



Disciplinary Policy and Procedure

Providing a Clear Framework to Help Promote Good Employment Relations

Disciplinary rules and procedures provide guidance to employees on the standards and conduct expected of them and a mechanism to deal with the consequences of failing to meet such standards

Key points

- The principle features of this disciplinary procedure have been defined in accordance with the ACAS (Advisory, Conciliation and Arbitration Service) Code of Practice on Disciplinary Practice and Procedures at Work which incorporate the Employment Act 2002 and the powers created under it.
- This procedure has been drawn up in consultation with all the unions recognised by the County Council and where relevant the Diocese of Arundel and Brighton Schools Commission and The Diocese of Chichester Board of Education.
- 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. The School Staffing Regulations (2003) have also been incorporated into this document.
- Each employee has a responsibility to be familiar with the rules and standards of conduct which relate to his/her area of work and with the County Council's standards of business conduct

1. Introduction

The aim of this document is to formulate arrangements which will ensure a fair, effective and consistent method of dealing with disciplinary matters throughout schools/colleges in East Sussex County Council.

The purpose of the disciplinary procedure is to clarify the basic rules and requirements of the organisation; to specify a procedure for maintaining uniform standards of discipline and identify a process for dealing with any breach of those standards.

The provisions set out in this procedure are admissible in evidence at employment tribunals. Should any governing body propose to make material changes they are

asked to seek further advice from the Director of Children's Services and where relevant the Diocesan Director of Education who, among other things, would ensure they are not in conflict with the ACAS code of practice.

2. General principles

The principles of this policy follow those recommended by the ACAS Code of Conduct for disciplinary procedures.

Headteachers/principals and managers, in operating the procedure, will apply the County Council's commitment to equality of opportunity, by treating all employees fairly and without discrimination, and in accordance with the [Promoting Diversity and Equality in Employment Policy](#).

No disciplinary hearing will be held until the case has been fully investigated.

Headteachers/principals have a responsibility for ensuring that all members of staff have been made aware of the disciplinary procedure and the rules of the organisation. Each member of staff should be informed of the standards of conduct and the levels of performance expected in their job.

Throughout this policy, headteacher/principal and manager can be taken to include their deputies or a senior member of staff to whom authority has been delegated to them to conduct the investigation or manage the process.

An employee shall have the right under this policy to;

- **Be notified in writing of the nature and reasons for the disciplinary action being considered;**
- **Be advised of the nature of the evidence against him/her**
- **Be provided with a copy of the policy and procedure**
- **Be represented by a Trade Union Representative or work-place colleague not acting in a professional capacity at all formal stages of the procedure (There may however be exceptional circumstances where this is not possible, e.g. immediate suspension for alleged gross misconduct, however every effort will be made to arrange for the attendance of an appropriate trade union officer)**
- **Appeal against any disciplinary action which results in a formal warning or dismissal**

It is recognised that in most instances minor breaches of conduct should be dealt with informally and promptly by the line manager without recourse to the formal disciplinary procedure. The use of supervision, coaching and an informal reprimand can also be effective in improving conduct. A note of such discussions should be in the form of a letter to the employee. This letter should provide for the employee to respond if they wish to do so. All correspondence of this nature should be disregarded for disciplinary purposes after one year.

Where, having established that there is substance in an allegation, an investigation should commence within 10 working days of the alleged misconduct having occurred or come to the attention of the headteacher/principal.

- Disciplinary action shall not be taken against any employee for pursuing reasonable action concerned with preventing, or reducing risks, to the health & safety of other employees and/or pupils or students, or any acts covered by the Confidential Reporting (Whistleblowing) Policy, however, action will be taken against employees who make malicious claims. The Public Interest Disclosure Act 1998 and the Employment Rights Act 1996 provide specific rights for workers who disclose information about alleged wrongdoings in certain specific circumstances

3. Scope

This procedure has been agreed with the recognised trade unions and will form part of each employee's contract of employment.

This procedure applies to all employees employed to work at the school with the exception of;

- Support staff within their first year of Local Authority Service who are covered by the Supported Introduction to Employment Policy.
- Those employees of the County Council direct services organisation employed at the school to work solely in connection with the provision of meals; and
- Other employees of the direct services organisation employed to work at the school will be subject only to the dismissal provisions within this procedure. The governing body have agreed that the taking of disciplinary action falling short of dismissal against such staff shall be a matter for the Commercial Services Manager.

