working days prior to the commencement of the hearing:

1605 The Clerk to the Governing Body will compile a list of the names of witnesses from both parties and forward these to the Headteacher (or their designate) who will be responsible for the coordination of the release of school-based witnesses.

1606 The Clerk to Governing Body is responsible for organising separate rooms/ facilities/ refreshments for each of the respective parties and their witnesses.

²¹ There may be circumstances where this timeframe is not achievable for the parties concerned. Where this is the case the Clerk to Governors will liaise with the parties to arrange a suitable alternative date.

²² Please note: any additional information presented by the employee and/or their TU representative after this date will be accepted where both parties are agreeable. However, where agreement has not been possible the additional information will only be considered with the consent of those conducting the Hearing after discussion with the supporting HRBP. Options include postponement/short adjournment to consider the information or not to release the information.

Hearing

- 1607 The role of those conducting the hearing is to evaluate the information presented to them and to determine the appropriate outcome – including the drawing-up of an action plan²³, where appropriate.
- 1608 It shall be the responsibility of those conducting the hearing to ensure that the hearing is conducted appropriately and in accordance with the principles of the disciplinary policy. The hearing can adjourn at any time at the request of either of the parties.
- 1609 Once the information has been presented to the hearing by all parties, questions have been answered and those conducting the hearing have sufficient information to reach a decision as to the outcome, the hearing will adjourn and a decision will be reached.
- 1610 Options to consider as an outcome arising from the disciplinary hearing are:
- take no further action - concerns/allegations are unfounded and no further action is required.
- formal additional support - additional support/actions identified as the means to change the employees' conduct in respect of the concerns identified,
- impose a sanction - up to and including dismissal with notice for cases of misconduct or without notice for cases of gross misconduct.
- Where consideration is given to the issuing of a sanction, the hearing will refer to the options and advice available under the policy para 1002.
- 1611 All parties will be notified of the decision. Where possible, it is recommended that this be undertaken on the same day as the hearing and in person. It is acknowledged that, after an adjournment to reach a decision, it may not be appropriate to ask the parties to wait. Where this occurs, alternative arrangements will need to be agreed, with advice from the supporting HR Business Partner, regarding the most appropriate way forward.
- 1612 Following the outcome of the hearing, a letter to convey to the employee the decision made will be sent by the Clerk, within 5 standard working days following the employee being notified of the hearing decision.
- 1613 This letter will note the outcome relating to each allegation/concern, the rationale behind this decision and, where appropriate, any sanction issued. Where a sanction is given, the letter will advise the employee of their right of appeal.

²³ This may include details of additional management support and/or expectations of future conduct if applicable.

- 1614 Where the Headteacher has not heard the case the Chair of the Hearing Panel and the supporting HR Business Partner will be required to update/advise the Headteacher of the agreed outcome/way forward immediately after informing the employee.
- 1615 Where an action plan is required as one of the outcome options, the responsibility for the delivery of the support/action plan will lie with the Headteacher (or their designate) as appropriate.
- 1616 Where dismissal is an outcome, the HR Business Partner supporting the hearing, will work with the school to ensure that the school's statutory obligations are fulfilled.

Step 3 – Appeal

- 1701 Following the letter confirming the Hearing decision being sent to the employee, the employee has 5 standard working days to lodge a request for an appeal hearing.
The request for an appeal hearing must be sent to the Clerk to Governors in writing, outlining the reasons for requesting an appeal.
- 1702 The employee should take care to outline the grounds for their appeal to ensure there is no undue delay in organising an appeal hearing. Where there is insufficient clarity as to the grounds of the appeal, the Chair of the Appeal Panel reserves the right to seek such clarification, prior to arranging the appeal hearing. It is the responsibility of the Chair of the Appeal Panel, working with their supporting HR Business Partner, to communicate (via the Clerk to Governors) in writing with the employee, where further clarification is required.
- 1703 Where dismissal is the outcome of the disciplinary hearing, lodging an appeal against the decision will not stop a dismissal from proceeding. The effective date of dismissal will be the date of the hearing panel's decision being verbally advised to the employee or, where applicable, after serving appropriate notice.
- 1704 If the original decision was to dismiss and the appeal against the decision is successful, the employee will be reinstated with no loss of continuity of service or pay.
- 1705 Once the Chair of the Appeal Panel has undertaken the actions detailed above it will be their responsibility to ensure that any appeal hearing can progress in a timely manner.
- 1706 The role of the Clerk to the Governors is to organise and coordinate the appeal once the Chair of the Appeal Panel has confirmed that there is sufficient information to proceed.
- 1707 The Clerk to Governors will liaise with all parties to agree a suitable date for the disciplinary appeal to be held and confirm this in writing to all parties.

