



The Disciplinary Policy and Procedure Tool Kit

Date: January 2018

Review: January 2020

Toolkit for Policy and Procedure to Discipline for Schools

Document Control Information

Version	DATE	DESCRIPTION
4		New toolkit
4	24.04.14	Reviewed – no changes required
5	September 2015	Reviewed – minor changes and removal of duplicate sections from policy and “who carries out disciplinaries in school” and letter templates
6	September 2016	Reviewed – no changes required
7	August 2017	Reviewed – no changes required

Toolkit for Policy and Procedure to Discipline for Schools

<i>List of Contents</i>	<i>Page No</i>
1. Guidelines for Conducting an Investigation	4
2. Investigation Checklist	11
3. Report Template	12
4. The Disciplinary Hearing	15
5. The Appeal Hearing	18
6. Template Improvement Plan	21

Toolkit for Policy and Procedure to Discipline for Schools

As a guideline only there is not an absolute requirement that investigating officers must apply every single paragraph of the guideline to every investigation they undertake, as the circumstances of some investigations could prevent this. Employee rights are set out in The Coombes CE Primary School's disciplinary, capability and grievance procedures and no additional rights should be inferred from this guideline.

1. Guidelines for Conducting an Investigation

Introduction

1. The investigation process is the most fundamental part of any type of action that may be invoked against school employees. It is therefore important that a comprehensive, fair and thorough investigation is conducted to ensure employees are treated fairly and in the interests of natural justice. Additionally it assists in the correct decision being taken by the appropriate authority.
2. These guidelines outline the investigatory process to assist in determining the facts that may arise from the following:
 - Grievance Complaints
 - Disciplinary Offences
 - Whistler Blower Allegations
 - Adult/Child Protection Issues
 - Public Complaints
 - Bullying & Harassment
 - Audit Reports
3. While the investigatory process applies equally to all of the above it will be the responsibility of the investigating officer to determine how best to conduct the investigation to achieve the outcome.

Aim

4. The aim of these guidelines is to ensure an effective investigation is carried out.

Objectives

5. To ensure that a fair and consistent approach is adopted by managers when carrying out investigations.
6. To provide guidance for managers to ensure that investigations are carried out effectively.
7. To ensure employees are dealt with fairly and given the opportunity to input into the investigation.

Definitions

8. Investigation. The implementation of a systematic process to uncover and clarify issues, thereby making it easier to establish facts and to assist in the determination of an outcome and solution.
9. Investigating Officer. The manager appointed to conduct and lead the investigation.

Investigation Procedure - Establishing an Investigating Officer.

10. Normally an investigation will be conducted by the line manager where the incident took place.
11. In more complex cases an independent manager will be appointed to carry out an investigation.
12. No manager should conduct an investigation if a conflict of interest arises or where they were involved in the incident and which would prejudice a fair and effective investigation.

Investigation Process

13. The appointed investigating officer should treat the investigation as a project irrespective on whether this is a simple or complex investigation. Adopting this process will assist in a well managed, timely and effective investigation.

Investigation Preparation

14. Initial Assessment of Facts. The investigating officer should obtain and review all the relevant key documentation pertaining to the incident or complaint. Reviewing the documentation will assist in determining:

- What happened and when.
- Who was involved?
- Were the correct procedures followed?
- Witnesses to the incident.
- Likely timescales of conducting the investigation.

15. Before commencing the investigation the investigating officer should ensure that the employee subject of the investigation has been informed that an investigation is to be conducted and who is to carry out the investigation. They should also determine whether the employee has been suspended from duty.

Project Plan Investigation

16. When the investigating officer has reviewed the initial key documents and determined the requirements they should plan how the investigation is to be conducted.

- a. Policies and Procedures. Apprise yourself of the policies and procedures relating to the incident or complaint.
- b. Evidence. Ensure all the evidence is available and identify key documentation that may be required for interviews.
- c. Interviews. List those employees you need to interview and plan dates and times for the interviews. There are two options for you to take:

Toolkit for Policy and Procedure to Discipline for Schools

- I. Statement. Request a detailed statement from the employee requesting full details of what occurred. The statement should be signed and dated by the employee. However, it is likely that you will need to follow up the statement with an interview to clarify facts.

- II. Investigatory Interviews. Interview the employees and make detailed notes of the discussion. The notes should be signed by the employee indicating they are an accurate record of the conversation.

- d. Rooms. Book interview rooms to ensure confidentiality with sufficient time allowed to complete interviews.

