

CATHOLIC EDUCATION SERVICE
MODEL DISCIPLINARY PROCEDURE (All Workers at the school)
FOR SCHOOLS WITH DELEGATED BUDGETS (2004)

1. SCOPE

- 1.1 This Procedure will be used in all cases where misconduct or omission is such to warrant disciplinary action
- 1.2 Since September 2003, regulations¹ made under the Education Act 2002² have given greater powers to Governing Bodies to delegate their powers, including their power to dismiss staff, to Headteachers if they so wish. Consequently, Governing Bodies must have regard in applying the Disciplinary Procedure to guidance issued by the Secretary of State in relation to these powers and other matters relating to the Regulations: *Staffing Guidance issued under s35(8) and s36(8) of the Education Act 2002*. This guidance is freely available from the Department for Education and Skills or via www.dfes.gov.uk

Notwithstanding the new powers within the Regulations, the Catholic Education Service strongly recommends that Governing Bodies continue to exercise their functions in relation to staff appointment and dismissal and to retain a proper degree of control as employers of staff and, in the case of foundation governors, representatives of the local Ordinary within the school, in full consultation with Diocesan and LEA advisers and this Procedure reflects this advice. This possibility is permitted by the guidance for schools with a religious character.

- 1.3 This Procedure shall apply equally to Headteachers as it applies to other Workers³. Where the Headteacher is the subject of disciplinary action, the role of the Headteacher under this Procedure shall be taken by the Chair of Governors or another suitable person appointed by the Governing Body (“the Appointed Person”).
- 1.4 "The Appointed Person" is a substitute for the Chair of Governors. There may be occasions where the Chair should not be involved, for example, because there is a possible conflict of interest where the Chair is also the Headteacher's parish priest and pastor. In such circumstances, therefore, a person may be appointed by the Governing Body to act on its behalf after consulting with the Diocesan Schools' Commissioner⁴/Officer and a representative of the trade union to which the Headteacher belongs. In selecting an 'Appointed Person', the Governing Body should be mindful of the need for both educational (particularly in terms of school management) and human resources expertise. The 'Appointed Person' may be another member of the Governing

¹ The School Staffing (England) Regulations 2003 S.I. 2003/1963

² Section 36(8) Education Act 2002

³ "Worker" throughout this Procedure means a teacher or other member of staff employed by the Governing Body or engaged otherwise than under a contract of employment.

⁴ "Diocesan Schools' Commissioner" throughout this Procedure means the Diocesan Director of Education or Schools.

Body or a member of the Diocesan Schools' Commission⁵ ("DSC").

- 1.5 The term "misconduct" in this Procedure covers instances of misconduct or omission, which may be reasonably attributed to wilful or negligent acts or omissions on the part of a Worker. Examples of the types of acts and omissions, which might be considered under this Procedure, are listed in Appendix 1. These examples are not intended to be exhaustive and advice should be taken from the DSC and Local Education Authority ("LEA") Human Resources Department as necessary.

2. MATTERS OUTSIDE THE SCOPE OF THIS PROCEDURE

- 2.1 This Procedure does not apply where employment is terminated by reason of redundancy or incapability arising from ill-health.
- 2.2 Where any deficiencies in performance on the part of the Worker arise from a lack of aptitude or skill, rather than any wilful or negligent failure to carry out his/her duties, the Capability Procedure should be used.
- 2.3 The normal management of Workers and associated processes such as the performance review are outside the scope of this Procedure.

3. PRELIMINARY MATTERS

- 3.1 Disciplinary proceedings shall not be affected or interrupted by the Worker who is subject to the Procedure invoking the Grievance Procedure.
- 3.2 On occasion, Workers may be on sick leave either at the outset of a disciplinary investigation or as it progresses. Each case must be dealt with on its merits and advice should be sought from Diocesan and LEA officers as to how to progress in these circumstances.
- 3.3 In addition to seeking advice and assistance from the DSC before beginning disciplinary proceedings, Headteachers and governors are advised to invite a representative of the DSC and/or as appropriate, the Diocesan Director of Religious Education and the appropriate LEA officer to any meetings held in accordance with this Procedure. Where Disciplinary Procedures could lead to the dismissal of a teacher and advisory rights have been accorded by the Governing Body, the Chief Education Officer ("CEO")⁶ (through his representative officers) and appropriate Diocesan Officer, must be consulted and permitted to give advice. It is strongly recommended that advisory rights are always accorded to both the LEA and DSC for dismissal proceedings for all teachers, including the Headteacher and senior management team.
- 3.4 At all meetings held under the terms of this Procedure, except for those under the

⁵ "Diocesan Schools' Commission" ("DSC") throughout this Procedure means the Diocesan Department for Education or Schools.

⁶ Throughout this Procedure, "Chief Education Officer" means the Chief Education Officer of the school's maintaining Local Education Authority or his/her representative officer(s). Schools will normally liaise with senior LEA Human Resources Officers on personnel matters.

informal procedure, Workers shall be entitled to be accompanied by a colleague or trade union representative.