The procedure does not apply:

- Where a manager believes that an employee's performance or behaviour is a matter of capability, a separate management of unacceptable performance procedure is available to address such concerns.
- To matters of certificated sickness absence and certificated ill health (the school's management of attendance procedure should be used)

4. Representation

In all cases where action is to be taken under the formal stages of the disciplinary procedure, the employee has the right to be represented by their trade union, or accompanied by a single work-place colleague not acting in a professional capacity. It is the responsibility of each employee to arrange their own representation.

There is no right to legal representation at any stage of this procedure.

5. Accredited representatives of trade unions or staff organisations

Disciplinary action against an accredited trade union representative can lead to a serious dispute if it is seen as an attack on the functions of a trade union. Formal disciplinary action against a Trade Union representative should not be taken until the circumstances of the case have been discussed with a senior trade union representative or full-time official, although normal disciplinary standards should apply to their conduct as workers.

6. Criminal action

If the case involves suspected criminal action at work, Children's Services Team must be informed of any alleged offence which could lead to Police proceedings. Provided the allegations have been properly investigated and although normally the expectation would be that the criminal investigation and any consequent action should be concluded first, in exceptional circumstances, the school/college may decide to take disciplinary action before the outcome of the court case is known. The employee should have the opportunity to be accompanied by a trade union representative or work colleague to make representations on this question

An allegation of a criminal offence committed outside of work will not be treated as an automatic reason for disciplinary action. The main consideration is whether the offence is one which renders the employee unsuitable for remaining in County Council employment. Where it is felt necessary to investigate the case, this must be carried out using the disciplinary procedure. If sufficient evidence has been gathered, and if it is believed on the balance of probabilities the employee committed the offence there is no obligation to wait until the outcome of any criminal proceedings before taking disciplinary action.

Financial irregularity

If an investigation involves alleged financial irregularity, corruption or fraud the Director of Corporate Resources must be informed immediately by the headteacher/principal, the governing Body or a Personnel Officer. The Director of Corporate Resources will then arrange for a financial investigation into the allegations. The Investigating Officer should be involved or kept informed of progress throughout.

If regarded as serious, the Director of Corporate Resources and the Chief Officer of the Department will decide whether the matter should be referred to the Police.

7. The disciplinary investigation

Informal action

Cases of minor misconduct are usually best dealt with informally. A quiet word is often all that is required to improve an employee's conduct, quickly and confidentially. Headteachers/principals may refer to the **Code of Conduct Code of Practice** ([link](#)). There will however be situations where matters are more serious or where an informal approach has been tried but is not working.

If informal action does not bring about an improvement, or the misconduct is considered to be too serious to be classed as minor, headteachers/principals should take formal action.

Formal action

Where formal action is required, where ever possible the allegations should be thoroughly investigated by another senior manager appointed by the headteacher/principal. This person will be known as the Investigating Officer and will be advised by a personnel p officer. This person should be independent from the allegations resulting in potential action. The employee will be informed in writing of the situation, the broad nature of the allegations and the procedure to be followed.

If it is not possible to appoint another senior manager to conduct the investigation the headteacher/principal should do so but with then refer the initial dismissal decision to a panel of governors.

The Investigating Officer will undertake a thorough investigation into the matter. The employees' version of the events will be obtained and witnesses interviewed and asked to provide statements where this is appropriate. The employee will be advised that any information gained by questioning them can be presented at any subsequent disciplinary hearing.

Where children or young people are asked to provide written statements or verbal accounts, care needs to be taken to ensure that there are no opportunities for collusion. Parents'/carers' consent to interview children should be obtained where appropriate. Such statements should be obtained on the day of the incident and/or that the allegation is made as soon as possible afterwards.

The Investigating Officer may call on other employees in the school to supply information which will assist in the investigation. Where other employees are questioned, it should be explained to them that they may be asked to provide a statement and/or to attend a disciplinary hearing and act as a witness. If the Investigating Officer or employee wish to call witnesses at the hearing, their identity will be disclosed to the other side in advance, unless exceptional circumstances prevent this.

In recognition of both employee and management time and the unsettling nature these circumstances can have on the employee, management and the school itself, it is important that the investigation process is concluded as quickly as possible. To facilitate this, should the employee be unable to attend the investigation meeting (for whatever reason) and has given advance warning of this fact, the meeting will be rescheduled for another date. However, it should be noted that such a meeting will only be rescheduled on one occasion, within 5 working days of the first date. Should the employee be unable to attend the rescheduled investigation meeting they will be asked to put forward written representation. The investigating officer will then take a decision in the employee's absence based on the evidence available.

