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# Arbour House School

## Staff Discipline Policy & Procedure

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## **1. Introduction**

- 1.1 Arbour House School recognise that in most cases potential issues of misconduct will be dealt with through the normal day to day discourse between the school leadership and staff. In many instances, where an individual's conduct at work falls below that required, it will be to encourage improvement by the use of suitable advice, guidance and support before pursuing disciplinary action. It is in everyone's interest that such matters are brought to the attention of the individual at the earliest opportunity.
- 1.2 The Disciplinary Procedure should only be used when management advice and guidance has failed to produce the required improvement or when the disciplinary matter is sufficiently serious.
- 1.3 Where a breach of discipline involves the potential safety of a pupil immediate Safeguarding advice must be sought prior to commencement of this policy and procedure.

## **2. Aims and Objectives**

- 2.1 The intention of this policy document is to provide a procedural framework which:
  - Encourages staff to achieve and maintain standards of behaviour
  - Provide a fair and consistent method of dealing with alleged failures
  - Provide Managers and the School Leadership with guidance on how to handle disciplinary matters
  - Minimise disagreements about disciplinary matters reducing the need for dismissals.
  - Ensure that any staff against whom any allegation of misconduct is made, have the benefit of fair investigation, hearing, representation and decision. It also outlines the process which should apply if an employee is dissatisfied with any disciplinary decision relating to him/her.

## **3. General Principles**

- 3.1 Statutory protection from unfair dismissal states that employees starting new employment from 6 April 2012 will need to be employed for two continuous years before they can make a claim for unfair dismissal. In practice an employee with less than 12 or 24 months (dependent on start date) may be dismissed by giving reasonable notice (at least the statutory minimum of one week) for poor conduct or performance. Given the fact that there are still opportunities for employees with less than 12 or 24 months service to bring Employment Tribunal claims, mainly on discrimination grounds, an investigation to establish the facts must be conducted and advice sought from Potens HR Consultant prior to any final decision.

- 3.2 Sickness issues are dealt with through the separate Sickness Absence Policy and performance issues are dealt with through the Capability Policy.
- 3.3 No disciplinary action will be taken until the circumstances of the case have been carefully investigated. It is important that the Manager establish the facts formally, taking into account the statements of any available witnesses.
- 3.4 Where a breach of discipline involves a criminal offence, Arbour House School and Potens as the employer will not necessarily await the results of any court action before instigating the disciplinary procedure.
- 3.5 The seriousness of the issue will determine the level at which the disciplinary procedure will be invoked.
- 3.6 In the event of minor and/or more general misconduct the procedure may be operated sequentially, but, in certain circumstances, it may be necessary to invoke the procedure at an advanced stage or to omit a stage or stages. For example, in the case of serious or gross misconduct, the earlier stages would not have to be followed.
- 3.7 An employee will not be dismissed for a first breach of discipline except in the case of gross misconduct when the penalty may be dismissal without notice.
- 3.8 At each stage of the procedure, individuals will be informed of the nature of the complaint(s) and/or allegation(s) against them and will be given the opportunity to state their case before disciplinary decisions are made.
- 3.9 At all stages of the formal procedure, staff are entitled to be accompanied by a single companion or representative. The chosen companion may be a fellow worker as appropriate, a trade union representative, or an official employed by a trade union. Managers must draw this entitlement to the attention of employees. Individuals may not be accompanied by anyone acting as a legal representative at any stage of the procedure.
- 3.10 Individuals have the right of appeal against any formal disciplinary action taken.

## **4 Stages of Disciplinary Action**

### **Informal Procedures**

- 4.1 Although it is not part of the Disciplinary Procedure, minor cases of misconduct may best be dealt with by informal advice, coaching and support rather than through the formal disciplinary procedure. Managers should discuss problems with individuals, using a recorded discussion, with the objective of encouraging and helping them to improve. It is important that staff understand what needs to be done, how conduct will be reviewed and over what period. Staff should also be made aware of what action may be taken if they fail to improve their conduct. Informal warnings are not part of the formal disciplinary procedure and the member of staff should be informed of this. The recorded discussion will be kept on the employee's file.
- 4.2 Where individuals may be failing to perform to the required standard the matter should be investigated. Where the reason is found to be a lack of skills, s/he

should, wherever practicable, be assisted through training or coaching and given reasonable time to reach the required standard using the Capability Procedure. Where the poor performance is due to negligence or lack of application on the part of the individual then formal disciplinary action may be taken.