- e. Note Taker. Arrange a note taker to record the interview and type up the notes afterwards.

- f. Current Workload. Plan investigations around current work commitments and reprioritise. In complex investigations it may be necessary to delegate your work out.

- g. Questions. You may be able to plan some preparatory questions from the initial evidence available. But you will need to ask additional questions as interviews progress.

- h. Timescale. Plan the time it will take you to complete the investigation from start to finish inclusive of your report. Additionally plan for delays that may arise during the investigation due to unforeseen circumstances.

Interviews

17. Witnesses have an obligation to comply with an investigation and a refusal to do so could result in disciplinary action being taken against them. The purpose of the interview is to:

- Establish and clarify the facts to the event.
- Resolve any contradictions or inconsistencies within the event.
- Establish the key issues that have arisen.

18. You have the option to either ring and arrange an interview date and time with employees or send them a letter requesting them to attend. Individuals have a right to representation at interviews with the support of a trade union representative or colleague and must be afforded this opportunity before the interview starts. The following is the basic outline of the interview:

- Introduce those present.
- Outline the purpose of the meeting and the reason it is being conducted.
- Inform them that a note of the meeting will be recorded and may be used as evidence at any potential hearing.
- Inform them that they will be asked to sign the notes to confirm it is an accurate record of the meeting but that they are not a verbatim record.
- Advise them that their attendance at a hearing may be required.
- A further interview may be required if you feel it is necessary to clarify further points.
- Have evidence available that you may have to refer to or need clarification of their involvement.
- Adjourn the interview if you feel this is required.
- Ensure employees are given the opportunity to state their case and provide any information pertinent to the investigation.

Interview Dos.

- Do build a rapport with the interviewee to gain their trust and confidence.
- Do ask open questions.
- Do probe to ensure you get all the facts.
- Do keep to the facts of the case.
- Do actively listen.
- Do keep focused on the facts of the events.
- Do address contradictions in the evidence to clarify points.

Toolkit for Policy and Procedure to Discipline for Schools

- Do address conflict if it occurs.
- Do summarise the answers to check your understanding.
- Do adjourn the meeting if it is required i.e. as a cooling off period.
- Do ask closed questions where appropriate.

Interview Do Nots

- Do not make judgements during the interview.
- Do not consider hearsay evidence only the facts.
- Do not give timescales on when the investigation will be completed.
- Do not use gut instinct.
- Do not jump to conclusions.
- Do not decide on the outcome.
- Do not comment or agree with a statement made if asked.
- Do not use hypothetical scenarios.

Interview Bewares

- Beware of 'off the record' discussions – not acceptable.
- Beware of 'without prejudice discussions' – not acceptable.
- Beware that staff may lie.
- Beware of the stress and anxiety that the process can cause.
- Beware of cultural differences.
- Beware of anonymity – it is acceptable but must remain confidential.
- Beware of refusals to attend interviews. It is a requirement of investigatons.
- Beware of sickness issues to prevent an interview. Seek HR advice on how to resolve.

Interview Notes

19. It is essential that interview notes are a factual and accurate record of the meeting. The notes should contain the date and location of the interview. Details of those present and their role in the meeting and a summary of the questions and responses given. It is not required for the notes to be a verbatim record. The notes should be typed and sent to the interviewee within 3 days of the interview and asked that they sign the notes to confirm they are an accurate record. The interviewee should return the signed copy within one day of receipt. If the interviewee does not agree with the notes they may highlight any inaccuracies or omissions for you to consider. If you agree with the amendments retype the notes and submit

Toolkit for Policy and Procedure to Discipline for Schools

for signature. In the unfortunate event that the notes cannot be agreed the interviewee may submit their own notes to be attached to the investigating officer's notes.

Evidence Review

20. When you have completed the investigation you will need to collate all the evidence together which may comprise of the following:

- Interview Notes or Statements.
- Relevant Procedures.
- Relevant Policies
- Factual evidence such as timesheets, overtime claims etc.

21. All the evidence will require reviewing to enable you to write your report. You must be confident that the evidence supports what you are saying in your report and your conclusions and recommendations. If there are still gaps you should obtain further details to ensure the facts are clear.