- 3.5 The Worker has a statutory right to propose an alternative date, if his/her chosen companion would not be available for a proposed hearing date, provided that the alternative is reasonable and no more than five working days after the date proposed by the Governing Body. The Governing Body must postpone the hearing to such a later date if so requested.
- 3.6 The Governing Body should establish a Staff Disciplinary Committee with delegated powers, consisting of three Governors, for the purpose of hearing any disciplinary cases referred to it for consideration and any appeals against disciplinary decisions taken by the Headteacher.
- 3.7 Appeals against decisions of the Staff Disciplinary Committee must be heard by a Staff Appeal Committee consisting of at least three Governors, who shall not include those members previously involved in the Staff Disciplinary Committee nor, wherever possible, any Governor currently employed at the school.

4. CONDUCT OUTSIDE NORMAL DUTIES

- 4.1 Circumstances or allegations may arise outside a Worker's normal duties, which raise doubts as to whether the Worker can fulfil his or her responsibilities satisfactorily. If the concern is about conduct which prejudices that relationship of trust and confidence between Governing Body and Worker required by the post, it will be appropriate for such matters to be investigated and considered within the Disciplinary Procedure. If the Headteacher is the subject of the allegation the initial investigation should be led by the Chair of Governors or the "Appointed Person" with appropriate LEA and Diocesan advice before the Governing Body are advised to proceed in accordance with this Procedure.
 - 4.2.1 If the matter under consideration relates to religious education at the school or may have an impact on its delivery it is strongly recommended that a representative of the DSC *and* representative of the Diocesan Director of Religious Education should be invited to attend any meeting of the Staff Disciplinary Committee and the Staff Appeal Committee for the purposes of giving advice.
 - 4.2.2 Where the matter concerns the religious character of the school, the Governing Body with the DSC should consider whether the attendance of a representative of the Diocesan Director of Religious Education is also advisable.

5. INFORMAL PROCEDURE

- 5.1 There will be occasions at work when it is appropriate for the Headteacher or other line manager to raise concerns about a Worker's performance or conduct with him or her as part of normal management procedure. This provides an opportunity for the Headteacher or line manager to explain the standard of conduct (including wilful underperformance) expected of the Worker without entering into formal Disciplinary Procedure. In the

majority of cases such discussions will make disciplinary action unnecessary.

- 5.2 Where discussions in the normal course of management do not bring about any required change or improvement, the Worker must be advised that the next step could be referral to the formal Disciplinary Procedure and a memorandum acknowledging the steps to be taken may be issued.
- 5.3 The Headteacher may impose an oral or written warning to the Worker without referral to the formal Disciplinary Procedure. In the case of a Headteacher's misconduct the Chair of Governors or Appointed Person may impose an oral or written warning without referral to the formal Disciplinary Procedure.
- 5.4 If the alleged misconduct is sufficiently serious, a single instance may warrant immediate referral to the formal Disciplinary Procedure.

6. INVESTIGATION

- 6.1 If normal management processes have not brought about the required changes in behaviour or performance, the Worker should be referred to the formal Disciplinary Procedure.
- 6.2 In order to establish the facts, it will normally be necessary for the Governing Body or Headteacher to conduct or commission an investigation. During the investigation which should be carried out by the Headteacher or if the Headteacher is the subject of the investigation then the Chair of Governors or, if appropriate, an Appointed Person ("the Investigating Officer"), the following principles shall apply:
 - A Worker who is the subject of investigation may be accompanied at any interview or similar investigatory meeting by a trade union representative or colleague;
 - The Worker and any witnesses who make statements during the course of any investigation will be provided promptly with a copy of any written statement of evidence that s/he has made;
 - No disciplinary action shall be taken against any representative of a trade union until the case has been discussed with a full-time official of the trade union concerned. This should be done without delay.
- 6.3 If it is necessary for the Headteacher or Governing Body to suspend a Worker (see Appendix 3) while an investigation is carried out into the situation giving rise to concern, s/he must immediately inform the Chair of Governors (or, as the case may be, Headteacher), the DSC and the CEO of the action taken.

If it is necessary to suspend the Headteacher this must be done by the Chair of Governors following consultation with the Diocesan School Commissioner/Officer. S/he must immediately inform the CEO.

If it is evident that the allegations under investigation are so serious that they would amount to gross misconduct if substantiated (see Appendix 1), the Worker will normally be suspended during any investigation. Such a suspension does not constitute disciplinary action. If it is necessary to suspend a Worker during investigations this will be at full pay. Suspension will not be unnecessarily protracted. A suspension⁷ may only be ended by the Governing Body. At the conclusion of the investigation, the case must be dismissed or a disciplinary hearing will be convened.

7. DISCIPLINARY HEARING

7.1 Preliminary

7.1.1 The Chair of the Staff Disciplinary Committee or the Headteacher, may conduct the hearing. The evidence against the Worker shall usually be presented by the Investigating Officer.

In the case of a Headteacher, the Chair of Governors, the Appointed Person or the Chair of the Staff Disciplinary Committee shall conduct the hearing. In any case where an Appointed Person has been used at an earlier stage of the Procedure, the Governing Body should request he or she conduct the hearing.

7.1.2 Where it is proposed to hold a disciplinary hearing, the Worker shall be informed in writing of:-

- (a) the nature of the alleged misconduct and, where applicable, the warning stage which the Worker has already reached;
- (b) the date, time and place of the hearing;
- (c) their statutory right to be accompanied by a friend, who may be a representative of their trade union;
- (d) their statutory right to produce written statements and invite witnesses to give evidence on his/her behalf (any written statements will be circulated to the parties and to those hearing the case normally five days in advance of the hearing).