## **5 Formal Stages of the Procedure**

5.1 The Formal Procedure will be applied where an employee does not respond appropriately or adequately to informal action or the manager considers that the breach of conduct that is believed to have occurred is too serious to be dealt with informally. Examples of behaviour that may constitute misconduct or gross misconduct resulting in disciplinary action are set out in **Appendix 1**. In using the Formal Procedure and determining whether the employee has committed 'misconduct' or 'gross misconduct', the burden of proof required on a dispassionate and objective assessment of the facts is reasonable belief.

5.2 The procedure has a number of stages:

- Suspension if appropriate
- Investigation (to elicit the facts)
- Disciplinary Hearing (where sufficient evidence is identified)
- Disciplinary Action (where a breach of conduct has been proven)

## **6 Suspension**

6.1.1 Where a serious allegation is made an appropriate senior manager can suspend the employee(s). Normally the Head Teacher will suspend a staff member, but if not available the suspension will be conducted by a manager of an equivalent level. If a staff member has not actually been suspended but during the course of the investigation this action appears to be appropriate, the Investigating Officer may suspend the employee with the agreement of the Regional Director.

6.2 In all cases, suspension should be discussed with a Director either before the suspension is carried out or as soon as possible afterwards.

6.3 Suspension does not constitute disciplinary action. It is a neutral act which does not imply guilt.

6.4 The line manager should consider where appropriate, as an alternative, restricting the employee's duties, placing the employee under additional supervision, or temporarily transferring the employee to another work location, bearing in mind the nature of the situation.

6.5 Circumstances in which an employee may be suspended are:

6.5.1 To facilitate a further or more detailed investigation; where it is felt that this may be hindered by the continued presence of the employee at work or that they employee themselves may interfere with the investigation

6.5.2 When the continued presence of the employee is not in the best interests of Pupils, Staff, the General Public and the school generally.

- 6.5.3 On the evidence available, and in the opinion of the manager or senior manager present, the alleged incident is so serious that summary dismissal may result.
- 6.5.4 Criminal charges have been brought against the staff member and there is evidence that the alleged criminal activity may result in summary dismissal.
- 6.6 Every effort should be made to minimise the length of time that a period of suspension should last. Investigations should be carried out promptly.
- 6.7 During the period of suspension the employee will continue to be paid their contracted hours.
- 6.8 It is the responsibility of the Line Manager that suspends the staff member to inform Payroll by email that a staff member has been suspended, copying in the Regional Director. The email should include the employee's name, location and the start date of the suspension and number of hours to be paid each week. Changes to the Suspension and the eventual lifting of the suspension period must also be communicated via email to payroll without delay.
- 6.9 The individual to be suspended must be informed personally. In circumstances that dictate it is not possible to inform the person face to face then a telephone call can be made to inform the person off their suspension. The Manager will ensure that appropriate contact is maintained with the employee concerning their welfare during the period of suspension.
- 6.10 The Manager must ensure that the suspended employee returns any Arbour House or Potens property such as keys, phones, laptops or passwords at the point of suspension.
- 6.11 The suspension will be confirmed in writing, by the Manager who instigated the suspension, within three working days (**Appendix 2**). It will include the reason for the suspension, the terms of the suspension, the requirements on the staff member, a copy of the Disciplinary Policy and Procedure and will inform the employee that an investigation will follow. In an allegation regarding the safeguarding of a pupil, the Manager will only disclose that it is a safeguarding allegation and not provide details of the allegation (**Appendix 3**).
- 6.12 The individual must not under any circumstances have contact with, or seek to influence, anyone associated with the complaint/allegation, or enter Arbour House School or any other Potens premises without having gained prior authorisation from the Investigating Officer.
- 6.13 The suspended employee will be allocated a Contact Person/ Buddy who they can contact by phone.
- 6.14 The Contact Person should be completely removed from the investigation. The Contact Person is a role that is purely information sharing, where information is relayed to the suspended employee via the Contact Person and where questions may be shared from the staff member. For example the contact person may make enquiries on behalf of the suspended employee relating to a pay query and feed back the response.