- 1708 This letter is deemed the formal notice of the disciplinary appeal hearing and will be issued, with supporting documentation, within 5 standard working days on the basis that the employee has provided sufficient information for the appeal hearing
to be progressed. The appeal hearing will be expected to take place as soon as practicable, providing at least 10 standard working days notice to the employee.²⁴
- 1709 This formal notice will include a request for the employee to confirm their attendance and submit any information (inclusive of witnesses) they intend to make reference to during the appeal at least 5 standard working days prior to the meeting.
- 1710 Once in receipt of this information from the employee the Clerk to Governors will collate a pack of information and forward to members of the appeal panel, as well as their respective HR support; the Employee and any TU representative, the Chair of the Hearing panel and HRBP supporting them as well as any note taker for the meeting. This pack will be issued no later than 4 standard working days prior to the commencement of the hearing.
- 1711 The Clerk to the Governing Body will compile a list of the names of witnesses from both parties and forward these to the Headteacher (or their designate) responsible for the coordination of the release of school-based witnesses.
- 1712 The Clerk to the Governing Body is responsible for organising separate rooms/facilities/refreshments for each of the respective parties and their witnesses.
- Appeal Panel*
- 1713 The role of the Appeal Panel is to evaluate the information presented to them and to determine the appropriate outcome – including the drawing up of an action plan²⁵, where appropriate.
- 1714 The Appeal Panel will have had no prior involvement or detailed knowledge of the case, excluding the information provided to them in preparation for the appeal.
- 1715 It shall be the responsibility of the Chair of the Appeal Panel to ensure that the appeal is conducted appropriately and in accordance with the principles of the disciplinary policy. The appeal panel can adjourn at any time at the request of either of the parties via the Chair of the Appeal Panel.

²⁴ There may be circumstances where this timeframe is not achievable for the parties concerned. Where this is the case the Clerk to Governors will liaise with the parties to arrange a suitable alternative date.

²⁵ This may include details of additional management support and/or expectations of future conduct if applicable

- 1716 Once the Panel have received the information presented to them by all parties within the appeal, asked any appropriate questions and are satisfied that they have sufficient information to reach a decision as to the outcome of the appeal hearing they will adjourn the appeal to reach a decision.
- 1717 Options for the Appeal Panel to consider as an outcome arising from this appeal are:
- take no further action – original outcome from hearing stands.
 - after thoroughly exploring the issues raised at the Appeal the Panel believe it is appropriate to change the previous decision issued at the Hearing²⁶, perhaps on grounds of information not available at the earlier Hearing, the level of sanction given, or inconsistency.
- 1718 Once the Appeal Panel has reached a decision, they will be required to notify all parties of the decision. Where possible it is recommended that this be undertaken on the same day as the appeal hearing and in person. It is acknowledged that after an adjournment to reach a decision it may not be appropriate to ask the parties to wait. Where this occurs alternative arrangements will need to be agreed, with advice from the supporting HR Business Partner regarding the most appropriate way forward.
- 1718 Following the outcome of the appeal hearing, the Chair of the Appeal Panel will be required to draft (in conjunction with the supporting HR Business Partner) a letter to convey to the employee the decision made by the Appeal Panel.
- 1720 This letter will be sent by the Clerk to Governors, on behalf of the Chair of the Appeal Panel, within 5 standard working days following the Appeal Panel's decision being verbally advised to the employee. This letter will note the outcome relating to each allegation/concern appealed against, the rationale behind this decision and, where appropriate any sanction issued.
- 1721 This letter, as well as being sent to the employee and their representative, will be copied at the same time to the Chair of the Hearing Panel, the Appeal Panel Members, as well as their respective HR support.
- 1722 The Chair of the Appeal Panel and the supporting HR Business Partner will be required to update/advise the Headteacher of the agreed outcome/way forward immediately after informing the employee.
- 1723 Where an action plan is required as one of the outcome options, the Chair of the Appeal Panel and supporting HR Business Partner will liaise with the Headteacher (or their designate) regarding the action plan. The responsibility