At this stage the investigating officer can;

- Decide that there is insufficient evidence to pursue disciplinary action in which case the employee will be informed of this in writing, and if under

suspension or refrained from work, will return to work immediately. Decide that formal disciplinary action is not appropriate and recommend that formal written conduct counselling setting takes place with monitoring and reviewing at regular intervals **Conduct Counselling Code of Practice** (link).

- Expectations of future conduct will be contained in a letter to the employee. The headteacher/principal will continue to monitor and review the employee's conduct to ensure that formal standards are met.
- Decide that there is sufficient evidence to support the allegations. In this case the Investigating Officer will recommend that a formal disciplinary hearing is arranged

Where malicious allegations are made by pupils this should be noted on their files and the school should consider an appropriate sanction.

8. Suspending an employee

If the matter being investigated is serious, e.g. where it would be inappropriate for the employee to remain at work or their presence may inhibit a proper investigation; the employee will be suspended on full pay by the Headteacher in consultation with a Personnel Practitioner.

The headteacher/principal or their delegated representative will conduct any interview which may lead to suspension, and he/she will normally be accompanied by a representative of the Children's Services Team. The Articles of Government do, however, provide not only the headteacher/principal with powers of suspension, but also the Governing Body: The Children's Services Authority as employer also has power to suspend.

Alternatively, if during the course of an investigation, the Investigating Officer is of the view that a breach of discipline may have occurred the employee may then be suspended.

Suspension is a neutral act and should be for as short a time as possible. A decision to suspend an employee will be taken when it is necessary to safeguard both the organisation and the employee from further allegations. Any suspension should be kept under regular review.

Suspension will normally last until an investigation has been concluded or any disciplinary hearing has been held. The employee will be informed immediately of their suspension in person. The employee will receive confirmation in writing including the reason(s) for the suspension within five working days

The employee should be given the name of a member of staff at the school/college and in Personnel and Training as a point of contact who will not be involved in the investigations. The primary role of the contact is to provide information about the progress of the investigation. The name of the contact will be given in the letter confirming suspension/refraining from work.

Employees who fall sick during the suspension will be subject to the Management of Attendance Policy, and may be required to be examined by the County Council's Medical Adviser. Their sickness, however, will not necessarily lead to a deferment of the disciplinary investigation. Each case will be considered on its own merits.

Employees who wish to take annual leave during their suspension should make the request through their headteacher/principal in the normal way. Suspension alone will not be considered as sufficient reason to carry annual leave forward to the next leave year.

Agency work should not be undertaken within normal working hours while an employee is suspended/refrained

Employees on suspension/refrainment must not enter County Council establishments unless they have prior permission to do so from the suspending officer. If an employee wishes to collect personal belongings they must contact personnel to arrange to be accompanied. In addition, the suspended staff member is expected to be available within normal working hours to assist with the investigation. Agency work should not be undertaken whilst on suspension unless prior permission is given by the headteacher/principal.

9. The disciplinary hearing

Where it is decided by the investigating officer to refer the case to a disciplinary hearing, the employee will be given at least **ten full working days** notice of the date of the hearing. The invitation to a disciplinary hearing will clearly state the allegations against the employee and the right to representation. A copy of the management case and any supporting information, including any witness statements which may be referred to at the hearing, will also be sent to the employee.

The employee is required to submit a response in writing to the allegations along with any supporting statements or documentation and pass this to the personnel officer attending the hearing **five full working days** before the hearing.

This means that all paperwork will be circulated to all parties at least **five full working days** before the disciplinary hearing as no additional documentation will be accepted as evidence on the day.

Attendance at the disciplinary hearing

The person hearing the allegation(s) will in most circumstances be the Headteacher, advised by a personnel practitioner who has had no involvement in the investigation. The Headteacher on hearing the allegation will decide what action, if any, is necessary.

The Investigating Officer will not take part in deciding any disciplinary action but will be asked to present the case at the hearing.

The employee will attend the hearing and is entitled to be accompanied by a Trade Union representative or workplace colleague and will be asked to set out their case and answer any allegations that have been made. The employee will also be allowed to ask questions, present evidence and be given an opportunity to raise points about any information provided by witnesses.

Failure by the employee to attend a disciplinary hearing

If the employee is unable to attend the meeting, an alternative date will be arranged, within 5 working days of the first date. If they are unable to attend that meeting it will then be held in their absence, but a representative will be given the opportunity to present the employee's case on their behalf.