- 6.15 As the Contact Person role is information sharing and there is no conflict of interest, in certain situations it is acceptable for a Contact Person to advise two employees involved in the same case
- 6.16 Following a letter of suspension, the Contact Person will contact the suspended employee to introduce themselves. They will discuss and agree with the suspended employee the frequency and the type of contact that will be maintained during the period of suspension e.g. email, telephone, every other day/week etc. As a minimum contact will be made on a weekly basis by the Contact Person
- 6.17 If weekly contact is formally refused by the suspended employee, then arrangements need to be agreed as to the circumstances and frequency of future contact. Whatever arrangements are agreed, the suspended employee should feel they have a point of contact where questions and concerns can be raised.
- 6.18 If the Contact Person is absent from work e.g. annual leave/sickness for more than one week, then it is the responsibility of the Contact Person to inform the Investigating Office who will arrange for a substitute contact person during this period. The suspended person should be informed of the alternative contact details. On returning to work the Contact person should make contact with the suspended employee.
- 6.19 It is the responsibility of the Investigating Officer to update the Contact Person with any information which may be shared with the suspended employee e.g. timescales etc.
- 6.20 The individual staff member on suspension should remain contactable and available during normal daytime hours in order that they can attend meetings as required. Changes of telephone number/address during the period of suspension must be notified immediately. Pre-arranged holidays will be honoured and the normal process for booking annual leave adhered to.
- 6.21 All matters connected with the suspension must be kept confidential and not discussed with anyone except the Contact Person. This is to protect the integrity of the investigation.
- 6.22 Staff who are taken ill during the period of suspension must follow the Sickness Absence Policy. This includes the requirement to send medical certificates to their Manager and attend Occupational Health if requested. The investigating officer will continue to gather any facts available during this period and conclude the investigation when the employee is well.
- 6.23 Periods of suspension will be kept under regular review by the Investigating Officer and should be kept to a minimum. If the period of suspension is more than 2 weeks the Investigating Officer must provide a report to the Director of Operations indicating the reasons and how this is being addressed.
- 6.24 Where in the course of the investigation it is deemed that it is appropriate for a staff member to return to work even though disciplinary action is still being considered then this should be effected. A staff member should only remain on suspension for one of the reasons listed in 7.5.

6.25 It is the responsibility of the Investigating Officer to write to the staff member to update them on any changes to the conditions of suspension e.g. timescales, no further action to be taken, example above in 7.23 etc.

## **7 Disciplinary Investigation**

### **Who Should Investigate**

7.1 The Investigating Officer will be a representative from management and will be different from the person who eventually hears the case at a formal hearing. The reason for this is the requirement, based on natural justice and the ACAS code of practice on Discipline and Grievance, that the person conducting the disciplinary hearing should not be biased against the employee prior to the hearing.

## **8 Investigation Brief**

8.1 Prior to the start of any investigation the Manager who has commissioned the investigation must provide the Investigating Officer with an Investigation Brief (**Appendix 4**). The Investigation Brief should contain: background, key objectives of the investigation, employee status (suspended/temporary redeployment/no change), key contacts and other relevant information i.e. organisational issues which may impact on the investigation, holiday commitments, sickness absence etc. Management should not attempt to use the Investigation Brief to direct the investigator - the overriding aim of the investigation is to establish whether there is any evidence to support the allegations. The independence of the investigation must be protected. The most important aspect of the Investigation Brief is clarity of the investigation objectives. The Investigation Brief should be accompanied by all relevant documentation/evidence e.g. minutes of meetings, transcript of suspension interviews, personal files and documentary evidence already obtained during the preliminary enquiries to establish whether a formal investigation is required.

8.2 In circumstances when the Manager who has commissioned the investigation is also the Investigating Officer, an investigation brief still needs to be written. This will support the Manager in clarifying the investigation objectives and provide background information, if progressed, for the Disciplinary Manager.

8.3 The Investigation Brief must include a timescale for when the investigation is to be completed and this must be agreed with the Investigating Officer. The investigation should commence within 1 week of receiving this brief. Investigations should wherever possible be completed within the ACAS recommendation of 5 days. If the investigation cannot be completed within 5 days then the Investigating Officer should inform the Manager of progress on a weekly basis and a reviewed timescale for completion agreed.

