



PATCHAM HIGH SCHOOL

One Team, One Dream

Discipline Procedure

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Headteacher
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Section 20

DISCIPLINE AND DISCIPLINARY DISMISSAL

The Education Reform Act requires governing bodies with delegated powers to establish the disciplinary rules and procedures which are to apply in their schools/colleges, and make them known to staff. In order to assist, detailed consultations have been undertaken with the thirteen recognised trade unions in the Education Service to prepare rules, procedures and management advice. These documents, listed below, incorporate the Authority's direct experience of such matters and are commended to governing bodies for adoption in accordance with the guidance set out in Circular 157/90. Appendices 20B and 20C are the formal rules and procedures, 20D is advice to staff and the remainder are advice to schools in handling these employee relations matters.

APPENDICES:

Discipline and Disciplinary Dismissal: Management Advice	(Appendix20A)
Disciplinary and Disciplinary Dismissal Procedures	(Appendix20B)
Disciplinary Rules	(Appendix 20C)
Code of conduct for employees whose work brings them into contact with young people	(Appendix20D)
Suspension of Staff: Code of Practice	(Appendix 20E)
Undertaking a Disciplinary Investigation: Code of Practice	(Appendix 20F)
Conduct Counselling: Code of Practice	(Appendix 20G)

Appendix 20A

MANAGEMENT ADVICE

1 Introduction

This advice has been prepared to assist those involved in dealing with disciplinary matters and should be read before taking any action in accordance with the following:

- a) The disciplinary and disciplinary dismissal procedures.
- b) The disciplinary rules.
- c) Code of conduct for employees whose work brings them into contact with young people.
- d) Suspension of staff: Code of practice.
- e) Undertaking a disciplinary investigation: Code of Practice

2 General

- 2.1 Only cases of misconduct are to be dealt with in accordance with the disciplinary and dismissal procedures. Separate procedures apply in cases of capability, ill health and redundancy.
- 2.2 Formal records about disciplinary problems should be retained in accordance with the advice given. Such records and any other internal notes and memoranda could be subpoenaed by an Employment Tribunal considering a claim of unfair dismissal.

3 Formal and Informal Disciplinary Action

3.1 Informal Action

Clear records of any disciplinary counselling should be kept. These should provide an outline of the difficulty and the comments made by the manager and the employee. A note of such sessions should be in the form of a letter to the employee. The employee should be given the opportunity of replying to such a letter and his/her reply should be kept on the personal file as part of the overall record.

3.2 Formal Action

The model disciplinary and dismissal procedure refers to the normal management supervision of staff. In many cases action on an informal basis will be appropriate in response to relatively minor disciplinary problems. However, it is in the interests of the employee and of the school to judge carefully the stage at which use of the formal procedure is necessary. From the employee's point of view, appropriate use of the formal procedures will emphasise the possible serious consequences of further misconduct and avoid the problems that arise when such matters are left unchecked. The formal approach also ensures that there is a clear understanding of the standards expected of staff. It also avoids misunderstandings.

4 What to do first

Appropriate action should be taken promptly. First establish the nature of the problem and, in consultation with colleagues as appropriate, assess the seriousness of the situation. In cases where gross misconduct is alleged it may be necessary to consider the employee's suspension. Please refer to the code of practice on the suspension of staff.

5 Preparation

Procedures and Codes of Practice should be read carefully. Although the Codes of Practice are not part of the disciplinary procedure, they provide helpful guidance and should be followed closely. The provisions of the Disciplinary and Dismissal Procedure must, however, be followed in all respects. Pay particular attention to any time scales involved and whenever practicable, try to avoid a disciplinary matter being commenced before a school holiday period but not concluded until a new term/half term has begun. This may result in any action being postponed until the commencement of a new term/half term or agreement between the parties which allows the completion of a matter outside the published timescale. Note the need to consult a senior union officer, or full-time official, in cases where disciplinary action is proposed in the case of a union representative or safety representative. Do not hesitate to seek advice from the Personnel Team.

6 Investigation

Follow closely the Code of Practice on undertaking a disciplinary investigation. This provides clear guidance on any appropriate action to be taken. Establish whether any evidence can be corroborated particularly where evidence is only available from a pupil or young person. The investigation should be thorough and complete and should include an interview with the employee.

7 Decision on action to be taken

7.1 Determine what further action, if necessary, should be taken once the investigation has been completed. The possible range of action is as follows:-

- a) No action at all in cases where the investigation shows that the allegation is without foundation. Where such allegations were made by a pupil(s)/student(s), a record of such a finding should be kept on the pupil's/student's file.
- b) Deal with the problem through counselling.
- c) Hold a formal disciplinary interview at which either a first, intermediate or final warning might be given.
- d) Refer the problem to a Panel of Governors to consider the employee's dismissal.
- e) Under the 2003 Staffing Regulations (following the Education Act 2002) Governing Bodies were given the authority to delegate the power of

dismissal to the headteacher. In situations where dismissal powers have been delegated to the headteacher, please read headteacher instead of „dismissal panel“ (see particularly section 5 of appendix 20B). In all cases the appeal panel will be made up of Governors. Within the same 2003 staffing regulations the Governing Body may decide to compose appeals panel of two Governors rather than the three referred to throughout this policy and procedures. Where this is the case, then the guidance given regarding three Governors on appeal panels should be substituted as above.

8 The Formal Disciplinary and Dismissal Procedure

- 8.1 The procedure must be followed carefully.
- 8.2 Consider carefully domestic arrangements to ensure that there is sufficient time to consider the case properly in an appropriate setting. This should include, where possible, facilities for the employee to consult privately with his/her trade union representative or colleague (who is employed at the school/college).
- 8.3 Make clear to the employee at the outset that the hearing is in accordance with the formal disciplinary and dismissal procedure.
- 8.4 If difficulties are identified during the course of the meeting it is advisable to adjourn briefly to secure any advice that may be necessary.
- 8.5 Keep notes outlining the main points made throughout the hearing. The notes will help in reviewing the case, reaching a decision, giving the decision, writing the letter to the employee confirming the decision, and in any appeal that may be made. Notes may be subpoenaed by an Employment Tribunal.
- 8.6 Statements from witnesses will often be used at disciplinary hearings. Witnesses need not be called to give direct evidence in all cases but it is essential to hear directly from witnesses where their evidence, is crucial to the allegation, particularly where it is disputed.
- 8.7 Once the case has been heard in full, the employee and his/her representative/colleague and the person who presented the case should withdraw. The person(s) hearing the case should then consider all that has been said.

9 Reaching a Decision

- 9.1 Consider carefully all that has been said. Note that the degree of proof required is not the same as it is in a court of law. It is not necessary for a case to be proved beyond all reasonable doubt. The question is one of reasonable belief / balance of probability.
- 9.2 The employee's general record with the school/college and the Council generally should be taken into consideration, including any disciplinary record. The employee's position in terms of status and length of service might be considered in mitigation and could influence the level of sanction. Sanctions should be consistent and equitable.

- 9.3 When an employee has previously been given a formal disciplinary warning the disciplinary and dismissal procedure paragraph 2.4 should be read carefully before a decision is reached.
- 9.4 Any decision must be reasonable in all the circumstances.

10 Appeals

- 10.1 An employee may appeal against a formal disciplinary warning or against dismissal. The appeal hearing will, unless agreed at the outset, be a re-hearing of all the evidence. Witnesses who have given evidence at the first hearing can be called again. Advice should be sought from personnel team if it is proposed not to call witnesses again at an appeal hearing or if witnesses are not available.
- 10.2 Those hearing the appeal must not have had any previous involvement in the case.
- 10.3 The Appeal Body will consider whether it was reasonable in all the circumstances for the disciplinary hearing to have reached the decision it did. All factors will be considered in that context. The Appeal Panel will not substitute its own view but will determine whether or not a reasonable person could reasonably have reached the decision made given all the circumstances.
- 10.4 The options available to an Appeal Body are set out in paragraph 4.4 and 6.4 of the disciplinary and dismissal procedure.

11 Involvement of the Police

- 11.1 Where it appears that an employee has committed a criminal offence, the police must be notified immediately. Police should be involved in cases where an employee's response to a disciplinary problem is a physical one. In general, the police should not be involved in such cases unless it is clear that a physical assault occasioning actual bodily harm has taken place and in such cases, Headteachers should consult first with the Head of Personnel.
- 11.2 Do not investigate further where problems are referred to the police, and the police confirm that they will undertake an investigation.
- 11.3 Where the police are involved it will often be difficult for misconduct to be dealt with in employment terms. Problems will arise because of the lack of information on which to reach a reasonable decision. However, there may be occasions where the evidence available is sufficient for a case to be pursued in employment terms. Clarify with the police whether or not they would have any objections.
- 11.4 The Education Service generally has close links with the police. Where the police are involved in an investigation, whether or not it results in a criminal charge, it is often possible to obtain police witness statements for use in disciplinary/dismissal proceedings. The Head of Personnel will assist in obtaining such information.
- 11.5 In cases of alleged misconduct of a sexual nature, the police will be involved in accordance with the child protection procedures.

12 Involvement of the Council Finance Officer

Refer any financial irregularity to the Council Finance Officer in accordance with the financial regulations of the Council. The audit team will consider, together with the Head/Principal, the way in which any investigation should be conducted. Normally, an audit interview with the employee would be held in accordance with the Council's procedures for such interviews.

13 Confidentiality

- 13.1 Ensure that any alleged misconduct is treated confidentially. The emphasis should be on protecting the interests of the school/college and the employee.
- 13.2 Investigations into an allegation of misconduct must be as thorough as possible, but it must be made clear to all those involved that the issue must be treated confidentially.
- 13.3 Where an allegation is made by a pupil/student, it should be made clear to him/her that the matter will be investigated in confidence and that it is in everyone's interests to maintain confidentiality.
- 13.4 Where an employee is suspended, follow the provisions of the Articles of Government where applicable, and the Code of Practice on Suspension.