²⁶ In accordance with the principles of this policy the Appeal Panel do not have the authority to increase the sanction set at the original hearing.

for the delivery of the support/action plan will lie with the Headteacher (or their designate) as appropriate.

- 1724 Where a decision to dismiss is overturned by the appeal, arrangements will be made by the school to reinstate the employee with no loss of continuity of service or pay.
- 1725 The decision of the Appeal Panel is final within this policy and procedure.

Additional Information

Timing and/or Rescheduling

- 1801 The timing and location of any 'Notification Meeting' with the Headteacher (or their designate), any meeting(s) with the Investigating Officer, or subsequent hearing and appeal under this policy & procedure will be reasonable²⁷ and each step in the policy & procedure will be taken without undue delay.
- 1802 The employee must take all reasonable steps to attend any meeting(s), or subsequent hearing and appeal arranged under this policy & procedure.
- 1803 Where an employee is unable to attend the date provided at any stage within the disciplinary procedure, dependent on the individual circumstances the school may consider offering a further date.
- 1804 Where necessary advice may be sought from the Occupational Health provider around fitness to attend.
- 1805 Should the employee have chosen a work colleague or trade union/ professional association representative to support them within this policy & procedure and their chosen work colleague or trade union/professional association representative is not available on the date suggested liaison to arrange a suitable alternative date will take place. Where a suitable alternative cannot be agreed the following will apply:
- for a meeting with the Investigating Officer – consideration may be given by the Investigating Officer and supporting HR Business Partner to the postponement of the planned meeting where this can be held within five standard working days of the date originally proposed.
 - the scheduled Hearing or Appeal - the employee must offer the Clerk to Governors an alternative date²⁸, which is reasonable and which falls on

²⁷ All meetings, hearings and appeals will normally be held during the employee's working day unless otherwise agreed by the employee or their trade union/professional association representative.

²⁸ In accordance with Section 10 of the Employment Relations Act 1999 - the employee must propose a date which is reasonable and which falls on or before the end of the fifth standard working day, after the original Hearing or Appeal date proposed. The timetable for submission of papers will remain as outlined within the initial notification of the proposed hearing/appeal.

or before the end of the fifth standard working day, after the original hearing or appeal date proposed.

- 1806 The employer may be required, in exceptional circumstances, at any stage within the disciplinary procedure, to make a decision on the outcome of the matter based on the information available and without having access to the employee.²⁹

Adjournment/Reconvening

- 1807 Every effort will be made to conclude the hearing and appeal as quickly as possible however the right remains to adjourn and reconvene before communicating the outcome to the employee. Where this is applied appropriate advice of the supporting HR Business Partner will be considered.

Trade Union/Professional Association Officials

- 1808 Although the same disciplinary standards will apply to trade union/professional association representatives as are applied to all other employees, no formal disciplinary action should be taken until a senior trade union/professional association representative (or permanent official) has been informed of the circumstances of the case.
- 1809 Where action is proposed the Link HR Business Partner will be contacted by the Headteacher and informed of the concerns. The Link HR Business Partner will contact the relevant senior trade union/professional association representative (or permanent/external official) to outline the nature of the concern and the next stages as outlined within this policy & procedure.