8.4 The Investigation Brief is **not** for issue to the employee under investigation.

## **9 Joint Safeguarding Investigations with Local Authorities**



- 9.1 If a Safeguarding investigation has been commissioned via a Local Authority, the Head Teacher, who receives that instruction from the Authority, will write the investigation brief.
- 9.2 There will be occasions when the School and a Local Authority conduct joint Safeguarding investigations. At the initial meeting with the Local Authority, roles and responsibilities for the investigation will be discussed and timescales agreed. Following this meeting the Head Teacher should write to the Safeguarding Authority, requesting the minutes of the meeting and formalise what has been agreed **(Appendix 23)**
- 9.3 We need to ensure we try and conclude our investigations as quickly as possible. If the agreed timescales have passed and the Head Teacher is still waiting for the Safeguarding team to conclude their investigation then a second letter should be sent to the Safeguarding Authority requesting a revised timescale for completion **(Appendix 24)**

## **10 Investigation File**

- 10.1 It is the responsibility of the Investigating Officer to create an investigation file at the beginning of every investigation. The file will include all the paperwork collected during the course of the investigation and should include documents such as the investigation brief, correspondence with the employee under investigation; notes from meetings; witness statements; investigation report and any other evidence associated with the investigation.
- 10.2 The Investigating Officer must complete the Investigation Log **(Appendix 5)** and keep it in the front of the file. The Log should reflect the timeline of all activities the Investigating Officer has carried out during the investigation. It should record all the occasions when the Officer has sent/received information, made telephone calls, arranged meetings, collected evidence etc and contacted witnesses and the employee under investigation.
- 10.3 The Investigation File must be passed on to the Disciplinary Manager at the end of the investigation. It is then the responsibility of the Disciplinary Manager to continue to update the file and the Investigation Log until the case is closed. If the case is adjourned for further investigations the process will pass back to the Investigating Officer.
- 10.4 At the end of the Disciplinary procedure the Disciplinary Manager should record a clear rationale for their decision and include this in the investigation file.
- 10.5 At the end of the Disciplinary procedure the Disciplinary Manager is responsible for ensuring that the investigation file in its entirety is returned to Head Office for filing.

## **11 Responsibilities of an Investigating Officer (Appendix 22)**

- Maintain an Investigation File and an Investigation Log;
- Gather all the relevant facts promptly before people's memories fade;
- Establish the exact nature of the allegations and the evidence to substantiate these;

- Summarise your findings in an investigation report;
- Recommend whether or not the allegations should be considered at a disciplinary hearing;
- Present evidence at any disciplinary hearing where required and answer questions as required;
- Attend any appeal hearing as a witness, where required.

## **12 Interview Preparation**

- 12.1 Ensure that the person under investigation has a clear understanding of the complaint/allegation(s) against them. The Investigating Officer must write to the person under investigation inviting them to an investigation meeting **(Appendix 6)**
- 12.2 Be clear about the witnesses you plan to speak to during the course of the investigation, including:
- Other members of staff who witnessed / took part in the alleged incident the person(s) against whom the allegation is made.
  - Other relevant members of staff within a Service or Team and relevant line managers.
  - Any other person who is identified to have information relevant to the investigation, including contractors or visitors.
- 12.3 Consider what information you need to gather. Before meeting with the employee and other witnesses, plan the questions you should ask.
- 12.4 Decide the order in which you will meet witnesses and the employee. You can meet with them more than once if necessary.
- 12.5 Plan where to hold investigation meetings. This needs to be in a private place that will be free from interruptions. In situations where the person under investigation is still working within the School, consideration should be given to holding witness meetings in an alternative venue to avoid unnecessary stress to witnesses and the staff member.
- 12.6 During the course of an investigation should additional allegations come to light which did not form part of the initial investigation brief, advice should be sought from Potens HR Consultant. A decision needs to be sought as to whether the new allegations can be included within the scope of the existing investigation or form part of a completely separate investigation. Once this has been decided the suspended person should be duly informed in writing **(Appendix 25)**

## **13 Interviewing Witnesses (Appendix 7 Structure of the Investigative Interview)**

- 15.1 Those giving witnesses statements should be made aware that if the case results in a disciplinary hearing, their statement will be copied to the person being investigated, if considered relevant to the case. Anonymity cannot be guaranteed unless the matter has been raised under the whistle blowing procedures.