Investigation Report

22. On completion of the investigation you should compile a comprehensive report and submit this to the officer that requested it. The report should be factual, clear in its outcomes and understandable to enable the deciding officer to make a decision on the final outcome. The report should cover the following:

- a. Introduction. A brief introduction, purpose and overview on why the report was commissioned and by whom.
- b. Outline of Offence/Complaint. Explain what is alleged to have occurred, by whom and who reported the matter or raised the complaint.
- c. Remedy Being Sought. This applies to grievance cases only and you may wish to state what remedy is being sought by the complainant.
- d. Methodology of the Investigation. Explain how you carried out your investigation inclusive of the timescales and problems that occurred. What documents you reviewed and who you interviewed.

Toolkit for Policy and Procedure to Discipline for Schools

- e. Findings. This will form the bulk of your report. Outline the facts of the case referring to all relevant evidence to support your findings.
- f. Recommendations. If your investigation highlighted flaws in procedures and policies you may wish to recommend how these should be resolved.
- g. Conclusion. The report should end with your summary and conclusions on the allegations or complaint that was raised. It is not your responsibility to decide on the action to be taken i.e. disciplinary action but your conclusions should help the deciding officer to make that decision.
- h. Appendices. The report should clearly identify any appendices that are relevant to the investigation.

General Points.

- 23. Timescales. It is very important that you draw up a timescale to complete the investigation quickly. Alleged offenders in particular and complainants/witnesses in general will find the investigation stressful if delays occur.
- 24. Communication. If the investigation is not going according to your plan you must inform the parties concerned and advise them of the reason why. This would include alleged offenders, complainants, witnesses and the manager who commissioned the report.
- 25. HR Provider. You should seek the support of your school's HR provider if you are unsure of your rights within the investigation or if delays are occurring.

Non-School Employees

- 26. Where an incident involves a non-school employee you should try to obtain a statement or interview them – any statement or notes should be signed and dated. If, however, they refuse there is very little you can do. It is not normal for a non-school employee to attend a subsequent hearing to an investigation.

3. Investigation Checklist

Pre-Investigation – Review all evidence on the background to the case	Tick done	off/action
Identify witnesses to interview which could include non-school employees.		
Question Preparation		
Identify sites to visit if required		
Identify further evidence to collate/review		
Identify Key Documents to collate		
Identify support for the investigation		
Review policies and procedures as necessary		
Pre-Investigation – Plan Timescales for your investigation inclusive of:	Tick done	off/action
Plan timescales for your investigation:		
Ensure accused is aware that you are to investigate		
Consider interview timescales required		
Book a note taker for interviews		
Book interviews for witnesses (how many)		
Book interview for accused		
Book interview rooms		
How to contact individuals		
Reviewing further evidence collated		
Re-Interviews (if required)		
Typing up interview notes		
Producing final report		
Contingencies: delays/sickness/annual leave		
Representation particularly for the accused		
How will your current workload be managed		
Visit sites if required		

Toolkit for Policy and Procedure to Discipline for Schools

Interview Preparation	Tick done	off/action
Additional Question Preparation		
Confirm interviewees attending		
Confirm that they have been given the right of representation if required		
Have evidence available to present if required		
Confirm rooms available		
Confirm note taker available		
Have questions ready on points to cover		

4. Report Template

(Report Title)

DISCIPLINARY INVESTIGATION INTO:

REPORT OF AN INVESTIGATION BY:

Name and Appointment of Investigating Officer

PRESENTED TO:

Name and Appoint of Manager Requesting Investigation

Index/Contents

List the main Headings of the report and clearly label Appendices.

(Helpful Hints)

Paginate the document and index the main headings for easy reference.

Cross reference documents and evidence for easy reference.

Provide a clear chronology of events

The report should be clear, easy to read with reference to important areas of the evidence that support your findings/recommendations and conclusions.

Toolkit for Policy and Procedure to Discipline for Schools

Introduction

Brief details of the facts leading to your appointment of investigating officer:

- Who requested the investigation.
- Reason for the investigation.
- Time taken to investigate.
- Who is the complainant?
- Policies and Procedures used for the investigation.

Outline of Disciplinary Offence or Grievance or Harassment or Bullying Complaint

Give full details of the complaint(s) that has been made or full details of the disciplinary offence(s) that are alleged to have been committed.

Outcome or Remedy Being Sought

In the case of a grievance or bullying or harassment complaint detail the remedy being sought by the employee.

Investigation Methodology

Outline how you carried out the investigation:

- Documents seen and used in deliberations.
- Witnesses interviewed with dates.
- Evidence collated i.e. documents, video evidence etc.
- Policies and procedures reviewed and relevant to investigation.
- Sites visited if relevant.