[See sample letter at Appendix 4]

7.1.3 Notice of the hearing shall be delivered to the Worker by hand wherever possible. Where hand delivery is not possible, the letter should be sent by guaranteed and recorded next day delivery.

7.1.4 At least five school working days before the meeting, the Worker shall provide the Investigating Officer with any written evidence s/he wishes to submit together with the names of any persons s/he intends to call to provide evidence on his/her behalf.

7.1.5 A hearing will not normally be held in the absence of the Worker, except by mutual agreement, unless s/he fails to attend a hearing without reasonable cause or is otherwise constrained from attending (for example, s/he is held in custody). The date of the hearing

⁷ Regulation 25 of the School Staffing (England) Regulations 2003 S.I. 2003/1963

will be postponed by up to five working days on request if the Worker's representative is unable to attend on the specified date.

- 7.1.6 No warning that has expired, in accordance with the terms upon which it was given to the Worker, may be considered during any disciplinary interview or hearing.
- 7.1.7 The Staff Disciplinary Committee hearing the case may make a determination that is within their delegated powers. The determination will be confirmed in writing within seven calendar days. The Worker will be informed whether or not the allegations have been upheld. If the allegations are upheld, in full or in part, the findings and the decision will be confirmed in terms of:
- (a) the nature of the misconduct;
 - (b) the sanction that has been imposed, *for example, a reminder of expectation of conduct, a first or final warning or a determination that the Worker shall be dismissed;*
 - (c) how to appeal against the decision and/or any disciplinary sanction, the length of time within which an appeal must be lodged, and to whom it should be addressed;
 - (d) what improvement is expected for the future;
 - (e) any other information in respect of the improvement required for example, any review of arrangements, and whom the Worker should contact for assistance; any support to be given to the Worker;
 - (f) what might happen if conduct does not improve and what further sanction might be imposed.

[See sample letter at Appendix 4]

7.2 Procedure at Formal Hearing

- 7.2.1 The Worker, the Headteacher and Appointed Person (where appropriate) are entitled to be present at all times except when any matter falls solely to the Staff Disciplinary Committee to consider.
- 7.2.2 All parties may be accompanied by a representative and if they so wish a scribe and all references to the Worker, the Headteacher and Appointed Person (where appropriate) shall be taken to include their representatives.
- 7.2.3 The Chair of the Committee will invite the Headteacher or Appointed Person (where appropriate) and the Worker in that order to make submissions to the meeting and invite cross examination.
- 7.2.4 The introduction of relevant additional documentary evidence will be allowed and the Chair of the Committee will allow proper time for the receiving party and the Committee to read and consider the evidence.
- 7.2.5 The Headteacher or Appointed Person (where appropriate) and the Worker in that order

will have the right to call witnesses who will be available for questioning by the Headteacher or Appointed Person (where appropriate), the Worker and the Committee.

- 7.2.6 The Chair of the Committee will invite Governors to ask questions of the Worker, Headteacher or Appointed Person (where appropriate) and their witnesses and any of them.
- 7.2.7 Witnesses will only remain in the meeting for so long as they are giving evidence or being questioned.
- 7.2.8 The Headteacher or Appointed Person (where appropriate) and the Worker in that order will have the right to make a final or closing statement to the Committee.
- 7.2.9 An LEA and/or Diocesan Officer should be invited to be present to advise the Committee.
- 7.2.10 All other parties to the hearing will then withdraw and the committee will consider the allegations and reach a decision. Any Diocesan or LEA officer present will provide advice as requested to assist the Committee but will not be entitled to any vote or have any role in the making of the decision.
- 7.2.11 The Clerk to the Governors if present should take no part in the proceedings but will remain with the Committee to provide procedural advice – he shall also make available any notes taken of the evidence and will record the Committee’s decision.
- 7.2.12 If the Committee decides that further questions need to be asked or clarifications required the full meeting will be resumed.
- 7.2.13 The Clerk to the Governors will document the proceedings of the meeting and will confirm the decision in writing to the Headteacher or Appointed Person (where appropriate), the Worker, their representatives and the Chair of the Committee who heard the case within 3 working days of the conclusion of any meeting. The Clerk to the Governors will indicate the rights of appeal and the procedures for exercising those rights in the letter.
- 7.2.14 Where the Clerk to the Governors is not present the Clerking function will be carried out by a member of the Committee or an agreed alternative. The Clerk should be present in all but exceptional circumstances.

8. SANCTIONS: WARNINGS AND DISMISSAL

- 8.1 Unless the circumstances are exceptional, for example, gross misconduct, no Worker should be dismissed without first having received at least one written warning and having had the opportunity to improve his/her conduct or performance.
- 8.2 Written warnings will normally remain in force for a period of not more than 12 months. In exceptional cases, the Staff Disciplinary Committee may make a determination that

the warning will stay in force for a longer period. This may be appropriate where there is a history of repeated breaches of the same or similar disciplinary rules, or where the misconduct is serious enough that the Staff Disciplinary Committee hearing the case could consider dismissal as a possible sanction.

8.3 The time that formal warnings should remain on record are as follows:

oral warning - two full terms after the issue of the warning

written warning - three full terms after the issue of the warning

final written warning - six full terms after the issue of the warning.

8.4 In addition to any disciplinary sanction, the Governing Body may, in appropriate circumstances, take action to recover monies or property legitimately due to it. In the case of teachers, certain types of misconduct are reportable to the General Teaching Council. Cases involving misconduct towards children or young people must also be reported as required to the Department for Education and Skills.

8.5 **Formal Warnings**

8.5.1 Where a Worker's misconduct is such as to warrant a formal warning, an oral warning will normally be the appropriate sanction where there is no previous warning current. Such an oral warning must be confirmed in writing.

8.5.2 Where a previous warning is current or where the matter is sufficiently serious to warrant the imposition of a stronger sanction, written warning may be given.

8.6 **Final Warning**

8.6.1 Where a first written warning is current any further misconduct during the currency of that warning will normally lead to a final written warning being issued. A final written warning may also be issued in circumstances where a Worker is shown to have committed serious misconduct, omission, or failure in performance short of gross misconduct. It may also be appropriate where dismissal would be a reasonable sanction, but the Staff Disciplinary Committee has good reason to believe that a warning will prove to be effective. A final written warning will contain a clear indication that any further disciplinary offence during the currency of the warning will normally, if substantiated at a hearing, result in dismissal without further warning.

8.6.2 A final written warning may be imposed by the Headteacher or Staff Disciplinary Committee. If there is a possibility the Worker may be dismissed the matter must go to the Staff Disciplinary Committee. Similarly, where there is no prospect of dismissal, the Chair of Governors or Appointed Person may impose a final written warning on the Headteacher.

8.7 **Dismissal**

- 8.7.1 Dismissal is not normally appropriate for a first offence. If further allegations of misconduct are brought while a final written warning is current, the committee hearing the case will normally determine that the Worker shall be dismissed, unless there are strong mitigating circumstances. The seriousness of the conduct giving rise to both the warning and subsequent disciplinary action will, of course, be material considerations.
- 8.7.2 If the allegations against the Worker are so serious that they would constitute gross misconduct (see Appendix 1), the Staff Disciplinary Committee may determine that the Worker shall be dismissed, even where no disciplinary warning is current.
- 8.7.3 Where the Worker's misconduct is not such as to constitute gross misconduct, but has, nevertheless, led to a fundamental breakdown of mutual trust and confidence such that it would be impossible or impractical to continue his/her employment, the Staff Disciplinary Committee may determine at the conclusion of the hearing that the Worker shall cease to work at the school. In such case, subject to the outcome of any appeal, the Governing Body will dismiss the Worker with due notice. Such a case would be exceptional.
- 8.7.4 A decision that a Worker shall be dismissed from the school may only be taken by an appropriate committee empowered to do so under the School Government Regulations in force at the time. The Chief Education Officer and Diocesan Schools Commissioner/Officer are entitled to attend any meeting of a Governing Body or its committees which may determine that a Worker shall be dismissed from the school.
- 8.7.5 Any appeal lodged by a Worker against a determination that s/he shall cease to work at the school must be decided before the Governing Body dismiss the Worker.

9 APPEALS

- 9.1 The Worker shall be entitled to appeal against any disciplinary sanction.
- Where the sanction was imposed by the Headteacher, the appeal shall be to the Staff Disciplinary Committee of the Governing Body.
 - Where the sanction has been imposed by the Staff Disciplinary Committee, the appeal will be to the Staff Appeal Committee, consisting of no fewer than three Governors who shall not include those Governors previously involved. . However such an appeal shall not be a re-hearing of the original Staff Appeal Committee proceedings.
- 9.2 A Worker who wishes to appeal against a disciplinary sanction must submit a written statement of appeal, indicating the grounds of appeal, within 14 days of the date of the written notification of that sanction, as directed in the letter of notification.
- 9.3 The main grounds for an appeal are likely to be:
- (a) if the Worker wishes to contest the finding and/or the disciplinary sanction;
 - (b) if new relevant evidence not available to the original hearing becomes available;

- (c) if there is an alleged lack of fairness in the original hearing;
- (d) if there is an allegation that Procedures were not followed correctly.

9.4 The Procedure for the conduct of an appeal is set out in Appendix 2. A Staff Appeal Committee may:

- (a) uphold the original finding and sanction;
- (b) uphold the original finding but modify the sanction (only in the most exceptional case will the severity of the sanction be increased);
- (c) not uphold the finding and therefore remove the sanction.

The decision of the Staff Appeal Committee shall be final.

9.5 If as a result of an appeal or any other review, a disciplinary complaint against a Worker is withdrawn, or is found to have been mistakenly initiated, any record of that action will be removed from the Worker's personnel file and destroyed.

10 ADVICE AND SUPPORT TO WORKERS

10.1 In most cases Workers subject to allegations or complaints being dealt with under this Procedure will seek the advice and support of their trade union. However, Workers may address questions about how the Procedure will work, the conduct of investigations or hearings, or other related matters to the Headteacher in the first instance or, if the query regards the actions of the Headteacher, to the Chair of Governors.

10.2 In cases where the investigation is prolonged, and especially where the Worker is suspended from duty, pending investigations, it will normally be appropriate to make arrangements to keep the Worker informed of developments and to offer support. This should be arranged through an appropriate member of the Governing Body or senior management team, a representative of the Diocesan Schools Commissioner/Officer or an officer of the LEA. This individual would not normally be involved in the investigation or procedure in any other way. The name of a nominated individual should be notified to the Worker.

10.3 If a Worker wishes to raise a grievance about the conduct of a disciplinary case, at any stage before a disciplinary hearing is convened, this should be addressed in writing to the Chair of Governors of the school. The Chair of Governors will decide what action should be taken and his/her decision in this matter will be final. If action taken by the Chair of Governors is the subject of the grievance, s/he will delegate the matter to the Vice Chair of Governors for consideration and decision. Any complaints made after a hearing has been convened or during the course of a hearing should be dealt with by the individual or committee hearing the case and/or as part of any appeal process.

Appendix 1

Definitions of Misconduct and Gross Misconduct

The following is not an exhaustive list but intends to provide examples of behaviour that may constitute misconduct and gross misconduct under this Procedure. Each case must be considered in the light of its particular facts and circumstances.

Where gross misconduct is alleged, Headteachers and governors should always seek the advice of their DSC and LEA.

Gross misconduct means one or more acts or omissions that fundamentally repudiate the contract of employment. It may justify summary dismissal unless there are extenuating circumstances. It may include but is not limited to:

- Conduct on the part of a teacher or Worker which is incompatible with the precepts, or with the upholding of the tenets, of the Catholic Church;
- Abusive, threatening or offensive behaviour or language;
- Child abuse or other conduct giving rise to child protection issues;
- Unlawful discrimination;
- Serious dishonesty, including theft or unauthorised possession of any property belonging to the school or any Worker, fraud, failure to disclose criminal convictions, falsification of information during the recruitment process;
- Deliberate refusal to carry out a reasonable, lawful and safe instruction;
- Gross negligence in failing to attend to or to carry out the duties of the post;
- Being drunk or under the influence of alcohol during working hours;
- Being under the influence of drugs during working hours, other than in accordance with medical advice;
- Illegal drugs in the Worker's possession, custody or control on the school's premises;
- Violence or vandalism;
- Sexual, racial or other harassment or victimisation;
- Sexual misconduct;
- Internet or email abuse;
- Serious damage to school property;
- Falsification of reports, accounts, expense claims or self-certification forms;
- Conviction on a criminal charge relevant to the Worker's position in the school;
- Bringing the school into disrepute.

Misconduct means one or more acts or omissions that fundamentally repudiate the contract of employment. It may include but is not limited to:

- Absenteeism and/or poor timekeeping;
- Dishonesty and petty wrongs, breach of school rules or regulations;
- Wilful neglect of duty, such as negligent use of school property;
- Deliberate unauthorised disclosure of information classified as confidential (not including action taken under the school's Whistleblowing Procedure).

Appendix 2

Appeals Procedure

Where the Worker is not satisfied with the manner in which the disciplinary action has been conducted or with the outcome of any hearing, s/he has a right of appeal. Where the sanction was imposed by the Headteacher, Chair of Governors or Appointed Person the appeal shall be to the Staff Disciplinary Committee. Where the sanction has been imposed by the Staff Disciplinary Committee, the appeal will be to the Staff Appeal Committee, consisting of no fewer than three Governors who shall not include those Governors previously involved.

The Worker should submit his/her Notice of Appeal, stating the grounds on which s/he is appealing, to the Clerk to the Governors within 14 working days of receiving written confirmation of the decision. The Clerk to the Governors will forward all papers previously considered by the Headteacher or Staff Disciplinary Committee to the appropriate Staff Appeal Committee.

A meeting of the Staff Appeal Committee should be called within 10 working days of receipt by the Clerk to the Governors of the Notice of Appeal, and should normally take place within a further 10 school working days. To avoid excessive delay (for instance, where an appeal is lodged shortly before the beginning of the summer vacation), the parties may agree to proceed with the Appeal on shorter notice or on a day on which the school is closed. No detriment or prejudice shall be inferred by the refusal by one party to agree to such short notice or accelerated timetable.

A Diocesan and/or LEA Officer should be invited to be present to advise the Staff Appeal Committee.

Procedure at appeal Hearing

1. The Worker, the Headteacher and Appointed Person (where appropriate) are entitled to be present at all times except when any matter falls solely to the Staff Disciplinary Committee to consider.
2. All parties may be accompanied by a representative and if they so wish a scribe and all references to the Worker, the Headteacher and Appointed Person (where appropriate) shall be taken to include their representatives.
3. The Chair of the Staff Appeal Committee will invite the Worker and the Headteacher or Appointed Person (where appropriate) in that order to make submissions to the meeting and invite cross examination.
4. The introduction of any relevant additional documentary evidence will at the discretion of the Chair of the Committee be allowed and if so allowed the Chair of the Committee will allow proper time for the receiving party and the Committee to read and consider the evidence.

5. The Worker and the Headteacher or Appointed Person (where appropriate) in that order will have the right to call witnesses who will be available for questioning by the Worker, the Headteacher or Appointed Person (where appropriate) and the Committee.
6. The Chair of the Committee will invite Governors to ask questions of the Worker, Headteacher or Appointed Person (where appropriate) and their witnesses and any of them.
7. Witnesses will only remain in the meeting for so long as they are giving evidence or being questioned.
8. The Worker and the Headteacher or Appointed Person (where appropriate) in that order will have the right to make a final or closing statement to the Committee.
9. An LEA and/or Diocesan Officer should be invited to be present to advise the Committee.
10. All other parties to the hearing will then withdraw and the Committee will consider the matter and reach a decision. Any Diocesan or LEA officer present will provide advice as requested to assist the Committee but will not be entitled to any vote or have any role in the making of the decision.
11. The Clerk to the Governors if present should take no part in the proceedings but will remain with the Committee to provide procedural advice – he shall also make available any notes taken of the evidence and will record the Committee’s decision.
12. If the Committee decides that further questions need to be asked or clarifications required the full meeting will be resumed.
13. The Clerk to the Governors will document the proceedings of the meeting and will convey the decision orally to both parties and confirm the decision in writing within five working days to the Headteacher or Appointed Person (where appropriate), the Worker, their representatives. .
14. Where the Clerk to the Governors is not present the Clerking function will be carried out by a member of the Committee or an agreed alternative. The Clerk should be present in all but exceptional circumstances.

The decision of the Staff Appeal Committee will be final and no further rights of appeal or hearing will be allowed under this Procedure.

NB Governors should be aware of the possible perception that one Committee may be unlikely to overturn the decision of another Committee.

Appendix 3

Suspension

The purpose of suspension from duty is to allow an allegation of a serious disciplinary matter to be investigated. It is not a punishment or pre-judgement of matters under consideration.

Suspension from duty for misconduct should only be considered in exceptional cases where there is a significant risk to the interests or safety of the Worker or pupils. The Procedure should follow that laid down in the School Staffing (England) Regulations 2003⁸. Such suspension shall be on full pay without loss of emoluments and for as short a period of time as is practicable. Suspension shall be followed by consideration of the matter leading to it, in accordance with the Disciplinary Procedure. Suspension should be reviewed every 20 working days. Only the Governing Body can end a period of suspension.

Headteachers or Governing Bodies considering suspending a Worker should first seek advice from the Diocesan Schools Commissioner/Officer and LEA. If the decision to suspend is taken, both the Diocesan Schools Commissioner/Officer and the CEO should be informed immediately.

A Worker will only be suspended without a meeting to discuss the proposed suspension being held with the teacher and a representative from his or her trade union (where the Worker wishes to be represented) in rare circumstances for instance, that witnesses will be intimidated, crucial evidence could be tampered with or destroyed or that pupils could be at risk. Where it is necessary to move too quickly to allow a meeting and representation to be arranged, the Diocesan Schools Commissioner/Officer and LEA should be consulted before the Worker is suspended in line with normal suspension procedure.

⁸ S.I. 2003/1963

Appendix 4
Sample Letters

1. Letter to Worker advising of Disciplinary hearing.

Dear *[Name]*

Disciplinary Action Against You

I am writing to advise you that as a result of my investigation into allegations that *[set out summary details of the Worker's alleged misconduct]*, your attendance is required at a formal disciplinary hearing.

The hearing will take place on *[date]* at *[place]* at *[time]* am/pm. It will be conducted by *[Headteacher/Senior Manager/Committee of the Governing Body]*.

You have the right to be accompanied by a friend, who may be a representative of your trade union or professional association. If your chosen representative is unable to attend the hearing at the time given above, you may propose another date and time for the meeting to take place to me. Any such alternative date must be on or before *[date of the fifth working day after the proposed meeting date]*.

You also have the right to produce written statements and to invite witnesses to give evidence in support of your case. You should ensure that copies of any written statements upon which you wish to rely at the hearing are given to me 5 days before the hearing, together with the names of any witnesses that will be attending on your behalf.

[Finally, I wish to remind you that you are already subject to [an oral] [a first/final] written warning.]

If there is any aspect of this letter or of the Disciplinary Procedure to the extent that it applies to you that you do not understand, please contact me.

Yours sincerely

[Headteacher]

[In the case of disciplinary action against a Headteacher, the letter should be sent by the Chair of Governors or Appointed Person, as appropriate].

2. Suspension pending Disciplinary investigation

Dear *[Name]*,

In accordance with the Disciplinary Procedure and following our conversation of *[date]*, I confirm that you are suspended on full pay pending the current investigation into the gross misconduct *[allegation – details]*. Once the investigation is complete, I will contact you further to arrange a meeting.

You are requested to remain at home and available should I need to contact you. I would ask that, at this stage, you do not contact any of your work colleagues.

In the meantime, should you have any information which might be of assistance to our investigation or you wish to discuss anything, please contact me, and if I am not available, contact *[Name]*.

Yours sincerely,

[Chair of Governors / Headteacher]

3. Letter to Worker advising of the outcome of a Disciplinary hearing

Dear *[Name]*

Disciplinary Action Against You

Following the disciplinary hearing against you on *[date]*, I write to confirm that *[I/the Committee]* has determined that

[the allegations against you have not been proven and no further action will be taken].

[the allegations against you have been upheld in full].

[the following allegations [give details] have been upheld against you but [I/the Committee concluded that allegations that you [give details] where not proven].

As a result of *[my/the Committee's]* decision that you *[give details of misconduct]*, *[I/the Committee]* has decided that

[you should receive a first/final written warning, and this letter constitutes notice of the same].

[you are to be dismissed and your employment terminated with effect from [date]].

[no formal action will be taken on this occasion but I/the Committee requires you to (details of standard of Conduct required) and remind[s] you that failure to maintain such standards may result in further disciplinary action being taken against you].

The warning will remain on your record for *[two/three/six]* full terms from this date.

You have the right to appeal against this decision in accordance with section 9 and Appendix 2 of the Disciplinary Procedure. If you wish to appeal, you must submit a written statement of appeal to the Clerk of the Governing Body by *[date 15 days after date of this letter]*. Any appeal will be heard by *[Staff Disciplinary Committee/Staff Appeal Committee]*.

[Set out details of improvement expected of Worker, if applicable]. To assist and support you in attaining these standards *[details of support structures]*. Your progress will be reviewed at the meeting *[with the Headteacher/your Line Manager (Name)]* in *[x]* week's time.

[If you fail to reach the required standards, further disciplinary action may be taken against you, which could lead to a final written warning be issued or your dismissal without further warning].

If there is any aspect of this letter you do not understand or on which you require further clarification, please contact me.

Yours sincerely

[Headteacher/Chair of Governors]

4. Letter to Headteacher from Chair of Governors requesting their attendance at an informal meeting

Dear *[Name]*

Allegation of Misconduct

An allegation of an act of misconduct by you has been brought to my attention *[today]*.

The allegation is that you *(give broad details of the category of the misconduct - see notes for guidance in Appendix 1 of the Disciplinary Procedure)* at *(insert name of school)* Catholic Primary/Secondary School on or about

The details of the allegation are set out in the attached letter/document.

I am inviting you to attend an informal meeting with me under section 5 of that Procedure at on

The meeting is intended to clarify the situation and for me to determine whether the matter can be resolved without any further action or if there is a potentially serious matter that needs

to be dealt with in a formal manner.

I enclose a copy of the school's Disciplinary Procedure for your information.

Please acknowledge receipt of this letter and of your intention to attend the meeting at the date and time specified in writing by [*Insert an appropriate date by which confirmation of receipt etc must be received*].

Yours sincerely

Chair of Governors
..... Catholic Primary/Secondary School

Encl: Disciplinary Procedure & Copy Letter

5. Letter to Headteacher from Chair of Governors (or Appointed Person) requesting their attendance at a formal meeting (where dismissal is not anticipated)

Dear [*Name*]

Allegation of Misconduct Against You

Further to our informal meeting on (*give date*) which was held in accordance with section 5 of (*insert school name*) Catholic Primary/Secondary School's Disciplinary Procedure, I confirm that I found that the allegation of misconduct by you is a potentially serious matter that merits further consideration in a formal context.

The allegation is that you (*give broad details of the category of the misconduct - see notes for guidance in Appendix 1 of the Disciplinary Procedure*) at Catholic Primary/Secondary School on or about

The details of the allegation are set out in the attached letter(s)/documentation (*Send copies not the originals*).

In accordance with the Disciplinary Procedure for Workers of the governors of Catholic Primary/Secondary School I am inviting you to attend a meeting held under section 7 of that Procedure on ...(date)... at ...(time)... in ... (place)... so that you will have an opportunity to comment on, explain or refute the allegation. [I would also like to remind you that you have already received an *oral/written* warning in connection with *this/a related* matter].

You are entitled to bring a friend to the meeting, who may be a representative of your trade

union, and I enclose a copy of the documentation for that purpose, together with the school's Disciplinary Procedure.

If you wish you may submit written evidence and bring witnesses to testify on your behalf. Any documentation that you wish to present should be given to me at least five working days before the meeting, as should be the names and addresses of any witnesses you wish call.

The meeting may uphold the allegations against in whole or in part or may determine that they are not proven and dismiss the case against you. If the allegation(s) is/are proven on the balance of probability, an oral/written/final warning may be imposed. If I consider that dismissal is a possibility after hearing the evidence, the matter must be referred to the Staff Disciplinary Committee of the Governing Body.

Yours sincerely,

Chair of Governors...or

Acting as: 'Appointed Person' Catholic Primary/Secondary School

Encl: Disciplinary Procedure & Copy Letter

6. Letter to Headteacher from Clerk to the Governors requesting their attendance at a formal meeting (where dismissal is a possible outcome)

Dear [Name]

Allegation of Misconduct Against You

Further to our informal meeting on (give date) which was held in accordance with section 5 of (insert school name) Catholic Primary/Secondary School's Disciplinary Procedure, I confirm that I found that the allegation of misconduct by you is a potentially serious matter that must be reviewed by the Staff Disciplinary Committee.

The allegation is that you (give broad details of the category of the misconduct - see notes for guidance in Appendix 1 of the Disciplinary Procedure) at Catholic Primary/Secondary School on or about

The details of the allegation are set out in the attached letter(s)/documentation. (Send copies not the originals).

In accordance with the Disciplinary Procedure for Workers of the governors of Catholic Primary/Secondary School I am inviting you to attend a meeting of the Staff Disciplinary Committee to be held under section 7 of that Procedure on ...(date).... at ...(time).... in ... (place)... so that you will have an opportunity to comment on, explain or refute the allegation. [I would also like to remind you that you have already received an oral/written warning in connection with this/a related matter].

You are entitled to bring a friend to the meeting, who may be a representative of your trade union, and I enclose a copy of the documentation for that purpose, together with the school's Disciplinary Procedure.

If you wish you may submit written evidence and bring witnesses to testify on your behalf. Any documentation that you wish to present should be given to me at least five working days before the meeting, as should be the names and addresses of any witnesses you wish call.

The meeting may uphold the allegations against in whole or in part or may determine that they are not proven and dismiss the case against you. If the allegation(s) is/are proven on the balance of probability, an oral/written/final warning may be imposed or you may be dismissed.

Yours sincerely,

Clerk to the Governors
..... Catholic Primary/Secondary School

Encl: Disciplinary Procedure & Copy Letter

7. Letter to Headteacher advising of the outcome of a Disciplinary hearing

Dear *[Name]*

Disciplinary Action Against You

Following the disciplinary hearing against you on *[date]*, I write to confirm that *[I/the Committee]* has determined that

[the allegations against you have not been proven and no further action will be taken]
[the allegations against you have been upheld in full]
[the following allegations [give details] have been upheld against you but [I/the Committee concluded that allegations that you [give details] where not proven].

Where there has been misconduct....

As a result of *[my/the Committee's]* decision that you *[give details of misconduct]*, *[I/the Committee]* has decided that

[you should receive a written/final written warning, and this letter constitutes notice of the same]
[you are to be dismissed and your employment terminated with effect from [date]]
[no formal action will be taken on this occasion but I/the Committee requires you to (details of Standard of Conduct required) and reminds you that failure to maintain such standards may result in further disciplinary action being taken against you].

The warning will remain on your record for *[three/six]* full terms from this date.

You have the right to appeal against this decision in accordance with Section 9 of the Disciplinary Procedure. If you wish to appeal, you must submit a written statement of appeal to the Clerk of the Governing Body by *[date 15 days after date of this letter]*. Any appeal will be heard by *[Committee of the Governing Body/Governing Body's Appeal Committee]*.

[Set out details of improvement expected of Worker]. To assist and support you in attaining these standards *[details of support structures]*. Your progress will be reviewed at the meeting *[with the Chair of Governors (Name)]* in *[x]* weeks' time.

If you fail to reach the required standards, further disciplinary action may be taken against you, which could lead to *[a final written warning be issued or your dismissal without further warning]*.

If there is any aspect of this letter you do not understand or on which you require further clarification, please contact me.

Yours sincerely

[Chair of Governors/Chair of Staff Disciplinary Committee]

8. Recorded oral warning

Worker's Name

Post Title

Date

[Name] has been advised of the reason for the warning and has been given an opportunity to explain his/her behaviour.

An oral warning under the School's Disciplinary Rules and Procedures was given to *[Name]* in respect of *[give details of the misconduct/poor performance]*.

[Name] was advised of the consequences if there is *[any other misconduct/any repetition of this misconduct or no improvement in conduct]* by *[date]* and/or if it was not sustained for [.....] months.

[Name] was also advised that this oral warning will lapse if there is no repetition of the misconduct *[or commission of any further misconduct over the next [two terms]]*.

[Name] was advised of his/her right to appeal against this decision to [Name/Address] within 14 days of the date of this warning.

Headteacher's signature Date

Worker's signature Date

This form must be forwarded, together with any notes taken at the interview, to the Headteacher for retention on the personnel file.

9. First written warning

Dear [Name]

Further to the Staff Disciplinary Committee hearing which took place on [date], I write to confirm the decision to issue you with a first written warning for *[specify misconduct failing to improve/unsatisfactory conduct and give details]*.

As discussed at the hearing, if the required improvement in your conduct is maintained over the next three full terms or if there is not further misconduct of any nature committed, this warning will lapse. However, *[if sufficient improvement has not occurred by [review date]] [if there is a recurrence of the same or similar offence or if you commit any other acts of misconduct]*, further *[disciplinary]* action will be taken.

I hope this warning will result in the improvement required so that it will not be necessary to take further action.

Finally, you have the right of appeal against this decision and to exercise this right you should write to [Name/Address] within 14 days of receipt of this letter.

[Chair/ Headteacher's] signature

Date

Worker's signature Date

This form must be forwarded, together with any notes taken at the interview, to the Headteacher for retention on the personnel file. A copy should be provided to the Worker.

10. Letter confirming dismissal from the service of the Governing Body

Dear [Name]

Disciplinary Action Against You

This letter refers to the meeting of the Staff Disciplinary Committee on [date] [not more than seven calendar days before the date of this letter], which was held in accordance with Section 7 of the school's Disciplinary Procedure.

I confirm that, having listened very carefully to all the evidence presented, the Staff Disciplinary Committee found on the balance of probabilities the allegation(s) of your gross misconduct/misconduct in respect of (give brief details using the same or similar wording to that used in the letter stating the allegation and inviting the Worker to the disciplinary meeting) to have been proven.

I confirm that your misconduct is of such a serious nature that the Committee determine that your employment should be terminated with immediate effect.

You have the right to appeal against this decision in accordance with Section 9 of the Disciplinary Procedure.

You must advise the Clerk to the Governing Body of your intention to appeal in writing within 14 days of receiving this letter. Your letter should state your grounds of appeal.

In the event of an Appeal, please send a copy of any papers you wish to present at the meeting, together with the names of any witnesses you wish to call, to the Clerk at [address] at least 5 working days before the date of the hearing. Any appeal will be conducted in accordance with section 9 and Appendix 2 of the Disciplinary Procedure.

A copy of this letter is enclosed for your representative.

Yours sincerely,

[Chair of Staff Disciplinary Committee]