- 15.2 Managers may ask witnesses to write a 'witness statement' prior to the meeting asking them to explain what happened. During the meeting the Manager must seek clarification and/or further information about points they have made.
- 15.3 All questions should aim to encourage witnesses to recall their version of events in their own words. Managers should take care to separate facts from assumptions and opinions.
- 15.4 Maintain confidentiality and remind all parties involved in the investigation of the requirement for confidentiality.
- 15.5 It may be necessary to have an adjournment and/or to re-interview witnesses for clarification where matters are contested by the accused or there is conflicting evidence. In addition, the Manager should be prepared to have short breaks where witnesses become upset during the interview.

## 16 Interviewing the Accused

- 16.1 To ensure that the interview is carried out effectively and fairly, an investigating officer should:
- Stick to facts and avoid making assumptions
  - Point out and question any discrepancies
  - Not be afraid to challenge what the employee is saying
  - Be careful not to express disapproval or pass judgement on the employee
  - Make sure the whole story is uncovered
  - Be prepared to have an adjournment to re-interview witnesses
  - Be careful not to allow the interview to turn into a disciplinary hearing. The purpose of an investigatory interview is to establish what happened, while the purpose of a disciplinary hearing is to consider the evidence and decide what to do about it.
- 16.2 At the end of the meeting and when the Investigating Officer has determined that the investigations are concluded the accused should be informed that they have an opportunity to make a written response to the allegations made against them. If the employee wishes to make a written statement then it should be returned to the Disciplinary Manager at least 2 working days prior to the Disciplinary meeting.

## 17 Note Taking

- 17.1 The notes taken during investigation interviews and hearings are very important. They are written during the interview/hearing and give an account of what was actually said. Should a case later go to Appeal or Employment Tribunal, the interview notes provide essential evidence.
- 17.2 It is essential that interview notes are typed up quickly after the meeting. The interviewee will be asked to confirm the interview notes and to make any additional comments as necessary and where possible sign and date the accuracy of the notes. Any disagreement regarding the content is noted and the interviewee asked to sign and date the notes of the meeting (**Appendix 8**).

17.3 Occasionally an Investigating Officer may request that the meeting be recorded. This will be for the purpose of allowing the Investigator to concentrate fully on the meeting without the distraction of taking full notes. At no stage in the procedure can the Investigating Officer use recording equipment without agreement from the interviewee.

17.4 At all stages of the procedure the notes taken should be kept in the investigation file. On conclusion of the investigation the Investigation File should be handed over to the Disciplinary Manager. At the end of the disciplinary process, the Disciplinary Manager is responsible for ensuring that the investigation file is returned to Head Office for filing in good time.

## 18 Collecting other Evidence

18.1 The Investigating Officer may need to look at documents such as work rotas, attendance reports, shift/handover notes, incident reports, minutes of meetings, one to one records, appraisal documentation, emails, letters, training records, development plans etc. The Investigating Officer will need to make **copies** of evidence, for supporting documentation.

## 19 Investigation Report

19.1 Once the investigation is complete the Investigating Officer will write a report which will be passed to the Disciplinary Manager (**Appendix 9 & 10 for report format and template**). The report will provide recommendations based on the findings of the investigation. It can recommend that the case is:

- Take no further action
- Handled informally
- Arrange for the matter to be dealt with under the disciplinary procedure.

19.2 If, after the investigation has been completed, it is decided not to proceed with a disciplinary hearing, the Investigating Officer will write to the employee and notify them immediately. If the employee has been suspended from work the suspension will be lifted, and all reference to the suspension removed from the employee's personal file.

19.3 If it is decided that a disciplinary hearing should take place, the Investigating Officer will liaise with the Disciplinary Manager. Where required, the Investigating Officer will be asked to present the case at the disciplinary hearing.

## 20 Disciplinary Hearing (**Appendix 12**)

20.1 The hearing will be chaired by a Manager who has had no prior involvement in the investigatory process. A note taker should be appointed for the disciplinary meeting.

20.2 Before the disciplinary meeting the Disciplinary Manager will write to the employee advising them of the purpose of the meeting and details of the complaint or allegation being considered, covering all issues to be discussed (**Appendix 11**). The individual will be given a minimum of 5 working days notice of the disciplinary meeting. If the individual's representative or work colleague is not available to

attend on the date proposed, the Company will endeavour to offer an alternative reasonable date within 5 working days of the original date. **Note:** This meeting will normally only be re-arranged once, except in exceptional circumstances. If the situation arises whereby the employee fails to attend the second meeting or wants to rearrange the meeting a second time, the Disciplinary Manager can decide to still go ahead with the hearing and reach a decision in the absence of the employee based on the available evidence.