Investigation Outcomes

The bulk of your report should cover the full details of your investigation, outlining all the facts with the results of your findings. The details should only

Toolkit for Policy and Procedure to Discipline for Schools

refer to the essential and should not include any hearsay evidence. Keep in mind that judgements are made on the 'balance of probability' under employment law.

Link the contents to relevant evidence or policies or procedures.

You may wish to itemise each aspect of the investigations viz:

- Complaint or alleged offence details. Give full details of what it complained about or occurred.
- Findings. Outline what your findings are detailing the evidence that support your finding, contradictions within the evidence that make it difficult to make a conclusion or a lack of evidence that support the complaint or alleged offence committed. Key aspects of statements
- Timeline. Consider producing a timeline of events as this is very useful in complex cases to identify how events occurred and when.
- Witnesses. Highlight those witnesses who wish to remain anonymous.

Recommendations

If your investigation highlighted flaws within procedures not followed or where procedures and/or policies could improved list any suggested recommendations for consideration.

Conclusions

Give details on the conclusion of your investigation and the reasons. (It is not the investigating officer's responsibility to recommend whether disciplinary action should be taken but you can indicate where a regulation, policy or procedure has been breached). Detail the impact the complaint/offence has had on The Coombes CE Primary School or its employees.

Signed

Appointment

Toolkit for Policy and Procedure to Discipline for Schools

Enclosures:

List all attachments to support your findings:

Witness statements.

Copies of policies and procedures

Local standing orders or instructions

Documentary evidence

5. The Disciplinary Hearing

5.1.1 Notifying the Employee

5.1.2 Where the manager decides to proceed to a formal disciplinary hearing (normally) following an investigation, the employee should be advised in writing and given at least 5 working days notice. Where it cannot be avoided, a deferment for further time to prepare for a hearing should not be unreasonably refused; however, this should not normally exceed 5 working days. Where appropriate the letter should be hand delivered to the employee. If this is not possible the letter should be sent to his/her home address by recorded delivery or delivered there by hand.

The letter should include the following, where appropriate.

- ◆ Date, time and place of the hearing
- ◆ The name of the manager chairing the hearing (see 1 above)
- ◆ Name of the manager presenting the case (See 1 above)
- ◆ The allegations against the employee
- ◆ Copies of all written evidence which will be referred to by management side
- ◆ Names of any management witnesses who will be attending in person at the hearing
- ◆ The employee's right to be accompanied by a Trade Union/staff representative or work colleague
- ◆ Refer to the employee's right to call his/her own witnesses and present written evidence, and that the information must be supplied at least 2 working days prior to the hearing
- ◆ Copy of the Disciplinary Policy and Guidance and the Appeal Guidance. The employee should also be informed if a possible outcome of the hearing could be dismissal
- ◆ That the employee should confirm attendance not later than 2 working days prior to the hearing
- ◆ A second copy of the documents for any representative
- ◆ Consequences of non-attendance i.e. that the hearing may proceed without the employee.

5.1.3. Where an employee is unable to attend the hearing due to ill health, the manager must decide whether to postpone the hearing or to hear it in his/her absence. If a new date is arranged the employee must be informed in writing that failure to attend (unless there are exceptional circumstances and the panel is informed prior to the hearing) will result in the case being heard in his/her absence.

5.2. The Disciplinary Hearing

5.2.1. The manager (see above) will conduct the hearing. Where dismissal is a possible outcome The Coombes CE Primary Schools HR Consultant must be present to act in an advisory capacity. If dismissal is not a possible outcome the school's Personnel provider should be present to act in an advisory capacity. While the advisors may ask questions they will not be involved in the final decision.

5.2.2. Where possible arrange for someone who is not involved in the case to take a note of the hearing and to act as a witness to what was said

5.2.3. The manager should possess the level of authority to impose a level of disciplinary action within the options available at that stage of the procedure. (Dismissal can only be carried out by the Headteacher).

5.3. Witnesses attending hearings

5.3.1. It is the responsibility of the manager presenting the case to arrange for the attendance of any witnesses to the breach of conduct and to bring any relevant material.

5.3.2. If the employee calls witnesses it is the responsibility of the witnesses' manager to arrange time off for them to attend. The employee is responsible for obtaining the witnesses' agreement to attend and to bring any relevant material.

5.4. The Hearing Process

5.4.1. The manager chairing the hearing will open the proceedings by introducing those present and their roles in the process.