If the employee is unable to attend due to long term sickness absence and no alternative date can be mutually agreed, the meeting can go ahead after taking advice from the County Council's Occupational Health Advisor. The employee's representative can attend to speak on the employee's behalf. Pregnancy related illness will be an exception and managers should take advice from Personnel.

Witnesses

If the Investigating Officer and/or employee wish to call witnesses at the hearing, their identity will be disclosed to the other side in advance, unless exceptional circumstances prevent this, e.g. where anonymity has to be preserved.

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.

It is preferable that the witnesses who have made statements attend the hearing, although this cannot be mandatory if they are not a County Council employee.

Grievances and dignity at work complaints during the disciplinary process

In the event that an employee raises a grievance or a dignity at work complaint in the course of the disciplinary process, or there remains an outstanding grievance or complaint, the School will consider suspending the disciplinary process until the outcome of the grievance or dignity at work investigation is known; each case will, however, be considered on its merits to ensure that the school is acting reasonably.

10. Levels of disciplinary sanctions

First written warning

Where following a disciplinary hearing, an employee is found guilty of misconduct, the employee should be given a first written warning setting out the nature of the misconduct and the change in behaviour required.

The employee should be informed of the consequences of failing to improve their behaviour which will be either a further written warning and/or ultimately, dismissal. The first written warning could be agreed without the need to call a formal hearing, but only with the agreement of the employee who may wish to take advice from their representative. The first written warning will remain live for **12 months**.

Intermediate written warning

For a more serious offence (or offences) warranting more than a first written warning, or for a further offence after a first written warning has been given which remains live

an intermediate written warning will be given. A copy of this warning will remain live on the employee's personal file for **12 months**.

Final written warning

Where there is a failure to improve or change behaviour in the timescale set in the first written warning, or where the offence is sufficiently serious, the employee should be issued with a final written warning. The final written warning should give details of, and grounds for, the complaint. It should warn the employee that failure to improve or modify behaviour may lead to dismissal or to some other penalty, and refer to the right of appeal. A copy of the final written warning will remain live for **18 months**.

Dismissal

For an act of gross misconduct, dismissal will be without notice (summary dismissal). For an act(s) of further misconduct which in itself is not gross misconduct, after a written warning has been given and remains on file dismissal will be with notice or pay in lieu of notice

Reporting of disciplinary action

Any disciplinary action against a teacher that results in dismissal, East Sussex County Council has a legal obligation to refer the case to the Secretary of State for Education and Skills for consideration of whether any restrictions should be placed on the member of staff in relation to further employment where they will come into contact with young people.

Time limits for warnings

Whilst the warning is current, it will be considered in any disciplinary or redundancy situation. After a successful final review, details of the disciplinary action and correspondence about the subsequent review will remain on the employee's personal file as part of the record of their work history, but will be disregarded for disciplinary and redundancy purposes. The time limits will start from the date of the decision.

First Written Warning -	12 months
Intermediate Written Warning -	12 months
Final Written Warning -	18 months

Warnings related to misconduct involving children

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. In such cases the employee may, if s/he so chooses, lodge an appeal in accordance with the appropriate appeal arrangements set out below, not only against the warning itself and/or its level, but also against the decision to regard the warning as one that cannot be disregarded automatically.

Any warning that is not disregarded automatically shall be reviewed by the headteacher/principal at the time it would normally be disregarded. Where the headteacher/principal decides not to disregard a warning s/he shall inform the

employee in writing and will consider the matter again on one further occasion only. This final review shall be within 10 working days of the anniversary of the first review. If at the final review the Headteacher decides that the warning should not be disregarded, the employee has the right to appeal to the governing body. An appeal must be made in writing to the clerk to the governors within 5 working days of the employee receiving written confirmation of the headteacher/principal's decision.

Records

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.

In addition the following information shall be retained: a note of the decision taken with the main reasons and the outcome of any appeal.

Where a hearing concludes that an allegation against an employee is without foundation the written record should reflect the discussion and specifying the main reasons for reaching this decision.

All records shall remain confidential and be retained by the headteacher/principal on the employee's personal file held at the school. A copy will also be retained on their personnel file at County Hall in a separate sealed envelope. A copy of any record shall be made available to the employee.

Advisers to those conducting hearings

The person(s) conducting a hearing will be advised by a personnel officer who has not previously been involved in the case. The Director of Children's Services or his representative is entitled and shall attend hearings to give advice. Where the employee concerned is a member of a direct services organisation employed at the school, advice from the Commercial Services Manager or a member of their staff shall be sought and s/he may attend as a representative of the Director of Children's Services. Where relevant, the Diocesan Director of Education is invited to attend.