20.3 Should either party wish to call any witnesses to the disciplinary meeting they must give at least 3 working days' notice to the Disciplinary Manager. The Disciplinary Manager will be responsible for arranging the attendance of internal witnesses.

20.4 All relevant facts and evidence will be made available to the employee at least 5 working days prior to the disciplinary meeting. Additional information gathered by the employee that they wish to present at the meeting, must also be made available to the Disciplinary Manager at least 2 working days prior to the meeting. Either party may present evidence including details of previous relevant warnings, witness statements, call witnesses and have the opportunity to ask questions.

20.5 An adjournment must be held in order that there can be a period of reflection by the Disciplinary Manager to consider what action, if any, is to be taken. If the action to be taken is dismissal then consultation with and the involvement of a Director/ HR Consultant is necessary. Where possible, both parties will be verbally informed of the outcome after the adjournment.

20.6 Where an employee raises a grievance during a disciplinary process the disciplinary process may be temporarily suspended in order to deal with the grievance. Where the grievance and disciplinary cases are related, it may be appropriate to deal with both issues concurrently. Please seek advice from Potens HR Consultant.

20.7 The staff member will be advised in writing of the outcome of the disciplinary meeting within 7 working days unless a longer period is specified and can be justified. If disciplinary action is taken, the employee will be informed of the required improvements which are necessary and if applicable details of timescales for achievement, the duration of the warning and the consequence of a failure to improve performance as required. The letter must include the date of the disciplinary meeting, the reason for issuing the warning as well as details of any sanctions which may be imposed. It should also be noted whether the staff member invoked their right to be accompanied. The right of appeal will also be included.

## 21 Warnings and Penalties

21.1 The outcome of the disciplinary meeting will generally fall into one of the following categories

- Case dismissal.
- No action required (**Appendix 13**)
- The employee is required to attend counselling or retraining.
- Verbal warning (**Appendix 14**).
- First written warning (**Appendix 15**).
- Final written warning (**Appendix 15**).
- Dismissal (**Appendix 16**).

Other possible sanctions may involve transfer to another post or location.

- 21.2 The above sanctions may be applied as follows:-
- 21.3 **Verbal Warning:** In cases of an initial or minor issue, the verbal warning is appropriate.
- 21.4 **First Written Warning:** If the issue is more serious or if there is still an active Verbal Warning in place and insufficient improvement has been made or further misconduct occurs, a First Written Warning will normally be issued. A first written warning will normally be valid for 12 months from the date of the disciplinary meeting.
- 21.5 **Final Written Warning:** If the issue is even more serious or if there is still an active First Written Warning in place and insufficient improvement has been made or further misconduct occurs, a Final Written Warning will normally be issued. If the employee's conduct or performance still fails to improve, the final stage of the disciplinary process may be dismissal or some other penalty such as demotion, loss of seniority, or suspension without pay. A final written warning will normally be valid for 12 months from the date of the disciplinary meeting. In exceptional cases validity may be longer.
- 21.6 **Dismissal with Notice:** If within 12 months of the issue of a Final Written Warning further misconduct occurs or insufficient improvement has been made, the staff member will normally be dismissed with notice. The employee will be provided with written reasons for dismissal, the date on which the employment will terminate, their entitlement to pay, and the right of appeal. The Company reserves the right to make a payment in lieu of notice.
- 21.7 **Summary Dismissal:** Where behaviour or misconduct is sufficiently serious to constitute gross misconduct, the staff member will normally be summarily dismissed - i.e. without notice. In exceptional cases an alternative sanction will be applied. The staff member will be provided with written reasons for dismissal, the date on which the employment will terminate and the right of appeal.