Witnesses/Other Parties

- 1810 Where adult witnesses/other parties are involved at any stage of the disciplinary policy & procedure they will be advised of the need to:
- Maintain confidentiality throughout the process and thereafter
 - Meet with parties investigating the concerns
 - Sign and date a statement relating to their knowledge of the concerns under investigation as a true record
 - Attend any Hearing/Appeal and discuss the information they have provided in their witness statement if called by either party.
- 1811 Witnesses at a disciplinary hearing/appeal should be aware that:

Where they are employed within a North Tyneside School or the LA³⁰ the responsibility to coordinate the request for release will be undertaken

²⁹ For example – refusal to attend, serving a custodial sentence

³⁰ This will cover any school that have adopted this Disciplinary Policy & Procedure. In cases where it would not be appropriate for the Headteacher to undertake this action an alternative coordinator will be appointed.

by the Clerk to Governors³¹ of the school where the employee under investigation resides. Any requests for witnesses to be called to a hearing/appeal must be reasonable. Advice on this may be obtained from an HR Business Partner that has no previous involvement in the case.

Where they are not employed by a North Tyneside School or the LA it is the responsibility of the witness to request release to attend the Hearing/Appeal via their line manager/employer. Where requested the Clerk to Governors of the school where the employee under investigation resides can provide a letter confirming their request to attend as a witness.

- 1812 It is the responsibility of the Clerk to contact all witnesses as named by either parties, advise them of the requirement to attend the Hearing/Appeal and provide a copy of the witness statement in advance.
- 1813 Witnesses will be called into the Hearing and Appeal on an individual basis and need to be aware that they may be required to wait before and after their attendance.
- 1814 New witness – on the day - where either party wishes to call a witness who was **not** spoken to as part of the investigation and no statement has been submitted, the hearing or appeal will consider this request for submission of new information in line with the principles and purpose of this policy. .

Financial Irregularities

- 1815 Where concerns/allegations relate to potential financial malpractice the Governing Body will liaise with appropriate officers from the LA Audit and Financial Services team. An officer within this team may be in a position to offer technical advice to the Investigating Officer/HR Business Partner or Hearing/Appeal, as well as advice on any appropriate action(s) to be taken outside of this procedure such as referral to the Police.

Criminal Investigation within Employment

- 1816 In the case of matters which need to be referred to the Police, the investigation may, in exceptional circumstances, be carried out simultaneously with the Police investigation. However, in most cases a Police investigation will precede any internal investigation, thus this should only be initiated following discussion with the Link HR Business Partner.
- 1817 Prior to commencing the investigation, the Investigating Officer/HR Business Partner should consult with the Police and Legal Services regarding whether they have objections to proceeding with an investigation under this policy & procedure.

³¹ This is reference to the Clerk to the Governing Body or Clerk appointed (for example this may be a member of the school admin team). It is the responsibility of the School/Governing Body to arrange for appropriate clerking.

Conduct outside Normal Duties

- 1818 Where concerns arise regarding actions outside normal duties, that involve conduct that could prejudice the employment relationship, including (but not limited to) mutual trust and confidence, etc. between the Governing Body and employee, an investigation may be undertaken within this disciplinary procedure.
- 1819 Such actions are likely, though not exclusively, to relate to an offence that if proven would make an employee unsuitable to continue in their work. Where this involves a criminal conviction a determination will need to be made, after considering the facts, whether the matter is sufficiently serious to warrant invoking the disciplinary procedure or any other relevant policy & procedure. However, an employer should not automatically dismiss an employee merely because of the charge or offence or for absence from work as a result of being remanded in custody. Where this occurs the Governing Body will obtain advice from the Link HR Business Partner, to determine whether the employees alleged conduct is such that disciplinary action (up to and including dismissal) or other action is appropriate.
- 1820 Where prevented from attending work due to imprisonment or other custodial sentence, the Governing Body shall, after obtaining advice from the Link HR Business Partner, determine whether the employee's conduct is such that they have repudiated their contract and a process is required to bring the employment to an end.
- 1821 Advice should be sought from the Link HR Business Partner where there are any queries.