The headteacher/principal (except where s/he is the person concerned) is similarly entitled to attend to give advice, but must withdraw, where s/he 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.

If the headteacher/principal is not the person presenting the case, they should not be present as an additional advise to the process but may be called as a witness. In this circumstance the same provisions of giving evidence, being questioned and then withdrawing whilst the panel consider their decision would apply.

Advisers at hearings shall be limited to no more than two (three in Church Aided Schools).

Where an employee is employed by the County Council at the school & elsewhere

Where an employee is employed by the County Council at the school and elsewhere, the employee's disciplinary record with the County Council may be taken into account in dealing with any misconduct at the school and vice versa.

Where a decision is made that the employee should cease to work at the school, the Director of Children's Services shall, in addition to terminating the employee's employment at the school, consider what action is necessary in respect of the employment elsewhere.

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.

Any breach of confidentiality by any party could be a disciplinary matter in itself.

The Disciplinary Rules for Schools and Colleges ([link](#)) sets out types of misconduct which could be worthy of consideration at a disciplinary hearing.

11. School Staffing Regulations

In accordance with the School Staffing Regulations (2003), governing bodies may delegate responsibility to make initial dismissal decisions (IDD) to the headteacher/principal, following which there will be an opportunity to appeal to a panel of governors.

Whilst it is expected that headteachers/principals will make the initial dismissal decision, there may be exceptional circumstances where this is not possible. Some examples are:

- i Where a head teacher is unwilling to perform these duties and who has previously never had such responsibilities
- ii Where a head teacher has been directly involved in the disciplinary process, or has instigated the proposal to dismiss, or is a witness to the conduct giving grounds for the dismissal
- iii Where appointments of support staff outside of the leadership group are required to act in a senior management capacity
- iv Where the governing body of a school with religious background has agreed staffing policies allowing for governor involvement in the interests of preserving the school's religious character
- v Where the head teacher is subject to suspension, disciplinary procedures (including capability) or disciplinary sanction
- vi Where the LEA has made representations to the chair of the governing body on the grounds of serious performance concerns with the head teacher
- vii Where the head teacher has failed to abide by financial limits agreed

Headteachers/principals should contact Personnel and Training for further advice. The School Staffing Regulations can be accessed on www.governornet.co.uk

Disciplinary hearing procedure

Where, following investigation it is decided to pursue an allegation of misconduct formally, the hearing will be with the headteacher/principal (or other senior member of staff authorised by the headteacher/principal 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/principal the hearing will be conducted by a panel of governors appointed and authorised by the governing body for the purpose of giving such warnings.

Presentation of the management's case

- (1) The headteacher/principal or panel of governors hearing the allegation(s) will make the introductions and outline the process to be followed, to ensure that everyone present understands what is going to happen.
- (2) The headteacher/principal or panel of governors will be advised throughout the hearing by a personnel practitioner. The personnel officer will take notes of the meeting which will then be available to all parties present.
- (3) The investigating officer presents the case, highlighting key points, and calling each witness if any, to present their evidence in turn. The investigating officer will refer to documents as necessary. The investigating officer will be advised throughout the hearing by a personnel officer.
- (4) The employee and/ or their representative may question any witness and the investigator on their evidence
- (5) The headteacher/principal or panel of governors manager hearing the allegation(s) may also question any person present.
- (6) Each witness will join the hearing to give evidence and leave after doing so, although they may need to be recalled if necessary.

Presentation of the employee's case

- (1) The employee and/or representative present their case, referring to any relevant documents, and will be able to question their witnesses.
- (2) The investigating officer may question any of the witnesses and the employee on their evidence.
- (3) The headteacher/principal or panel of governors r hearing the allegation(s) may also question any person present.

- (4) Each witness will join the hearing to give their evidence and leave after doing so, although they may need to be recalled if necessary.

Summing up

- (1) The investigating officer summarises the main points of the case.
- (2) The employee and/or their representative summarises the main points of their case, including any mitigating circumstances.
- (3) At this stage no new evidence may be introduced. The investigator, the employee and their representative then leave the hearing.

The decision

- (1) The headteacher/principal or panel of governors hearing the case will consider whether on the balance of probability the allegation(s) have been substantiated and determine any disciplinary action. It is sufficient that the employer genuinely believes on reasonable grounds that the employee is guilty of misconduct. The headteacher/principal or panel of governors should take into account the employee's current disciplinary and general record, length of service, actions taken in any previous similar case, the explanations given by the employee and any mitigating circumstances. The Headteacher or panel of governors should also consider whether the intended disciplinary action is reasonable under the circumstances. If further clarification or information is required in order to make a decision, both parties will be recalled, or the hearing adjourned until the information is provided.
- (2) The headteacher/principal or panel of governors should hear and consider all the evidence available at the time of the hearing.
- (3) The headteacher/principal or panel of governors will read out their decision, including the reasons for it and, should the allegation(s) be substantiated, notify the employee of the 'disciplinary' action and their right of appeal. In complex cases deliberation may take some time. If this occurs a decision should be made within **two working days** of the conclusion of the hearing, and, in both situations, be confirmed in writing to the employee within 5 working days.
- (4) In cases where the substantiated allegation(s) amounts to gross misconduct or there is a further offence whilst a final warning is in operation, the headteacher/principal or panel of governors shall exercise their powers to determine that the employee should cease to work at the school/college. The Director of Children's Services should be informed of the determination and the reasons.
- (5) In such cases, the Director of Children's Services will write to the employee within 14 consecutive calendar days of receipt of the determination to terminate his/her employment at the school.

- (6) Unless the dismissal is for gross misconduct, the period of notice given will be in accordance with the employee's conditions of service. Where the dismissal is as a result of gross misconduct, the dismissal shall take effect from the date of the letter sent to the employee by the Director of Children's Services.

12. The appeal process

An employee, who is aggrieved by the disciplinary action which results in a formal disciplinary measure or dismissal, has the right of appeal against such action. An employee should appeal in writing within **5 working days** of receipt of the written decision.

Appeals against a disciplinary warning or a dismissal will be heard by a further panel of governors appointed and authorised by the governing body to hear appeals. To exercise this right, the employee or their representative should write to the Clerk to the Governors.

No governor hearing an appeal shall have been directly involved in the case to which the appeal relates. Having knowledge of a case does not prejudice a governor's right to sit on a panel. However, if the person concerned has expressed a view or made a comment about the case they cannot be on the panel.

The letter of appeal should state whether it is against;

- a) the allegations not being substantiated; and/or
- b) the form of the disciplinary sanction.

The panel will be advised by a personnel officer not yet involved in the case prior to this point.

Format of the appeal hearing

All appeals will be heard at the earliest possible date and within 20 working days of receipt of the appeal.

The employee will be informed in writing of the place, date and time of the appeal hearing at least **10 full working days** before the date of the appeal hearing. A copy of the management case and any supporting information which may be referred to at the appeal hearing will be enclosed, including any witness statements.

The employee is required to submit a staff side case in response to the allegations along with any supporting statements or documentation and pass this to the management side **five full working days** before the hearing.

New evidence is permissible at the appeal. If either party wishes to introduce new evidence, they should give at least **5 working days** notice to the other party, prior to the hearing. Details of the new evidence together with the names/statements of any new witnesses should be given to the other party. If at the appeal hearing, the new evidence is of such significance that further investigation or information is required, it may be appropriate for an adjournment and to reconvene when this has been completed.

A full re-hearing will take place; unless agreement has been reached by both parties

The procedure will follow the same format outlined in section 11.

The decision

The panel of governors¹ hearing the appeal will consider the matter in private and decide whether or not to uphold the appeal. The personnel officer will also be present, but only to advise on aspects of this procedure. If further clarification or information is required in order for a decision to be reached, both parties will be recalled or the appeal can be adjourned until the required information is provided.

The panel of governors may increase, decrease or confirm the disciplinary sanction given at the original hearing.

The panel of governors may increase the disciplinary sanction only where serious new evidence is heard which has a significant bearing on the case and was unavailable or not disclosed at the original hearing.

The employee will normally be asked to wait for the decision on their appeal. However, if the case is a complex one, the employee will be given the opportunity to leave and called back at a later time to receive the decision (accompanied wherever possible by their representative). In any event a decision will be made **within 2 working days** of the conclusion of the appeal hearing.

The panel of governors¹ or nominated manager will confirm the decision to the employee in writing within **5 working days** of the conclusion of the appeal hearing.

The decision of the panel of governors is **FINAL** and there is no further internal right of appeal.

13. Revision of the procedure

The operation of the procedure will be kept under review by Personnel and Training. Any amendments to the Disciplinary Policy and Procedure will be the subject of negotiation between the County Council and recognised trade unions.

Last reviewed: April 2006

APPENDIX 1