Appendix 20B

DISCIPLINARY AND DISCIPLINARY DISMISSAL PROCEDURES

OUTLINE OF CONTENTS

- 1 Introduction
- 2 Principles to be observed
- 3 Hearings which may lead to disciplinary warnings
- 4 Appeals against disciplinary warnings
- 5 Hearings which may lead to dismissal
- 6 Appeals against a determination that the employee should cease to work at the school
- 7 Determination or amendment of contract
- 8 Conduct of meetings

1 Introduction

1.1 General

This procedure has been drawn up in consultation with all the unions recognised by Brighton & Hove Council. Its purpose is to assist governing bodies in meeting their obligations, under the Education Reform Act 1988, to establish disciplinary and dismissal procedures and to make them known to their staff. It is hoped that these procedures will commend themselves to governing bodies.

1.2 Advisory Conciliation and Arbitration Service - Code of Practice

In drawing up this model procedure the principles set out in the Code of Practice prepared by the Advisory, Conciliation and Arbitration Service (ACAS) have been observed. The code came into effect by order of the Secretary of State for Employment and its provisions are admissible in evidence at Employment Tribunals. Should any governing body propose to make material changes they are asked to seek the further advice of the Head of Personnel who, among other things, would ensure they are not in conflict with the ACAS code.

1.3 Management Supervision

It is recognised that there will be cases of misconduct which are more appropriately dealt with as part of the normal arrangements for supervising employees because the headteacher does not consider them to be of sufficient concern to warrant the application of this procedure. In these cases unsatisfactory conduct may be remedied by discussion and counselling sessions. A note of such sessions should be in the form of a letter to the employee. This letter should provide for the employee to respond if he/she wishes. All correspondence of this nature should be disregarded for disciplinary purposes after one year subject to the principles that apply to the disregarding of warnings set out at paragraph 2.4 below.

1.4 Where Formal Action is Considered Necessary

- 1.4.1 Where disciplinary action is considered necessary this procedure makes explicit the steps that must be taken, and also the rights and responsibilities of headteachers, governors, employee representatives and employees. The procedure aims to protect employees against unfair treatment whilst enabling headteachers, other senior staff and governors to carry out their responsibility to manage the school.
- 1.4.2 Disciplinary action should be initiated within the timescales set out in this procedure. Problems of a similar nature dealt with previously in accordance with paragraph 1.3 above may be relevant and if so should only be introduced where a note of a counselling session had been made by letter.

1.5 Scope

This procedure will apply to staff employed by the school where it is considered that his/her conduct is such as to justify formal disciplinary proceedings, except that:

1.6 Capability

A separate procedure is available for dealing with cases where questions of competence arise. The emphasis in that procedure is to identify areas of concern at an early stage, to emphasise the standards required to provide full support and to monitor progress to assist the employee to overcome his/her shortcomings.

1.7 Suspension

In cases where gross misconduct is alleged, the employee may be suspended from duty in accordance with his/her conditions of service. Any suspension must be handled sensitively. The code of practice which gives advice on the suspension of staff should be followed.

2 Principles to be observed

2.1 Safeguards for Employees

- 2.1.1 Where, having established that there is substance in an allegation, it is proposed to undertake an investigation the employee must be informed about the allegation within ten days of the alleged misconduct having occurred or come to the attention of the Headteacher.
- 2.1.2 When, after investigation, formal disciplinary action is considered necessary the employee shall be given the appropriate notice of the hearing. At the same time he/she shall be supplied in writing with the details of the alleged misconduct and copies of any witness statements and any other papers, available at the time, which are to be considered at the hearing. He/she shall also be informed of the names of any witnesses who will give evidence at the hearing.
- 2.1.3 Where a witness statement is to be considered at a hearing the witness will normally be available to give evidence. Where video evidence is to be considered at a hearing, the employee shall be given the opportunity to see the video on or before the date on which notice of the hearing is required to be given.
- 2.1.4 Hearings shall be arranged as soon as reasonably possible and within the time limits set out in this procedure unless a variation is agreed between the parties.

2.2 Representation

An employee subject to this disciplinary procedure may, if he/she so wishes be advised and/or represented by a trade union representative or accompanied by a colleague who is an employee of the school at every stage of the formal procedure.

- 2.2.3 Notwithstanding the above, the employee has a statutory right to be accompanied at any disciplinary hearing which concerns the performance of a duty by school or council in relation to the employee ie a legal duty arising from statute or common law.
- 2.2.4 The term „trade union representative“ throughout this document means either a lay trade union official (ie a steward/representative) or a paid official employed by a trade union.
- 2.2.5 Trade union representation will be afforded to any employee, irrespective of whether or not he/she belongs to a trade union recognised by the school.
- 2.2.6 In cases where the employee has a statutory right of accompaniment, and his/her chosen companion cannot attend on the date proposed for a meeting the employee can offer an alternative time and date. Any alternative time and date must be reasonable and fall within five working days beginning with the first working day after the date originally proposed by management.

2.3 Accredited Union Representatives

Disciplinary action against an accredited union representative can lead to a serious dispute if it is seen as in attack on the functions of a trade union. Therefore, although normal standards shall apply to trade union representatives as employees, disciplinary action will not be taken against accredited representatives or safety representatives without the circumstances of the case first being discussed with a senior trade union representative or full time official.

2.4 Flexibility in the Level of Warnings

Normally the various levels of disciplinary warning will be applied sequentially but the giving of a first or intermediate warning is not a condition precedent to the giving of either an intermediate or final warning where an employee's conduct justifies such action. Hearings convened to consider an allegation of gross misconduct may lead to summary dismissal without the employee having previously received any warnings under this procedure.

2.4 Disregarding Warnings

2.4.1 Subject to Paragraphs 2.4.2, 2.4.3 and 2.4.4, a disciplinary warning will be disregarded for disciplinary purposes after the following periods from the date the warning was given:

- | | | | |
|----|-------------------------|---|-------------------|
| a) | A first warning | - | after six months; |
| b) | An intermediate warning | - | after one year, |
| c) | A final warning | - | after 18 months. |

2.4.2 a) Warnings will only be disregarded if no further formal disciplinary warning has been given to the employee during the relevant period.

- b) Warnings will not be disregarded on occasions where, despite the fact that an employee's conduct is satisfactory throughout the period that the warning is in force, it lapses very soon thereafter. In that event the employee's disciplinary record will be taken into account at any subsequent hearing and, where at such a hearing a warning is given, the normal period for which disciplinary warnings remain in force may be increased.
- c) In cases where a pattern of behaviour is alleged, previous behaviour considered to form part of that pattern may be taken into account notwithstanding that it may otherwise have been disregarded under 2.4.1 above.

2.4.3 Warnings not disregarded automatically

A warning will not be disregarded automatically where it has been given following improper behaviour of a sexual or physical nature towards pupils, students or young people. At the time such a warning is given, the employee shall be informed that it falls within this category.

2.5 Time Limits

2.5.1 On occasions and by mutual consent the parties to a disciplinary matter may modify the time limits referred to in this procedure. With the exception of paragraph 7.2 **the time limits referred to in the procedure are 'working days', i.e. Monday to Friday and do not include Saturdays, Sundays or Bank Holidays.**

2.5.2 It is for the headteacher to decide whether or not other days when the School is not in session are to be regarded as working days for this purpose in an individual case, except that in this respect only, no day shall be regarded as a working day for any individual employee if he/she is not normally required to attend for work on that day.

2.6 Illness of Staff

2.6.1 Where an employee is unfit to attend a hearing he/she (or a representative acting for the employee) must seek a postponement. Any request for a postponement must be accompanied by a medical certificate clearly indicating that the employee is currently unfit to attend the hearing and outlining the date when it is considered likely that the employee will be fit for this purpose. Any costs incurred in obtaining such a certificate will be reimbursed, on the production of a receipt. It will then be necessary for the School to rearrange the date of the hearing subject to the provisions of paragraphs 2.6.2 to 2.6.4 below. If the employee's doctor is unwilling to provide such a certificate, the School should consider seeking advice from the Occupational Health Physician.

2.6.2 In cases where the hearing may lead to a disciplinary warning every effort should be made to agree a date for the hearing at the earliest opportunity by discussion with the employee or his/her representative. The headteacher should not seek to convene such a hearing on a date when it is known from the existing medical certificate that the employee will be unfit to attend. Where a hearing is convened and postponed at the employee's request in accordance with paragraph 2.6.1 above the School will notify the employee of the revised date for the hearing. In such cases the requirement to give 5 working days notice need not apply, although consideration should be given to the availability of the employee's representative. In cases where a hearing is postponed on two occasions (an employee can only exercise his/her right to request the rearrangement of the hearing once) a further postponement will not normally be agreed. In cases where a hearing proceeds in

the absence of the employee, the employee shall be given the opportunity to submit written representations and/or be represented at the hearing by a trade union representative or colleague employed at the school/college.

2.6.3 In cases where the hearing may lead to dismissal, the School will consider whether or not it is reasonable to convene a hearing in the absence of the employee. In reaching a decision the School may take into account factors such as the number of postponements already requested and agreed, the length of time it is likely to be before the employee is expected to be fit to attend the hearing, and whether the employee had a medical condition prior to the instigation of disciplinary procedures. The School need not seek advice from the Occupational Health Physician if it is considered that sufficient information is already available. If there continues to be disagreement between the School and the employee as to whether the hearing should be convened, the Panel of Governors considering the dismissal should be given the opportunity to consider representations from either side about the hearing proceeding, prior to considering the case itself.