Referral of Misconduct Cases

- 1822 Where an employee is dismissed for misconduct or resigns in circumstances that may have led to them being considered for dismissal, the Headteacher would, in conjunction with the Link HR Business Partner, consider referral of the case to the appropriate external body³². The Headteacher in conjunction the Link HR Business Partner, following either a decision to dismiss or following receipt of a resignation will advise the employee of this referral in writing.

Protection of Children, Young People & Vulnerable Adults

- 1823 Where concerns may involve Child Protection issues the Headteacher will refer to

³² Examples being the Teaching Agency (TA), Disclosure and Barring Service (DBS), Local Safeguarding Children's Board (LSCB) – please note that this list is not exhaustive, but provides a flavour of the various external bodies who monitor/advise on the conduct/behaviours of individuals employed to work within the Children's Workforce, National College of teaching and leadership.

the school's policy. This policy recommends that the Local Authority Designated Officer (LADO) should be immediately informed of all concerns. The role of the LADO is to make a decision regarding how the case will be handled and to discuss this with the Headteacher. The LADO will make the decision regarding referral to Local Safeguarding Children's Board (LSCB). The Headteacher will not advise the Employee of the allegation until after the LSCB meeting has taken place and input/guidance as to how the matter will be progressed has been determined.

- 1824 Dependent upon the determination of the LSCB regarding how the case will be progressed this may be under the Schools Child Protection Procedures/LSCB, or under this procedure as necessary. Any child protection investigations in the first instance will be kept separate from the disciplinary policy & procedure.
- 1825 Any investigation by the Police or child protection agencies will take priority over any possible disciplinary investigation. Any disciplinary investigation would normally be held in abeyance until the external investigations have been carried out. This does not mean waiting until the outcome of criminal court proceedings, but advice should be sought from the Link HR Business Partner before progressing the disciplinary investigation in such circumstances.

Disclosure and Barring Service (DBS Checks)

- 1826 Where, through periodic assessment, an employee's DBS check identifies actions that may constitute an issue which would bring their ongoing employment with the school into question, the school HR Service (Schools) will contact the Headteacher to discuss the information obtained and determine an appropriate way forward. In doing so, advice will be given as to whether action should be taken under this disciplinary procedure.

Administration

- 1900 The school will take responsibility for organising an appropriate level of clerical support throughout the process in order to fulfil its obligations under this policy. This role will include the booking of facilities, refreshments, note taking, communicating with all parties and collation and distribution of documentation.

Trade Union and Professional Association Contacts

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| <p>Mr Phil Kemp Honorary Secretary NASUWT c/o Churchill Community College Churchill Street Wallsend NE28 7TN Courier No. E86 Office: 0191 234 7200 ext 306 Mobile: 07879 474 255 pk.nasuwat@btinternet.com</p> | <p>Mr Simon Kennedy Regional Officer NASUWT Regional Centre Witney Way Boldon Colliery Tyne and Wear NE35 9PE Office: 0191 519 5300 Mobile: 07968754428 rc-northeast@mail.nasuwat.org.uk</p> |
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| <p>John Kesterton Regional Officer North East Association of School & College Leaders (ASCL) 3 Hunters Way Dringhouse York YO24 1JL Mobile: 07730529719 Office: 01904709372 mailto:John.Kesterton@ascl.org.uk</p> | <p>Debbie Lydon Branch Secretary UNISON Suite 309 Cobalt Business Exchange Cobalt Business Park Cobalt Park Way North Tyneside NE28 9NZ Courier No. D100 Office: 0191 643 8954 debbie.lydon@northtyneside.gov.uk</p> |