## 22 Expiry of Warnings

- 22.1 A record of any disciplinary sanction will be placed on the employee's personal file. A sanction will be considered to be spent and the record removed from the file provided that the employee's conduct has been considered to be satisfactory throughout the period following the imposition of the sanction.
- 22.2 The Head Teacher or School Manager must remove the spent record from the employee's file. This must **not** be destroyed but placed in an envelope and archived safely within the School.
- 22.3 A verbal warning will usually last for 6 months and a written warning will usually last for 1 year. After the active period it will be disregarded in deciding the result of future disciplinary proceedings. However, this is subject to the following:
- 22.3.1 The Company reserves the right to extend the length of the warning if the nature of the misconduct justifies it (in particular, if misconduct is the same

or substantially similar to that of an earlier offence in which previous warning given);

22.3.2 The Company reserves the right to rely on spent warnings where the act of misconduct is the same or substantially similar to that of an earlier offence in which previous warning given and it is fair and reasonable in all the circumstances for the Company to rely upon it.

## 23 Authority to Dismiss

23.1 The decision to dismiss an employee may only be taken by a person designated by the Chief Operating Officer to have such authority. No dismissal may take place without consultation with and the involvement of a Director/ HR Consultant.

23.2 Prior to a dismissal letter being sent out a draft dismissal letter must be sent to Potens' HR Consultant for approval.

23.3 Where dismissal occurs, whether with notice or summary, following the establishment of gross misconduct, the employee will be provided with a letter setting out the Company's decision. The letter must be sent by recorded delivery.

23.4 Where dismissal occurs following the establishment of gross misconduct relating to a safeguarding incident, it is the responsibility of the Disciplinary Manager to make a formal referral to DBS. This should be made after the appeal period of 5 days has passed. If an appeal is made, the DBS referral will be determined by the appeal outcome. If the decision to dismiss remains then it is still the responsibility of the original Disciplinary Manager to make the referral to DBS. Prior to any referral to DBS being made the referral application must be reviewed by the Regional Director.

## 24 Right of Appeal (Appendix 17, 18 & 19)

24.1 The right to appeal exists at all stages of the formal procedure

24.2 An appeal must be made in writing and addressed to the next level of management within 5 working days of receipt of the letter confirming the disciplinary outcome. The name of the Appeal Manager will be provided in this.

24.3 An appeal hearing will normally take place within 10 working days from the receipt of the employee's written request.

24.4 The outcome of the appeal will be confirmed by letter. The decision of the Appeal Manager is the final stage of this procedure (**Appendix 20**).

## 25 Right to Representation

25.1 Staff members have the statutory right to be accompanied by a single companion or representative where they are required to attend a formal hearing. The chosen companion may be a fellow worker, a trade union representative, or an official employed by a trade union. A trade union representative who is not an employed official must have been certified by their union as being competent to accompany a worker.

25.2 The companion must be permitted to address the hearing (but is not permitted to answer questions on the employee's behalf) and confer with the employee during the hearing.

25.3 It is good practice to agree a mutually convenient date for a formal meeting with the employee and their representative. Where the representative is unable to attend on the date proposed, the employee can offer an alternative date so long as it is reasonable and falls before the end of five working days after the original date

## 26 **Staff Returning to Work following Suspension**

26.1 When Staff return to work following a period of suspension they should have a meeting with their Line Manager and complete the 'Return to Work Form' (**Appendix 26**).

26.2 There are two parts to the 'Return to Work Form':

- **Part 1**

Agree on what to say to existing staff and colleagues regarding the staff absence. What does the suspended person or persons want to tell their colleagues? Dual agreement should be made so the returning employee/s and the Manager are saying the same thing.

General discussion to update the returning employee regarding events within the Service and any changes the staff member should be aware of e.g. Service Users, Policies etc. To also include a discussion regarding the completion of Part 2 of the form.

- **Part 2**

This provides the staff member with a list of areas/themes the staff member should familiarise themselves with in order to understand any updates or changes since their absence. Part 2 of the form should be discussed at the next staff supervision or sooner if the staff member feels they need more information in a particular area

## 27 **Standard Letters and Templates**

27.1 At different stages throughout the disciplinary procedure various letters will be sent. It is the responsibility of the person sending the letter to ensure a copy is also sent to the staff member's Line Manager. The Line Manager is responsible for ensuring a copy of each letter is saved within the employee's staff file. These letters should be further dealt with in accordance with the guidelines outlined in point 22.0 'Expiry of Warnings.'

27.2 The Appendices associated with this policy and procedure contain various standard letters and templates which are to be used to ensure some consistency across the School and across the organisation. The letters should be amended to reflect individual circumstances. If in doubt about the wording to suit specific circumstance then please seek advice from Richard Meynell (Potens HR Consultant).