2.6.4 If in the light of 2.6.3 above a decision is made to convene a hearing in the absence of the employee, the employee shall be given the appropriate number of days notice. Notice of the hearing will be sent to the employee's home address either by post or by hand delivery together with all the relevant papers. The notification shall include an indication that the hearing will be convened whether or not the employee is able to attend, and that he/she may be represented at the hearing in the normal way. The employee will also be given the opportunity to submit written representations.

2.7 Records

2.7.1 Where a hearing concludes that there has been misconduct the record shall include any statement or report submitted to the formal disciplinary or dismissal hearing or appeal and the correspondence on the matter with the employee. The purpose in retaining such papers shall be to ensure that there is a clear record of the misconduct. In addition the following information shall be retained: a note of the decision taken with the main reasons; whether an appeal was lodged; the outcome of any appeal; and any subsequent developments.

2.7.2 Where a hearing concludes that an allegation against an employee is without foundation the record shall be a written record setting out the allegation and a clear indication that, upon investigation, the allegation was found to be without foundation. The reasons for such a conclusion shall also be recorded in the note. No other papers shall be retained unless the employee expressly requests that they should. No reference shall be made to any such records covered by this paragraph unless the employee expressly requests that they should.

2.7.3 All records shall remain confidential and be retained by the headteacher on the employee's personal file held at the school. A copy of any record shall be made available to the employee.

2.8 Advisers to those Conducting Hearings

2.8.1 The person(s) conducting a hearing under paragraph 3 of this procedure may be advised, where appropriate, by a member of staff employed at the school. The Head of Personnel or his representative may also be available to give advice.

2.8.2 The Strategic Director (or his representative) is entitled and shall attend, for the purpose of giving advice, proceedings of panels of governors conducting hearings which could lead to dismissal or hearing appeals against a determination that employees should cease to work at the school. The headteacher (except where he/she is the person concerned) is similarly entitled to attend to give advice, but must withdraw, where he/she played a part in the presentation of the case against the employee, or the case itself, while the Panel of Governors considers its decision. The Panel must consider any advice given before reaching a decision.

2.8.3 Advisers at hearings shall be limited to no more than two.

2.9 Where an Employee is employed by the Council at the School and elsewhere:

2.9.1 Subject to paragraph 2.4 above, where an employee is employed by the Council at the school and elsewhere, the employee's disciplinary record with the Council may be taken into account in dealing with any misconduct at the school and vice versa.

2.9.2 Where a decision is made that the employee should cease to work at the school, the procedure set out in paragraph 7 shall apply.

2.10 Confidentiality

The press and members of the public shall be excluded from any hearing arranged in accordance with this procedure. All parties involved in a disciplinary issue shall ensure that the details remain confidential except that any party shall have the right of reply if the other makes details public. Where such a matter is in the public domain but not as a result of the actions of either party, it may be appropriate for an agreed joint response/statement to be released. Where such a response/statement is not agreed, the parties shall ensure that the details remain confidential.

3 Hearings which may lead to Disciplinary Warning

3.1 General

Where, following investigation, it is decided to pursue an allegation of misconduct formally which is not deemed, on the information available, to warrant dismissal a hearing shall be arranged in accordance with this paragraph and paragraphs 3.2 to 3.4 below. The hearing will be with the headteacher (or other senior member of staff authorised by the headteacher for this purpose), who may be accompanied and advised. The managerial level at which warnings may be given shall be determined by the headteacher and shall be made known to employees together with this procedure. Where the allegation concerns the headteacher the hearing will be conducted by a Panel of Governors appointed and authorised by the governing body for the purpose of giving such warnings.

3.2 Notice of Hearing and Other Employee Rights

The employee shall be given **not less than five working days notice** of the date of the hearing or such shorter notice as may be mutually agreed. Details of the alleged misconduct, together with copies of any witness statements and any other papers to be considered at the hearing, shall be given to the employee with the notice of the hearing. Where video evidence is to be considered at a hearing, the employee shall be given the opportunity to see the video before the date of the hearing. The employee is entitled to attend the hearing and to be represented at the hearing by a trade union representative or colleague employed at the school/college.

3.3 Possible Outcome

The person(s) conducting the hearing may:

3.3.1 Find that the allegation is without foundation.

3.3.2 Find that there is substance in the allegation either in whole or in part sufficient for it to be believed and:

a) decide that no further action is needed;

Or

b) decide that no formal disciplinary action is required, but that conduct counselling would be appropriate. In such cases, the Code of Practice on conduct counselling should be followed;

Or

c) issue a first, intermediate or final warning (see para. 2.4.3).

Or

d) refer the matter to a Panel of Governors authorised by the governing body to determine that persons employed at the school shall cease to work there, where, exceptionally, they consider dismissal would be appropriate.

3.4 Giving the Decision

The person(s) conducting the hearing shall give his/her decision orally and shall confirm it in writing within five working days of the hearing. Where it is decided that the allegation is without foundation the confirmation shall state that the employee's record, in this respect, is unblemished. Where the decision is to issue a formal warning such confirmations shall state:

a) the details of the offence;

b) the decision made, including where such a determination is made, that the warning is one resulting from improper behaviour of a sexual or physical nature towards pupils, students or young people;

c) the disciplinary consequences of any further offence;

d) that the employee has a right of appeal (including the statutory right to be accompanied at the appeal hearing) or, alternatively an opportunity to make a written statement of dissent and/or an explanation for inclusion on his/her personal file, and the way in which such an appeal or statement may be made.

4 Appeals against Disciplinary Warning

4.1 Making an Appeal

Where an employee wishes to appeal against a disciplinary warning he/she must do so **within ten working days of receiving the written decision**. All appeals must be in writing and must state clearly the reason or basis of the appeal.

4.2 Composition of the Appeal Panel

A Panel of at least three governors appointed and authorised by the governing body for the purpose shall hear the appeal. No governor hearing an appeal shall have been involved in the case to which the appeal relates. Staff governors may be members of the Panel, provided they are not involved in any way in the case, either as a witness or as the person making the allegation under consideration.

4.3 Notice of the Appeal Hearing and Other Employee Rights

Within twenty working days of the receipt of an appeal, arrangements will be made for the case to be heard. The employee and the headteacher/principal (where the headteacher/principal is not the employee concerned) shall be given **at least ten working days' notice of the date of an appeal hearing** or such shorter notice as may be mutually agreed. The employee is entitled to attend the appeal hearing and

to be represented at the hearing by a trade union representative or colleague employed at the school/college.

4.4 Possible Outcomes of an Appeal Hearing

The Panel of Governors hearing the appeal may confirm or quash the decision against which the appeal is made. In addition, in those cases where the case is considered in full at the appeal stage, the Panel of Governors may substitute a different level of warning if they consider the decision against which the appeal has been made to be unreasonable.

4.5 Giving the Decision

The decision of the Panel of Governors hearing the appeal shall be given to the employee orally and shall be confirmed in writing by the clerk to the governors to the employee and the headteacher (where the headteacher is not the employee concerned) within five working days of the hearing

4.6 Final Appeal Stage

The hearing of an appeal under the arrangements set out above represents the final level of appeal against disciplinary warnings issued in accordance with this procedure.

5 Hearings which may lead to Dismissal

5.1 General

Where, following investigation, there is a further alleged offence after a final warning or an allegation of gross misconduct which is deemed, on the information available, to warrant consideration of the employee's dismissal, a hearing shall be arranged in accordance with this paragraph and paragraphs 5.2 to 5.5 below. The hearing will be with a panel of at least three governors appointed and authorised by the governing body to exercise their powers to determine that a person should cease to work at the school. Staff governors may be members of the Panel, unless they could be a candidate for the post held by the employee concerned, or if they have been involved in any way in the case, either as a witness or as the person making the allegation under consideration. When the employee concerned is a member of a direct services organisation the appropriate manager or a member of his staff shall be involved

5.2 Notice of Hearing and Other Employee Rights

The employee shall be given **at least ten working days' notice of the hearing**. Details of the alleged misconduct, together with witness statements and any other papers available at the time which are to be considered at the hearing shall be given to the employee with the notice of the hearing. Where video evidence is to be considered at a hearing, the employee shall be given the opportunity to see the video before the date of the hearing. The employee is entitled to attend the hearing and to be represented at the hearing by a trade union representative or colleague employed at the school.

5.3 Possible Outcome

The Panel of Governors hearing the case may:

- a) determine that the employee should cease to work at the school;
- b) issue a first, intermediate or final warning;
- c) take no formal disciplinary action.

5.4 Giving the Decision

The Panel of Governors hearing the case shall give its decision orally and the clerk to the governors shall confirm it in writing within five days of the hearing. Where the decision is to determine that the employee shall cease to work at the school or to issue a disciplinary warning such confirmation shall state:

- a) the decision made;
- b) the reason for the warning or determination;
- c) where appropriate, the disciplinary consequences of any further offence and where such a determination is made, that the warning is one resulting from improper behaviour of a sexual or physical nature towards pupils, students or young people;
- d) that the employee has the right of appeal including the statutory right to be accompanied at the appeal hearing or, alternatively an opportunity to make a written statement of dissent and/or an explanation for inclusion on his/her personal file, and the way in which such appeal may be made.

6 Appeals Against a Determination that the Employee should Cease to Work at the School

6.1 Making an Appeal

Where an employee wishes to appeal against a determination that he/she should cease to work at the school taken in accordance with paragraph 5.4 he/she must do so **within ten working days of his/her having received the written decision**. All appeals must be in writing addressed to the Clerk to the governors and must state clearly the reason and/or basis of the appeal.

6.2 Composition of the Appeal Panel

A panel of at least three governors appointed and authorised by the governing body to determine appeals shall hear the appeal. No governor hearing an appeal shall have been involved in the decision to which the appeal relates. Staff governors may be members of the Panel, unless they could be a candidate for the post held by the employee concerned, or if they have been involved in any way in the case, either as a witness or as the person making the allegation under consideration.

6.3 Notice of the Appeal Hearing and Other Employee Rights

Within twenty working days of the receipt of a notice of appeal under paragraph 6.1 arrangements will be made for the case to be heard. The employee and the headteacher/principal (where the headteacher/principal is not the employee concerned) shall be given **at least ten working days notice of the date of an appeal hearing** or such shorter notice as may be mutually agreed. The employee shall be entitled to attend the appeal hearing and to be represented at the hearing by a trade union representative or colleague employed at the school/college.

6.4 Possible Outcomes of an Appeal Hearing

The Panel of Governors hearing the appeal may:

- a) confirm or quash the determination that the employee should cease to work at the school,
- b) where a decision is made to quash the determination that the employee should cease to work at the school, and where it is considered appropriate, issue a first, intermediate or final disciplinary warning.

6.5 Giving the Decision

The decision of the Panel of Governors shall be given to the employee orally and shall be confirmed in writing by the clerk to the governors to the employee and the

headteacher/principal (where the headteacher/principal is not the employee concerned) within five working days of the hearing.

6.6 Where Dismissal Determination is not upheld

If the determination that the employee should cease to work at the school is quashed the employee will be reinstated and any suspension ended forthwith. If the employee feels that there would be difficulties in reinstatement in his/her previous post at the school it is open to the employee to:

- a) ask the governors to consider his/her re-employment in another post within the school;
- b) Request the Strategic Director to actively seek redeployment for him/her elsewhere in the service of the Council acknowledging that such redeployment could be difficult to achieve.

The employee may ask that one, or other, or both of these possibilities be explored at any time within forty working days of the date on which the dismissal determination was quashed.

6.7 Final Appeal Stage

The hearing of the appeal by the Panel of Governors represents the employee's final level of appeal within the authority. Where, at an appeal stage a determination that the employee should cease to work at the school is quashed but a formal disciplinary warning is issued, there is no right of appeal against that disciplinary warning.

7 Determination or Amendment of Contract

7.1 Notification to the Strategic Director of a Decision to Dismiss an Employee

Where a Panel of Governors has determined in accordance with paragraph 5 that an employee shall cease to work at the school, and either the employee has not given any notice of his/her wish to appeal against that decision in accordance with paragraph 6.1, or an appeal has been heard in accordance with paragraph 6 and the Panel of Governors has confirmed the determination, the Clerk to the governing body should notify the Strategic Director in writing as soon as possible of the determination with the reasons.

7.2 Action on the Part of the Council

Unless the employee has resigned and ceases to work at the school, the Strategic Director, shall, within a period of fourteen consecutive calendar days from the receipt of the notification of the determination, write to the employee to terminate his/her employment at the school.

7.3 Period of Notice

Unless the cause of the determination is gross misconduct or other urgent cause the period of notice to be given shall be that required in accordance with the employee's conditions of service. Where the cause of the determination is gross misconduct or other urgent cause, the dismissal shall take effect from the date of the 1st letter sent to the employee to terminate his/her contract of employment in accordance with paragraph 7.2 above.

7.4 Position when Employee also Employed by the Council Elsewhere

If the employee is employed by the Council to work at the school and elsewhere, the Strategic Director shall, in addition to terminating the employee's employment at

the school, consider what action is necessary in respect of the employment elsewhere.

8 Conduct of Meetings

8.1 Subject to paragraph 8.2 all cases coming before a Panel of Governors shall be conducted in accordance with the stages set out below.

8.2 In an appeal hearing, the Panel of Governors hearing the case shall firstly consider the submission made by the employee setting out the reason or basis of appeal. A decision will then be made about the way in which the case will be heard.

8.2.1 Where the Panel of Governors hearing the appeal decide that the case will need to be reheard in full the hearing shall be conducted in accordance with the stages set out below.

8.2.2 Where the Panel of Governors decide, so far as it is concerned that the case need not be reheard in full, the Panel will seek to agree with the employee a variation to these stages. Where a variation cannot be agreed the case shall be reheard in full in accordance with the stages set out below.

Stage 1 The headteacher to present the case in the presence of the employee and his/her representative including, as the headteacher considers appropriate by:

- a) referring to the written statements and other written evidence;
- b) the calling of witnesses;
- c) the presentation in evidence of any relevant video recorded interviews.

Stage 2 The employee (or his/her representative) to have the opportunity to ask questions on the evidence given by the headteacher/principal and any witnesses called, as they are called.

Stage 3 The Panel of Governors hearing the case to have the opportunity to ask questions on the evidence given by the headteacher/principal and witnesses, as they are called.

Stage 4 The employee (or his/her representative) to put his/her case in the presence of the headteacher/principal including at the discretion of the employee by:

- a) referring to the written statements and other written evidence;
- b) the calling of witnesses;
- c) the presentation in evidence of any relevant video recorded interviews.

Stage 5 The headteacher to have the opportunity to ask questions on the evidence given by the employee and any witnesses called, as they are called.

Stage 6 The Panel of Governors to have the opportunity to ask questions on the evidence given by the employee and any witnesses called, as they are called.

Stage 7 The headteacher and then the employee (or his/her representative) to have the opportunity to sum up their cases if they so wish.

- Stage 8 The person presenting the case and the employee (and his/her representative) and any witnesses to withdraw.
- Stage 9 The person(s) hearing the case (with any adviser(s)) to deliberate in private, only recalling the headteacher and the employee to clear points of uncertainty on evidence already given. If recall is necessary, both parties are to return notwithstanding only one is concerned with the point giving rise to doubt.
- Stage 10 The decision of the Panel of Governors will be notified to the employee and his /her representative at the meeting and confirmed in writing within five working days of the meeting.
- 8.3 The headteacher may arrange for a representative to present the case on his/her behalf and the headteacher (or representative) may be assisted in the presentation.
- 8.4 The references to headteacher in this paragraph assume he/she is not the employee concerned. If the headteacher is the employee concerned, arrangements must be made beforehand for the appointment of a person to present the case against the headteacher.

Appendix 20C

DISCIPLINARY RULES - SCHOOLS /COLLEGES

1 Introduction

- 1.1 The Governing Body is required, in accordance with the provisions of the Education Reform Act 1988, to establish disciplinary rules covering all employees working at the school, and to ensure that they are made known to the staff.
- 1.2 The disciplinary rules for the school are set out below. Whilst every effort has been made to identify all conduct that would be unacceptable, the list is not exhaustive. These rules will provide helpful guidance both to individual employees, and to senior staff in their management roles.
- 1.3 A code of conduct for employees whose work brings them into contact with young people has also been prepared and made available to staff and should be read in conjunction with these disciplinary rules.

2 Disciplinary and Dismissal Procedure

The Governors have also, in accordance with the provisions of the Education Reform Act 1988, prepared a disciplinary and dismissal procedure and made it known to staff. That procedure sets out the arrangements which apply where a breach of discipline is alleged. Sanctions available in accordance with that procedure range from formal disciplinary warnings to dismissal. The procedure also ensures that there is a right of appeal against such sanctions.

3 Types of Misconduct

- 3.1 Certain types of misconduct are so unacceptable that the employee's continued presence at work, even whilst the matter is being investigated, cannot be countenanced. Such misconduct falls within the term "gross misconduct" and examples are set out in Section 5.1 below. It is particularly important that staff at the school are aware of the examples of gross misconduct given. It is essential that all concerned are aware of the standards of behaviour expected both insofar as their own employment is concerned and for the overall good of the school.
- 3.2 Examples of other types of misconduct, not sufficiently serious to warrant consideration of summary dismissal, are set out under the heading 'Other Misconduct' in Section 5.2 below. Some examples of misconduct referred to in this section are more serious than others. A single incident of misconduct in some cases may not warrant immediate formal disciplinary action but may, more appropriately, be remedied by discussion and counselling sessions (see paragraph 1.4 of the Disciplinary and Dismissal Procedure). In others it will warrant a first warning. Other instances of misconduct may be regarded as sufficiently serious to warrant a disciplinary warning at intermediate or final level even where the employee does not have any other disciplinary warnings on the record. It is not possible to identify within the examples of misconduct, what level of sanction, if any, would be appropriate in each case. Much will depend on the particular circumstances of the case.

4 The Employee's Response

- 4.1 All allegations of misconduct will be investigated. The investigation will include a discussion(s) with the employee. If it is decided to hold a formal hearing the disciplinary/dismissal procedure will apply. The employee will have the opportunity to present his/her case at the formal hearing and to be accompanied by a trade union representative or colleague employed at the school/college.
- 4.2 An employee's response to an allegation of misconduct is important. It will:-
- a) assist in reaching a fair conclusion about an alleged incident where the facts are disputed.
 - b) establish the employee's view about the seriousness of the alleged misconduct. The view of the employee can be of particular importance because it will demonstrate whether or not he/she understands and accepts the standards of behaviour expected by the Governing Body.

5 Disciplinary Rules

5.1 Gross Misconduct

The following are examples of behaviour which could lead to summary dismissal. The list is not exhaustive, and it is acknowledged that it will be necessary to exercise judgement in specific cases to determine whether particular misconduct is to be regarded as gross misconduct. Any decision to dismiss an employee must be fair and reasonable in all the circumstances.

- a) Any form of physical violence towards students. Please refer to the Code of Conduct for employees whose work brings them into contact with young people.
- b) Physical violence, actual or threatened towards other staff or visitors to the school.
- c) Any sexual approach or response to a pupil or the development of an intimate relationship with a pupil, whatever the provocation. Please refer to the Code of Conduct referred to at (a) above.
- d) Sexual offences, sexual insults or sexual discrimination against pupils, other staff or visitors to the school.
- e) Racial offences, racial insults or racial discrimination against pupils, other staff or visitors to the school.
- f) Theft of Council monies or property and of monies or property of colleagues, pupils or visitors to the school. Removal from school premises of property which is
not normally taken away without the express authority of the Head or of the owner of the property may be regarded as gross misconduct.
- g) Deliberate falsification of documents such as time sheets, bonus sheets, subsistence and expense claims for the purpose of gain.
- h) Acceptance of bribes or other corrupt financial practices.
- i) Wilful damage of Council property or of property belonging to other staff, pupils or visitors to the school.
- j) Wilful disregard of safety rules or policies affecting the safety of pupils, other staff or visitors to the school.
- k) Any wilful act which could result in an action for negligence against the Council or the school.
- l) Refusal to comply with reasonable instructions given by staff with a supervisory responsibility.

- m) Gross neglect of duties and responsibilities.
- n) Unauthorised absence from work.

- o) Being untruthful and/or engaging in deception in matters of importance within the school community.
- p) Deliberate breaches of confidentiality particularly on sensitive matters.
- q) Being incapable by reason of alcohol or drugs (not prescribed for a health problem) from fulfilling duties and responsibilities of employment. The Council has produced advice that would need to be taken into account in the case of staff who may be dependent on alcohol.)
- r) Conduct which substantially brings the name of the school into disrepute or which seriously undermines confidence in the employee.
- s) Serious misuse of the School/Council computer facilities (see the Schools Use of ICT Policy).
- t) Corrupt or improper practice (i.e. when an employee improperly uses, or attempts so to use, his/her official position for his/her own private advantage or some other person (see the Anti-fraud and Corruption Policy Statement).

5. 2 Other Misconduct

The following are examples of behaviour which could lead to formal disciplinary warnings.

- a) Unsatisfactory timekeeping without permission.
- b) Neglect of safety rules and procedures. Some offences of wilful neglect may be regarded as gross misconduct.
- c) Breaches of confidentiality. Deliberate breaches on sensitive matters may be regarded as gross misconduct.
- d) Failure to comply with reasonable work related requirements or lack of care in fulfilling the duties of the post.
- e) Behaviour towards other employees, pupils and visitors which gives justifiable offence. Certain behaviour giving rise to offence may be regarded as gross misconduct.
- f) Acting in a manner which could reasonably be regarded as rude, impolite or contemptuous. In certain circumstances such behaviour may be regarded as gross misconduct.
- g) Conduct which it is considered adversely affects either the reputation of the school or affects confidence in the employee.

Appendix 20D

A CODE OF CONDUCT FOR EMPLOYEES WHOSE WORK BRINGS THEM INTO CONTACT WITH YOUNG PEOPLE

Introduction

This code of conduct is intended to help staff minimise the risk of being accused of improper conduct towards the young people with whom they come into contact during their work. The code also outlines what steps will be taken if an allegation is made against a member of staff by a pupil although this is dealt with in more detail in the Codes of Practice on suspension and investigation.

The code also outlines the action to be taken by employees when they suspect child abuse by a person outside or inside the school. Guidance under this code of conduct links to the provisions under the Protection of Children Act (POCA) but also to the Protection of Vulnerable Adults Act (POVA) when working with older pupils (including those with special needs). The handling of such matters is dealt with fully in the 'Child Abuse Procedures' handbook. It is important to recognise that child abuse may be physical, sexual or psychological and that it has been increasingly detected and brought to the attention of the general public in recent years. Whilst many child abusers are known to the victim either as relatives or friends of the family, some meet children in other contexts and a small minority of these may gain access to children in schools as teachers or support staff or through their voluntary involvement in school activities.

Pupils should not feel inhibited from reporting any abuse against them by staff. This will include not only serious abuse but also any incident where a pupil has grounds to believe that a member of staff has crossed the boundary of acceptable behaviour. Headteachers/principals working with employees generally will continue to do all they can to ensure that the environment within schools encourages truthful reports of any inappropriate behaviour.

1 Guidelines for Employees

1.1 Private meetings with pupils

- a) Employees should be aware of the dangers which may arise from private interviews with individual pupils. It is recognised that there will be occasions when confidential interviews must take place, but, where possible, such interviews should be conducted in a room with visual access, or with the door open, or in a room or area which is likely to be frequented by other people. Meetings with pupils away from the school premises are not permitted unless the specific approval of the headteacher/principal has been obtained.
- b) Where such conditions cannot apply employees are advised to ensure that another adult knows that the interview is taking place. The use of 'engaged' signs or lights is not advisable.
- c) Where possible another pupil or another adult should be present or nearby during the interview.

12 Caring for pupils with particular problems

- a) Employees who have to administer first aid should ensure wherever possible that other children or another adult are present if they are in any doubt as to whether necessary physical contact could be misconstrued.
- b) Wherever possible employees who have to help children with toileting difficulties should be accompanied by another adult, and pupils should wherever possible be encouraged to change themselves. It is accepted that there will be some situations where pupils will present particular problems for employees and the emphasis will be on what is reasonable in all the circumstances.

13 Reporting Incidents

Following any incident where an employee feels that his/her actions have been, or may be, misconstrued he/she should discuss the matter with the headteacher/principal. Where it is agreed with the headteacher/principal the employee should provide a written report of the incident. It is especially important to speak with the headteacher/principal in cases where an employee had been obliged to restrain a pupil physically and where a complaint has been made by a pupil, parent or other adult.

14 Where Physical Contact may be Acceptable

- a) There may be occasions where a distressed pupil needs comfort and reassurance which may include physical comforting such as a caring parent would give. Employees should use their discretion in such cases to ensure that what is, and what is seen to be by others present, normal and natural does not become unnecessary and unjustified contact, particularly with the same pupil over a period of time. Where an employee has a particular concern about the need to provide this type of care and reassurance he/she should seek the advice of the headteacher/principal.
- b) Some employees are likely to come into physical contact with pupils from time to time in the course of their duties. Examples include:- showing a pupil how to use a piece of apparatus or equipment; demonstrating a move or exercise during games or PE, and contact activities at a youth club. Employees should be aware of the limits within which such contact should properly take place and of the possibility of such contact being misinterpreted.
- c) There may be occasions where it is necessary for employees to restrain a pupil physically to prevent him/her from inflicting injury to others or self-injury. In such cases only the minimum force necessary may be used and any action taken must be to restrain the pupil. Where an employee has taken action to restrain a pupil he/she should discuss the matter as advised in paragraph 1.3 above.

15 Gratuitous physical contact with pupils

- a) Physical contact may be misconstrued by a pupil, parent or observer. Such contact can include well intentioned informal and formal gestures such as putting a hand on the shoulder or arm, which if repeated with an individual pupil could lead to serious questions being raised. Therefore as a general

principle employees must not make gratuitous physical contact with their pupils and it is unwise to attribute touching to their teaching style or as a way of relating to pupils.

- b) Any form of physical punishment of pupils is unlawful as is any form of physical response to misbehaviour unless it is by way of restraint. It is particularly important that employees understand this both to protect their own position and the overall reputation of the school.

1.6 Where conversations of a sensitive nature may be appropriate

- a) Many employees have a pastoral responsibility for pupils and in order to fulfil that role effectively there will be occasions where conversations will cover particularly sensitive matters. Employees must in these circumstances use their discretion to ensure that, for example, any probing for details cannot be construed as unjustified intrusion.
- b) Other employees in schools may from time to time be approached by pupils for advice. Pupils may also appear distressed and employees may feel the need to ask if all is well. In such cases employees must judge whether it is appropriate for them to offer counselling and advice or whether to refer the pupil to another employee with acknowledged pastoral responsibility for the particular pupil.

1.7 Inappropriate comments and discussion with pupils

- a) As with physical contact, comments by employees to pupils either individually or in groups can be misconstrued. As a general principle therefore employees must not make unnecessary comments to and/or about pupils which could be construed to have a sexual connotation. It is also unacceptable for employees to introduce or to encourage debate amongst pupils in class, or elsewhere, which could be construed as having a sexual connotation that is unnecessary given the context of the lesson, or the circumstances. At the same time it is recognised that a topic raised by a pupil is best addressed rather than ignored.
- b) Systematic use of insensitive, disparaging or sarcastic comments is also unacceptable.

1.8 Choice and use of teaching materials

When using teaching materials of a particularly sensitive nature an employee should be aware of the danger that their selection could be misinterpreted and may be criticised after the event.

1.9 General relationships and attitudes

Employees should ensure that their relationships with pupils are appropriate to the age and gender of the pupils, taking care that their conduct does not give rise to comment or speculation. Attitudes, demeanour and language all require care and thought, particularly when employees of either sex are dealing with adolescent boys and girls.

1.10 Educational visits and extra curricular activities

Employees should be particularly careful when supervising pupils in a residential setting such as a ski trip, outdoor education camp or extended visit away from home. Similarly the less formal approach adopted in extra curricular activities generally can be open to misinterpretation. Although more informal relationships in such circumstances tend to be usual, the standard of behaviour expected of employees will be no different from the behaviour expected within school.

2 Steps to be taken when allegations are made against an employee

- a) Employees working in schools are particularly vulnerable both to the possible consequences of their close relationships with pupils and to malicious or misplaced allegations made by pupils deliberately or innocently, arising from normal and proper association with them in school.
- b) For this reason, where a serious allegation is made, the arrangements for making a preliminary assessment of whether there is substance in the allegation, the procedure set out in the Code of Practice - Suspension of Staff, will be followed. The entire provisions of this Code and the Code of Practice - Investigations, will also be followed.
- c) Where an allegation is made which, if substantiated, would appear to indicate an offence of gross misconduct (see paragraphs 3.1 and 5.1 of the Disciplinary Rules) the employee will be suspended from duty. Suspension is intended as a neutral act taken as a precautionary measure.
- d) Where suspension takes place a contact will be nominated who is not conducting the investigation to provide information and support to the employee. The person nominated as the contact will discuss with the employee any welfare needs he/she may have and will act as a liaison point between the employee and those conducting the investigation.
- e) The Authority has procedures for managing allegations against people who work with children and vulnerable adults which will be followed.

3 Action to be taken by employees where child abuse is suspected

- a) Instructions on the procedures where child abuse outside the school is suspected are given in the Authority's Safeguarding policy. Information on this should be held in all Schools.
- b) In the event that an employee suspects that a pupil is being abused by a member of staff in school or elsewhere, a report should be made in strict confidence to the School's Designated Safeguarding Officer (often the headteacher). Prior to any internal investigations, the headteacher should immediately inform the Local Authority Designated Officer (LADO) who shall inform the area Social Services team and police child protection unit. Arrangements for investigating the allegation will be discussed with the headteacher. No investigation shall commence within the school prior to these arrangements being made.
- c) If the headteacher is suspected of improper conduct the employee concerned should make his/her report directly to the Local Authority Designated Officer / Strategic Director.

4 Conclusion

It would be impossible and inappropriate to lay down hard and fast rules to cover all the circumstances in which employees relate to pupils and where opportunities for their conduct to be misconstrued might occur. In all circumstances professional

judgement will be exercised. For the vast majority of employees this code of conduct will serve only to confirm what has always been their practice. If employees have any doubts about the advice contained in this document they should consult their headteacher.

From time to time, however, it is advisable for all employees to reappraise their teaching styles, relationships with pupils and their manner and approach to individual pupils, to ensure that they give no grounds for any doubts in the minds of colleagues, pupils or parents.

Appendix 20E

SUSPENSION OF STAFF - CODE OF PRACTICE

1. Introduction

- 1.1 When a member of staff is suspended it is a traumatic experience for both the individual and the headteacher/principal. For this reason, despite the need to act quickly, it is essential that the facts of a case are carefully considered before a decision to suspend is made. It is also important that all communication with the employee, including the meeting to consider suspension, is conducted with care and with sensitivity.
- 1.2 This code of practice sets out advice on considering, handling and reviewing the suspension of staff.

2 Why suspend?

- 2.1 Suspension is intended as a neutral act. It is taken as a precautionary measure when serious allegations, which warrant further investigation, are made against a member of staff.
- 2.2 A decision to suspend an employee:
 - a) will protect the position of the Governors and the Authority if, at a subsequent hearing, the employee is summarily dismissed on grounds of gross misconduct. If an employer dismisses an employee without notice on the basis that he cannot countenance the presence of the employee at work the Employment Tribunal will normally expect the employer to have suspended the employee during the period of investigation as a precaution;
 - b) will, depending on the nature of the alleged misconduct, be a safeguard for the welfare and safety of pupils, students and staff;
 - c) will make it easier and less traumatic for the school/college and community during the investigation period;
 - d) may assist the employee by removing him/her from a potentially stressful situation.

3 Conduct leading to suspension

The disciplinary rules for the school/college give examples of behaviour which cannot be countenanced. This behaviour is generally known as gross misconduct.

When such an allegation is made the suspension of the employee has to be given urgent consideration.

4 Urgent initial assessment of whether there is substance in an allegation

- 4.1 The headteacher/principal must inform the Strategic Director immediately there is a suspicion that an employee may have committed serious misconduct. The circumstances will be discussed and the steps set out at paragraphs 4.2 and 5 below will be given urgent consideration. In the case of an allegation of a sexual nature involving a pupil aged 17 or under the Child Protection Procedures will apply.
- 4.2 Before holding an interview with the employee, which may lead to suspension, it should be established, as a matter of urgency, whether or not there is sufficient substance in an allegation to warrant an investigation. Although it is important to act quickly, the following action should be considered first:
- a) Complaints and allegations should be obtained in writing, signed and dated. In the cases of allegations by young children and those with special educational needs, it is acknowledged that a written account will not be possible. In such cases the headteacher should make an account in writing of his/her discussion with the pupil/student/parent. This account should cover all relevant points raised by the pupil/student/parent/ and should be signed and dated by the headteacher.
 - b) Once, or at the time, a complaint or allegation is made in writing, a meeting should be held with the person making the complaint or allegation. The basis and substance of the complaint or allegation should be explored at the meeting.
 - c) In appropriate cases, information should be obtained from senior staff at the school/college. There may also be occasions when wider enquiries of staff would be appropriate. All discussions with staff must be on an entirely confidential basis.
 - d) A view should then be reached on whether or not it seems likely that a full investigation should take place. The headteacher will explain the possible consequences of the allegation for the employee involved, and for the person making the complaint, if the allegations are exaggerated or frivolous. The headteacher will judge, in the case of pupils/students, whether or not to describe possible consequences.
- 4.3 It is important to recognise that establishing whether an allegation warrants further investigation is not the same as forming a view on whether or not an allegation is to be believed. Only subsequent investigation of all the facts and a properly convened hearing can enable conclusions to be reached fairly.

5 Urgent discussions prior to any interview to consider whether suspension is appropriate

- 5.1 The HR team will give urgent assistance to the headteacher in deciding whether the employee should be seen to consider whether suspension is appropriate. At this stage it will be decided whether the Police, the Council Treasurer and/or the Social Services area team should be informed, and who will undertake appropriate action under paragraphs 5.2, 5.3 and 5.4 below.

- 5.2 In some cases the Police and/or the Council's Finance Officer might wish to interview the employee before any approach is made by the headteacher. The Police and the Council's Finance Officer must be given every assistance in order that they can complete their own enquiries.
- 5.3 In some cases the Police may act independently of the school. This would most likely be the case where the alleged offence was not directly connected with the employee's work. Where it is known that the Police are undertaking an investigation, the appropriate police officer should be asked for information about the nature of the alleged offence and the possible charge that would result.
- 5.4 The Secretary or Regional Official of the employee's trade union will be advised about the general circumstances causing concern if it is decided to hold an interview with the individual which may lead to suspension. It will be important to follow the advice set out at paragraph 7.2 below.

6 Action when it is decided not to conduct an interview to consider suspension

- 6.1 Where it is decided that no action to consider suspension should be taken (because the concern/allegation is clearly without foundation), the headteacher should see the employee. He/she may be accompanied by his/her trade union representative or a colleague employed at the school. The circumstances which led to the suspension being considered should be explained. The headteacher should explain to the employee any follow-up action he proposes to take and offer appropriate assistance or advice to the employee. The headteacher should seek to establish what, if any, support the employee might require. Where it is considered appropriate and acceptable to the employee, the Strategic Director should be approached for assistance. Circumstances and cases will vary. Welfare and/or health counselling may be helpful. Some basic legal advice may be of assistance if the employee has been the victim of a frivolous, exaggerated or malicious allegation.
- 6.2 In some cases the headteacher may be concerned about some aspects of the employee's behaviour in respect of the allegation, but does not believe that this amounts to gross misconduct. In such cases a full investigation should be undertaken (see the separate Code of Practice on undertaking a disciplinary investigation) before any decision is made about the appropriate response.

7 Action when it is decided to conduct an interview which might lead to suspension

7.1 Timing of suspension interview

If there is concern about the possible welfare or safety of pupils, students or staff the suspension interview should be held immediately the arrangements outlined in paragraph 7.2 below have been made. Normally, the interview to consider whether suspension is necessary should be timed to coincide with a natural break in the employee's working day.

7.2 Who is involved?

In most cases the headteacher will conduct any interview which may lead to suspension, and he/she will normally be **accompanied by a representative of the senior leadership team and / or personnel**. The Articles of Government do,

however, provide not only the headteacher with powers of suspension, but also the Governing Body. The Authority as employer also has power to suspend.

7.3 Arranging the interview

Although it is important to act quickly when arranging an interview with an employee which may lead to suspension the following steps should be taken:-

- a) Where the employee is an accredited trade union representative or safety representative the interview should not be arranged without the circumstances of the case first being discussed with the secretary or full time official of the employee's trade union. Although normal standards of conduct are required of such representatives this discussion is necessary so that at the outset the action being taken is not misinterpreted as an attack on the functions of a trade union.
- b) Where the employee is a member of a recognised trade union every effort should be made to contact the secretary or full-time official of that union to establish what arrangements, if any, can be made, as a matter of urgency, for the employee to be represented at the suspension interview. Where it is not possible to contact the secretary or regional official, efforts should be made to contact a local trade union representative.
- c) Where the employee is not a member of a recognised trade union every effort should be made to identify a person on the staff of the school/college who would be readily available and prepared to accompany the employee to the suspension interview and/or offer support after the meeting.
- d) Where an employee is to be accompanied at the interview he/she should be informed, when the representative arrives, that a serious allegation is to be put to him/her and that a representative or friend is available to accompany him/her. The employee should then be offered the opportunity of a brief meeting with their representative or friend before the interview.
- e) If it is not possible to make arrangements, as a matter of urgency, for the employee to be represented the suspension interview should still be held. The interview is not a hearing and in conducting it in accordance with this paragraph, the individual will be aware of his/her basic rights.

7.4 The interview

- a) At the interview to consider suspension headteacher/principal should explain to the employee that the meeting is not a formal disciplinary hearing but that it is necessary to put to him/her a serious disciplinary matter which may lead to suspension. The essential facts should then be put to the employee and the employee asked for any response which he/she wishes to make. It would be appropriate to agree a brief adjournment before the employee responds if it is requested.
- b) If it is clear from the responses from the individual that the allegation against the employee is without foundation, no further action should be taken although the arrangements set out in paragraph 6.1 above may be appropriate.
- c) If as a result of the interview, the headteacher/principal considers that the allegation should be pursued, the employee should be told that he/she is

suspended from duty. It should be emphasised that the suspension is intended as a neutral act pending further investigation and that a conclusion as to the need for further formal action, including a hearing, will be reached as soon as possible. A letter should be sent to the employee within 24 hours confirming the suspension.

8 Terms of suspension

- 8.1 The employee should be required to return any keys to the school immediately and asked to remove any personal possessions he/she is likely to require before leaving the premises. The employee should be accompanied by the headteacher (or a person nominated by him/her) when personal belongings are being collected. An arrangement may be made with the headteacher at a later date to return to school with a view to collecting any further personal belongings he/she requires. The employee should again be accompanied whilst on school premises by the headteacher (or a person nominated by him/her).
- 8.2 The employee should be told not to re-enter school premises at any time without prior permission of the headteacher.
- 8.3 Where the employee is a Governor of the school the question of his/her attendance at Governors meetings during the period of suspension should be discussed with the Strategic Director. In normal circumstances a Governor cannot be precluded from attending Governors meetings.

9 Who should be told about a decision to suspend

- 9.1 The Strategic Director and the Chair of Governors must be informed formally in writing when an employee has been suspended pending investigation. A brief confidential report stating that the suspension has taken place pending an investigation, with no further details, should also be made to the next meeting of the Governing Body.
- 9.2 The person who has made the complaint or allegation should be informed. Where an allegation has been made by a pupil/student under the age of 18 years his/her parents should also be informed. If the pupil/student asks that his/her parents should not be informed, the headteacher/principal will have to judge what is most appropriate. Much will depend on the age of the pupil/student, the seriousness of the allegation and whether the investigation to be undertaken is entirely internal to the school/college.
- 9.3 Senior staff within the school/college should be informed on a need to know basis.
- 9.4 A decision on informing working colleagues and parents generally should be made taking into account the wishes of the employee. It would not normally be appropriate to inform parents but there might be circumstances where this is felt to be necessary.
- 9.5 All those informed should be asked to treat the matter as confidential. The headteacher/principal shall have the right of reply if the employee makes details public. Where such a matter is in the public domain but not as a result of the actions of either party, it may be appropriate for an agreed joint response/statement to be released. Where such an agreed response/statement is not agreed, the parties shall ensure that the details remain confidential.

10 Support for the employee during the period of suspension

- 10.1 In the letter of suspension the employee should be given the name of a member of staff at the school or member of the personnel team as a contact point. This contact should not be conducting the investigation. The primary role of the contact point is to provide information about progress in the investigation. If the investigation is likely to be lengthy arrangements should also be made for the employee to be contacted on a regular basis, at least fortnightly and preferably each week. These arrangements do not preclude the employee from contacting those conducting the investigation at any time.
- 10.2 In some cases it may be appropriate to ask the employee whether welfare counselling sessions or the support of the Medical Adviser to the Council would be helpful.

11 Conducting the investigation

Please refer to the Code of Practice - Undertaking a Disciplinary Investigation.

12 Outcome of the investigation

- 12.1 Once the investigation has been completed action must be taken about the next step. A further interview with the employee must be arranged to inform him/her of the conclusion reached.
- 12.2 The decision could be to present a case to the Governors to consider whether or not the employee should be dismissed. In that case the employee must remain on suspension until a hearing by the Governors has taken place. Any hearing must be arranged in accordance with the disciplinary procedure.
- 12.3 In some cases it may be decided that, although the alleged offence does not warrant a dismissal hearing, a formal hearing which might result in a disciplinary warning is to be arranged. In such cases the hearing should normally take place before the employee returns to work. This avoids a period of uncertainty and speculation in the days after a return to work leading up to the disciplinary hearing. The appropriate procedure should be followed but it is envisaged that both parties would seek an early date for the hearing, if necessary by mutually agreeing a modification to the stated time limits.
- 12.4 The decision could be not to proceed with any form of formal disciplinary or dismissal hearing. In that case the suspension should be lifted immediately. **Only the Governing body has the power to lift the suspension and the Chair of Governors will need to write to the employee to confirm this.** The headteacher/principal should see the employee and explain the outcome of the investigation and discuss the employee's return to work. The employee should also be given the same opportunities as set out in paragraph 6.1 above. In addition, if it is the employee's wish, consideration should be given to the possibility of securing a redeployment to another school/college.
- 12.5 Except where an employee is dismissed, the headteacher/principal should provide the opportunity for an informal counselling session. This could provide guidance as to future conduct. It could also be used to give appropriate support and reassurance and to rebuild where necessary the employee's confidence.

13 Records

- 13.1 All documents collected during the course of an investigation should be retained together with a written note of the outcome of the investigation. These documents will be retained on the employee's personal file held at the school
- 13.2 When a pupil/student has made an allegation a copy of the statement by the pupil/student, or where appropriate, the written account of the allegation prepared by the headteacher/principal should be kept on the confidential section of the pupil's/student's personal file held at the school. A note should accompany this document explaining the outcome of the investigation.

Appendix 20F

UNDERTAKING A DISCIPLINARY INVESTIGATION – CODE OF PRACTICE

1 Introduction

- 1.1 Where, there is alleged misconduct on the part of an employee at a school it is important that the issues are investigated thoroughly. This will assist the headteacher, Governors and the Authority in ensuring that any misconduct is dealt with appropriately. It also provides a safeguard for staff by ensuring that no disciplinary action is contemplated before allegations have been carefully explored.
- 1.2 The principles set out in this code apply to all investigations whether they involve allegations which could lead to dismissal or those where disciplinary warnings or counselling are likely to be the outcome.
- 1.3 There is a separate Code of Practice concerned with the Suspension of Staff and in all cases where serious allegations are made the guidance given in that code should be followed before any investigation commences.

2 General

- 2.1 Headteachers are recommended to seek advice from **HR team** before beginning an investigation, particularly when the allegation or suspicion is of a sexual nature. This first approach will clarify basic issues and enable the headteacher to share any concerns he/she may have.
- 2.2 Once an allegation is received it is important to undertake an investigation speedily so that facts are fresh in the minds of any witnesses.
- 2.3 It is important to acknowledge the special position of union representatives and safety representatives. The disciplinary procedure makes it clear that any problem involving such staff should first be discussed with a senior trade union representative or full-time official. Such an approach should be made at an early date, normally before an investigation commences.

3 Who should undertake an investigation

A number of factors will determine who should undertake an investigation. The first point to establish is the nature and seriousness of the alleged offence. This will determine which of the following arrangements are appropriate:

- a) In cases of allegations of a sexual nature involving pupils/students the investigation will be undertaken in accordance with the Safeguarding Procedures. This will involve

a joint approach by the Police, Social Services and a representative of the Strategic Director.

In a particularly sensitive case involving a young person, a witness statement will be obtained at a video recorded interview conducted in accordance with the Council's Code of Conduct governing such interview.

- b) In the case of alleged financial misconduct the audit team as well as the Strategic Director must be informed. The audit team will liaise with the school/college in deciding how to proceed. This could involve notification to the Police who might then undertake a criminal investigation. Alternatively an investigation conducted by the Chief Finance Officer's audit team might be appropriate.
- c) In all other cases an investigation could be conducted by the headteacher or other Senior Officer within the school. This may be supported by a representative of the Strategic Director. Alternatively it might be agreed that a representative of the Strategic Director should lead an investigation.

4 Initial assessment of whether there is substance in an allegation

Before proceeding it should be established whether or not there is sufficient substance in an allegation to warrant an investigation. In order to reach a decision the following action should normally be taken.

- a) Complaints and allegations should be obtained in writing, signed and dated. In the case of allegations by young children and those with special educational needs, it is acknowledged that a written account will not be possible. In such cases the headteacher should make an account in writing of his/her discussion with the pupil/student/parent. This account should cover all relevant points raised by the pupil/student/parent and should be signed and dated by the Head.
- b) Once, or at the time, a complaint or allegation is made in writing, a meeting should be held with the person making the complaint or allegation. The basis and substance of the complaint or allegation should be explored at the meeting.
- c) In appropriate cases information should be obtained from senior staff at the school. There may also be occasions when wider enquiries of staff would be appropriate. In all cases discussions with staff must be on an entirely confidential basis.
- d) A view then be reached on whether or not a full investigation should take place. The headteacher/principal will explain the possible consequences of the allegation for the employee involved, and for the person making the complaint if the allegations are exaggerated

or frivolous. The headteacher will need to judge, in the case of pupils/students, whether or not to describe possible consequences.

5 Suspension

The Code of Practice on the suspension of staff makes it clear that, in the case of alleged gross misconduct, the employee should be suspended from duty before the investigation begins. Please refer to this separate Code of Practice before taking any further action in such cases.

6 Notifying the employee at the outset

- 6.1 The Disciplinary Procedure specifies that where it is believed that there is sufficient substance in an allegation to warrant an investigation, and it is not one warranting urgent consideration of suspension, the employee must be informed within ten days. A meeting should be arranged for this purpose. The opportunity to be accompanied by a trade union representative or colleague employed at the school should be stated. This meeting will normally take place immediately after it has been decided to pursue an allegation or complaint following the procedure outlined in paragraph 4 above.
- 6.2 It should be made clear to the employee at the meeting that it is not a formal disciplinary hearing but an opportunity for him/her to respond to the allegation and to assist in establishing the facts.
- 6.3 The substance of the allegation should be put to the employee, and the employee should be given the opportunity of giving his/her version of the incident or problem. The allegation and written evidence will not be supplied in writing at this stage, but will be released in accordance with the disciplinary procedure in advance of any formal hearing.
- 6.4 Every avenue should be explored with the employee but the employee has the right either not to respond or only to respond in a limited way.
- 6.5 In some cases a complaint will not be a complicated matter. It may, for example, be a concern about the employee's timekeeping and further investigation may not be necessary. In such cases the meeting with the employee at this stage could represent the only form of investigation prior to a decision on whether or not to convene a formal hearing.

7 Some general principles on investigation

- 7.1 The purpose of an investigation is to collect facts whilst they are fresh in people's minds. It is important that the emphasis is on establishing the facts. An investigation should not begin with any preconceived view about the validity or otherwise of the allegation.

- 7.2 Any witnesses who are likely to be in a position to give direct evidence about the alleged offence should be interviewed. The witnesses should be informed that they could be required to give evidence at a disciplinary hearing. They should be asked to discuss what it is they have witnessed, and those conducting the investigation should ensure that all matters are explored fully.
- 7.3 Immediately after the witnesses have been seen they should be asked to write their statements ensuring that these cover all the relevant points. It is acceptable for witness statements to be typed for clarity, but they should be signed and dated by the witness.
- 7.4 In some cases the headteacher will consider it necessary to obtain the permission of parents before obtaining a statement from a pupil/student. Much will depend on the age of the pupil/student, the seriousness of the allegation and whether the investigation is entirely internal to the school.
- 7.5 In order to ensure that full information is obtained care should be taken in deciding who to approach to provide statements. In reaching a decision the following factors should be considered:-
- a) Who is most likely to be in a position to give direct evidence?
 - b) If a number of pupils/students in a class are likely to have witnessed an incident the headteacher/principal should decide which pupils/students to approach. It is important to get a balanced view. It is particularly important to obtain information from those who are more likely to have been in a position to see and hear what is alleged.
 - c) The employee against whom the allegation has been made should be given the opportunity to identify any individual(s) who he/she believes is most likely to be able to give a first hand account. The same opportunity should be given to the person who has made the allegation.

8 Interview with employee at the conclusion of the investigation

- 8.1 In cases where evidence is collected which was not available to be put to the employee at the outset a further meeting should be arranged. At this meeting it should be made clear to the employee that the meeting is not a formal disciplinary hearing but an opportunity for the employee to respond to the allegation and assist in establishing the facts. The employee should be given reasonable notice of the meeting and should be informed that he/she may be accompanied by a trade union representative or colleague employed at the school.
- 8.2 The full allegation and the evidence should be described to the employee. The allegation and written evidence will not be supplied in writing at this stage, but will be released, in accordance with the disciplinary procedure, in advance of any formal hearing.

- 8.3 The employee has the right either not to respond or to respond only in a limited way.
- 8.4 Where the discussion with the employee results in further information being obtained which needs to be explored, arrangements should be made for the investigation to continue. It may be necessary to reconvene the meeting with the employee after further information has been obtained.

9 Health related problems including possible alcohol dependency

- 9.1 Where the investigation suggests that there might be a health problem which is material to the alleged misconduct (this would include alcohol dependency) it is important to obtain a report from the Council's Occupational Health Advisor. In such cases the employee should be informed and asked to give written consent for the Medical Adviser to consult his/her medical practitioner(s). (NB the Council has produced advice for managers on dealing with staff who may be dependent on alcohol. This should be followed when such problems are identified.)
- 9.2 Arrangements should be made for the employee to see Occupational Health Advisor who should be informed about the reason for the appointment, provided with full background information and asked for advice especially on any particularly important features of the circumstances
- 9.3 Once the Occupational Health Adviser's report is available a decision on whether it is appropriate to proceed with disciplinary action or take other steps can be made. The Personnel Team will provide advice.

10 Outcome of investigation

- 10.1 Once the investigation has been completed a decision must be taken about the next step.
- 10.2 In some cases it may be decided not to take any formal action. A counselling session might be appropriate. This could provide guidance as to future conduct. It may be used to give appropriate support and reassurance and to rebuild where necessary the employee's confidence.
- 10.3 In some cases it may be decided that the alleged offence should be dealt with at a hearing which could lead to the issuing of a disciplinary warning.
- 10.4 It may be decided to present a case to the Governors to ask them to consider whether or not the employee should be dismissed. This would be appropriate where gross misconduct is alleged or where further misconduct is alleged where an employee has previously

received a final warning which has not been disregarded for disciplinary purposes.

11 Records

- 11.1 All documents collected during the course of an investigation should be retained together with a written note of the outcome of the investigation. The documents will be retained on the employee's personal file held at the school. No reference shall be made to any such records covered by this paragraph unless the employee expressly requests that they should.
- 11.2 In those cases where a formal hearing is convened, details of the allegation(s) and supporting material will be sent to the employee in advance of the hearing in accordance with the disciplinary procedure. The record of the disciplinary hearing will be retained in accordance with the disciplinary procedure.
- 11.3 Where a formal hearing is not convened but a counselling session is undertaken a summary of the session should be made in the form of a letter to the employee. This letter should provide for the employee to respond if he/she wishes. The letter and any response will be held on the employee's personal file held at the school.
- 11.4 When a pupil/student has made an allegation a copy of the statement by the pupil/student, or where appropriate, the written account of the allegation prepared by the Head/Principal should be kept on the confidential section of the pupil's/student's personal file held at the school. A note should accompany this document explaining the outcome of the investigation and any hearing that is convened.

Appendix 20 G

CONDUCT COUNSELLING – CODE OF PRACTICE

1 Introduction

- 1.1 This code of practice is designed to assist headteachers to provide help and support where there is concern about an employee's conduct or the way in which an employee undertakes his/her duties which is more a matter of conduct than competence and is one of the options to be considered following an investigation. The principles set out in this code of practice will also apply where appropriate to headteachers.
- 1.2 Day to day management supervision will normally be the most appropriate way of supporting employees facing these difficulties. Where, however, such supervision fails to achieve an acceptable improvement it may be decided to counsel the employee more formally. Counselling is recognised by the Advisory, Conciliation and Arbitration Service (ACAS) as being appropriate in certain disciplinary cases and it is accepted that it may often be more satisfactory than a formal disciplinary hearing.
- 1.3 It will be for the headteacher to judge, given all the circumstances, whether or not to seek to resolve difficulties through counselling. Where counselling is judged to be the most appropriate way of addressing any problem, the first step will be for the headteacher/principal to discuss the matter with the employee concerned and to establish who would be the most appropriate person to undertake the counselling session(s). The wishes of the employee will be taken carefully into account in reaching such a decision but it will be for the headteacher/principal to make the final decision. In cases where it is judged that a headteacher/principal should be the subject of counselling, it will be for the chair of governors to decide who should undertake such counselling.

2 Purpose of counselling

- 2.1 The purpose of counselling should be to ensure that the member of staff concerned understands that their conduct, whether intentional or otherwise, has or is likely to cause a problem, or is in breach of reasonable standards of behaviour. Counselling should not be seen as punitive; the employee should be counselled with the objective of effecting an improvement or resolution at an early stage, thus avoiding the need to take action through the formal disciplinary procedure. It is important that conduct counselling sessions should be:-
- informal
 - frank
 - two-way
 - confidential
 - positive

- constructive
- supportive

3 Principles to be observed

- 3.1 At least three working days should be given to the employee in writing (unless mutually agreed otherwise) of the date, time, venue for the counselling session. The written notification should indicate the reason for the counselling session(s). A copy of this code of practice, and a copy of any statements to be considered at the counselling session, should also be made available to the employee three working days in advance of the session.
- 3.2 Sessions should be conducted in private with no interruptions. Confidentiality should be observed by both parties. Normally, no single counselling session should last longer than one hour and it should take place in working or directed time.
- 3.3 Normally, counselling sessions will be undertaken on a one to one basis. The counsellor may, however, seek the support of a colleague chosen from within or outside the school. The employee may involve his/her union representative or colleague employed at the school/college.
- 3.4 Witness statements and other appropriate documentation may be used if the counsellor judges that this would be helpful.
- 3.5 Although it is important to be as clear as possible about what went wrong and why, the emphasis should be on reaching an agreement about future conduct and not the events that led to the decision to undertake counselling.
- 3.6 The counsellor should listen carefully to the employee and make every effort to discover underlying factors which may have contributed to the initial problem. Counselling itself should be a two-way discussion aimed at pointing out any shortcomings and encouraging improvement. Criticism should be constructive and the emphasis on ways in which the employee can remedy shortcomings.
- 3.7 In listening to any explanation put forward by the employee, the counsellor may decide that there is no basis for the concern. This should be made clear to the employee in writing.
- 3.8 Where an improvement is required, this should be stated clearly in writing, and the counsellor should ensure that the employee understands what needs to be done, how the conduct will be reviewed, and over what period. The written statement by the counsellor should make it clear that if there is no improvement or if there are further disciplinary concerns, the next stage could be the formal disciplinary procedure.

- 3.9 A note should be made of any counselling session and kept on the personal file of the employee concerned. The employee should be provided with a copy at the time and given the opportunity to respond in writing - any such written response will be retained on the personal file with the other documentation. The status of such notes and the time limits which apply to them are set out in the school's formal disciplinary procedure.

4 After the counselling session(s)

- 4.1 Arrange a time for a review of progress if required.
- 4.2 Inform the employee of the possible involvement of other members of staff in further discussions/action plans.

Appendices 20A-20G (inclusive) agreed by Management and Trade Unions –
23 November 2001