Examples of unacceptable conduct/behaviour

| Misconduct (Disciplinary Sanctions up to and including Dismissal with Notice) | Gross Misconduct (Disciplinary Sanctions up to and including Dismissal without Notice) |
|--|--|
| <p>May be described as conduct, which initially requires disciplinary action other than dismissal. If further misconduct takes place, dismissal may ultimately be an appropriate sanction.</p> <p>Such acts constituting misconduct are those resulting in a breach of contractual terms and are best described by the organisation in light of their own particular circumstances. It will often relate to an initial instance that is not serious enough to warrant gross misconduct, or a continuation of unacceptable conduct/behaviour that warrants action. In such instances the ongoing unacceptable conduct/behaviour may result in a warning or a series of warnings being issued. Areas for consideration may also include previous conduct/behaviour including frequency/patterns.</p> <p>Noted below are some examples of what misconduct might include. However, it is important to note that this is a non-exhaustive list:</p> | <p>Is generally considered to be misconduct serious enough to destroy the contract between employer and employee, and irretrievably break down the working relationship and trust between them.</p> <p>Such acts constituting gross misconduct are those resulting in a serious breach of contractual terms and are best described by the organisation in light of their own particular circumstances. It is likely to be a single act of serious misconduct, being a one-off/stand alone incident, which on its own brings the ongoing employment relationship into question. In such instances dismissal without notice may occur.</p> <p>Noted below are some examples of what gross misconduct might include. However, it is important to note that this is a non-exhaustive list:</p> |
| <p>Unsatisfactory attendance and/or timekeeping and/or unauthorised absence. Insubordination or refusal to carry out reasonable requests. Failure to take reasonable care of the employers' property, goods etc. Unacceptable standard of behaviour towards others whilst carrying out duties. Misuse of the employer's property or name. Minor breaches of Health & Safety Regulations. Unauthorised use of employer facilities. Failure to adhere to the employee's code of conduct. Unsatisfactory work performance.</p> | <p>Serious insubordination or refusal to carry out reasonable requests. Thefts, fraud, deliberate falsification of records or any act of dishonesty. Deliberate and/or major damage to property. Serious misuse of organisation's property or name. Any act or attempted act of physical violence or abusive behaviour towards people or property. Academic misconduct – such as maladministration of tests or falsification of data. Bullying or harassment. Unlawful discrimination. Serious child protection infringements. Sexual offences and sexual misconduct whilst at work. Non-compliance with the acceptable use of communication systems policy and the computer security policy including IT and Internet. Major breach of company rules, policies and procedures. Bringing the employer into serious disrepute. Serious incapability whilst on duty brought on by alcohol or drugs. Causing loss, damage or injury through serious negligence. Serious breach of confidence. Serious infringement of Health & Safety Regulations. Failure to maintain membership/registration of the appropriate professional bodies required for the role.</p> |

The above lists are neither exclusive nor exhaustive. They are provided to give examples of the kind of conduct/behaviour that may be deemed as inappropriate. This will not preclude the possibility of disciplinary action being undertaken for other similar/associated matters.

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Supportive Action Plan - Example

Employee name: xxxxxxxxxxxxxxxxxxxxxxxxxxxx

Manager name: xxxxxxxxxxxxxxxxxxxxxxxxxxxx

Date plan set: 29/2/16:

Date plan ends: 27/5/16

This action plan is deemed necessary due to: Failure to follow school procedures for signing arrangements and unacceptable pattern of arriving late for work on Mondays.

| In what area(s) is the employee below the required standards? | How is the employee below the required standards? | What action is needed to improve? | How will improvement be measured? | What support will be given to assist improvement and who will have responsibility for providing this? | When and how will improvement be reviewed? | What are the timescales for improvement and when will the final review meeting be held? |
|---|--|--|---|--|--|---|
| Timekeeping | Arrived late for work by 20 minutes on 4 Mondays over Spring ½ term (4/1, 18/1, 1/2, 22/2) | Attend work on time in order to be available to support pupils at commencement of their school day | Line manager to monitor the timetable is being observed and pupils receive timely support | Discussion around working hours– start / finish times with line manager to establish if there are any circumstances school should be aware of. | Over next ½ term (11/4/16-27/5) | Immediate improvement required and sustained |
| School procedures | Not completing the staff signing in sheet on four occasions (dates above) | On every occasion sign into the building even if arriving late. | Regular monitoring of the sheets | Clear instruction given and explanation that there are no circumstances where signing in or out procedures should not be followed | Over next 1/2 term (dates) | Immediate improvement required and sustained |

Employee's signature:

Date:

Manager's signature:

Date: