GUIDELINES FOR CONDUCTING A DISCIPLINARY INVESTIGATION

1 Aim of the investigation

Any matter which might give rise to disciplinary action against a member of staff must be fully investigated.

The aim of the investigation is to ascertain all the facts which might have a bearing on any subsequent disciplinary action. Disciplinary investigations, therefore, must be thorough - but also carried out in a way which ensures that staff are treated fairly. They take time and need to take precedence over other matters, since it is important to ascertain the facts as quickly as possible.

If the staff member is absent from work due to sickness, the Headteacher should contact Children, Young People & Families Personnel at the earliest opportunity for further advice.

Where the concern is related to child protection, financial or IT matters, the Council’s Joint Consultancy Team, Internal Audit or Computer Audit sections, respectively, must be notified and may carry out the investigation.

2 Who should conduct the initial investigation?

In most circumstances the line manager and/or senior member of staff will conduct an initial investigation (except where the line manager may form a part of the investigation and it would be more appropriate for another member of staff not related to the case to carry out the investigation) or the Headteacher (Deputy) may nominate another member of staff to undertake the role of Investigating Officer. In some circumstances the Headteacher (Deputy) may him/herself conduct the investigation, particularly where the allegations against the staff member are serious or the allegations are such that it may be necessary to suspend a member of staff.

Wherever possible, the Investigating Officer should be familiar with the field of work and should be of a status no lower than the staff member’s line manager.

3 Planning the investigation

When a matter comes to your attention which might give rise to disciplinary action against a member of staff, you have to consider how you are going to conduct the investigation.

Although it is necessary to carry out investigations promptly (before memories fade), it is important to plan your investigation.

4 Identify the problem

Ask yourself the following questions in relation to the problem:

WHAT? What SPECIFICALLY is the problem? What are the details?
WHERE? Where did the problem arise?
WHEN? When did the problem arise or over what period?
**WHO?**  
Who are the people involved in the problem? Do you intend to involve them in the disciplinary process either as those subject to the process or as witnesses?

**HOW?**  
How is this a problem? What rule or standard has been broken?

From these questions others may arise:

(a) Are there any complaints that need to be clarified? Wherever possible complaints should be set out in writing, signed and dated by the complainant. This should make it clear, beyond all doubt, what the complaint is all about;

(b) What facts and further details need to be established? (It is important to ascertain all the facts prior to any formal hearing);

(c) Who should be interviewed and what questions should be asked? (Statements should be obtained from any witnesses at the earliest opportunity);

(d) Whether the complaint/allegation could be regarded as gross misconduct (in which case you must take prompt action to suspend the member of staff concerned);

(e) Take advice from the Director of Children, Young People & Families or his/her representative before proceeding further. (You must do this when the case involves a trade union representative/official or when the case appears to involve gross misconduct or a serious criminal offence.)

**NOTE:** All those who may have some relevant evidence to give should be interviewed irrespective of whether their evidence supports or contradicts the complaint/allegation. It is important to note that management has the right to interview as many potential witnesses as are considered necessary.

5 The investigatory interviews

Having prepared for the investigation, the Investigating Officer must conduct the interview(s) with the staff member(s) subject to the investigation.

6 Preparing a structured interview

Having given consideration to all of the above the Investigating Officer needs to prepare for the investigatory interview(s). The following issues need to be considered:

(a) How are you going to open and set the scene?

(b) How are you going to explain your role and responsibility in relation to the Disciplinary Procedure?

(c) How are you going to structure the interview?

7 Questioning

This is a crucial skill since it is only through intelligent questioning that you will get to the bottom of the situation. There are three different uses to which questions can be put:

(a) **Questioning for information**

This clearly lies at the heart of the investigation.
(b) **Questioning for clarification**

All interviews consist of a greater or lesser muddle of fact, opinion, hearsay, innuendo and so forth. With your objectives clearly established during preparation you will use questions to nail down ambiguity.

(c) **Questioning for commitment**

There will be occasions when you have to check that what has been said is understood and accepted.

The interview needs to be detailed and accurate. Too frequently the written statements obtained during investigations contain very little detail. It is important, therefore, to question potential witnesses thoroughly. The answers to questions should always be probed, without leading, until you feel that the full picture has emerged.

8 **Statements**

In addition to the interview the Investigating Officer should obtain statements from the member of staff and witnesses concerned. This may be done via notes taken at the interview which are subsequently agreed, or through a written statement of the staff member/witnesses. The statement obtained must always be signed and dated by the staff member and a witness.

9 **Recording**

The Investigating Officer should take notes during the interview to ensure that a record is kept of all the evidence given.

The Investigating Officer should invite a third party to attend the interview as a witness and possibly to take notes of the discussion. In some cases, it would be recommended that this person is of the opposite sex to the Investigating Officer eg should an allegation of sexual misconduct arise.

10 **Conducting the interview**

At the beginning of the interview you should:

(a) Confirm whether the individual is being accompanied/represented and, if so, by whom. If they are not accompanied/represented confirm that they do not wish to be;

(b) Inform the member of staff that the meeting is investigatory and not a formal hearing;

(c) Make the member of staff aware of the nature of the complaint made against him/her;

(d) Consider and question any explanation put forward until you are satisfied that you have obtained all the facts;

(e) Summarising: It is important at the end of the interview that you summarise the total situation prior to the adjournment. Your summary should reflect the key points of the interview:

   (i) Key points of the case;
   (ii) How these have changed during the interview;
   (iii) Key points raised in reply;
   (iv) Matters to be checked.
11 Interviewing witnesses

Arrangements should be made to interview all witnesses. The individuals should be notified of the purpose of the interview, and a date, time and place agreed. It is advisable that the individual’s line manager is notified of the time and date of the interview so that arrangements for cover can be made where necessary. It is not normally necessary for other witnesses to be represented when being interviewed.

12 What if further allegations come to light?

During the course of a disciplinary investigation further allegations may arise against the staff member(s) subject to investigation. Where this is the case the individual(s) must be notified in writing what the additional allegations are and given the opportunity to state their case before a decision is taken on whether the new allegations constitute an act of misconduct.

In certain circumstances allegations may be made against other individuals and it will therefore be necessary to extend the investigation to these staff members. These individuals will also need to be notified in writing what allegations have been made against them and be given the opportunity to be accompanied at an investigatory interview.