5.4.2. The manager will inform the employee (and representative) of the nature of the misconduct.

5.4.3. If the employee is not accompanied, the manager must confirm that this is the employee's decision not to be accompanied at the hearing

5.4.4. The manager will explain how the hearing will proceed. The process is as follows:

a) The presenting manager (where appropriate) will state the case to the employee including the calling of witnesses. Witnesses should appear one at a time and may only be present whilst giving evidence or being questioned.

b) The employee and/or his/her representative may ask questions of the presenting manager and any witnesses. The presenting manager (where appropriate), manager and advisors may also ask

Toolkit for Policy and Procedure to Discipline for Schools

questions of all the parties. The presenting manager (where appropriate) and the manager may re-examine the witnesses. The witnesses will then withdraw.

- c) The manager will invite the employee and/or his/her representative to present respond including the calling of witnesses. Witnesses must appear one at a time and may only be present whilst giving their evidence or being questioned.
- d) The presenting manager (where appropriate) and manager may ask questions of the employee and any witnesses the employee and/or his/her representative and the manager may ask questions of all the parties and re-examine the witnesses. The witnesses will then withdraw
- e) Witness may be asked to remain available as they may be required for further questioning.

5.5. Summing up - The manager and the employee must both be given an opportunity to summarise the main points of the discussion after questioning is completed. This allows all parties to be reminded of the nature of the offence, the arguments and evidence put forward and to ensure nothing is missed.

5.6. Adjournment before decision

- 1) Adjourn before a decision is taken about whether a disciplinary penalty is appropriate. This allows time for proper consideration.
- 2) If the manager believes it will take some time to make a decision, the employee (and the representative) and witnesses should be informed and asked not to wait.
- 3) Once a decision has been reached based on the facts of the case, and an appropriate sanction, the manager should consider any mitigating circumstances and any current “warnings” on file. If there are any the manager will need to take these into account before making the final decision as to the appropriate sanction. The decision and the employee’s right of appeal must be confirmed in writing.

6. The Appeal Hearing

- 6.1.1. An employee can appeal at any level of the formal stage of disciplinary process i.e. Formal Written Warning and Final Written Warning against the reasonableness of the decision taken at the hearing; (this does not include the informal stage). Appeals against formal disciplinary sanctions at all levels should be heard by an Appeals panel of three governors. The Governors must nominate a Chair to lead the hearing. Governors hearing appeals at any stage of the disciplinary procedure must not have had any previous involvement. Appeals must be made within 5 working days of the outcome of receiving notification of the outcome of the hearing.
- 6.1.2 The specific grounds for appeal must be made by the employee in writing to the clerk to the governors within five working days of receipt of the letter confirming the outcome of the disciplinary hearing and the action to be taken.
- 6.1.3 Employees will be given at least five working days' notice in writing of the appeal hearing which should be heard as soon as possible, (see appendix 5).
- 6.1.4. The letter should include (as appropriate):
- a) Date, time and place of the hearing
 - b) That the hearing forms part of the disciplinary procedure
 - c) The employee's right to be accompanied by a Union/staff representative or a work colleague
 - d) The name of the governors conducting the hearing
 - e) The name of the person presenting the management case
 - f) Copies of relevant paperwork, including a copy of the Policy and Guidance to Discipline if not already sent
 - g) Names of any management witnesses who will present evidence
 - h) Reference to the employee's right to call witnesses and to present a written submission. This should be supplied at least two working days prior to the hearing and should include any papers being referred to at the hearing
 - i) That the employee and witnesses should confirm their attendance at least two working days prior to the hearing.
- 6.1.5. The manager who chaired the original disciplinary hearing will normally present the management case. Where the appeal is against a dismissal decision The Coombes CE Primary Schools' HR Consultant must attend to give advice.
- 6.1.6. The panel will normally restrict itself to considering only the reasonableness of the decision reached at the original hearing and evidence for and against that decision. They should not normally reconsider the whole of the case unless it is considered that the grounds of appeal will necessitate a re-hearing.

Toolkit for Policy and Procedure to Discipline for Schools

- 6.1.7. Where additional evidence has become available after the formal disciplinary hearing this can be presented either by management or by the employee provided it relates to the original misconduct.
- 6.1.8. All evidence should be submitted prior to the hearing. The manager presenting the case and the employee must not introduce any new evidence during the appeal, (except as in paragraph 8.1.7. above).
- 6.1.9. The Chair of the Panel must ensure that the hearing is conducted fairly. A written record of the appeal hearing must be made by a note taker and should reflect all the relevant evidence given by either side. These notes should be produced and formally agreed by the Chair within ten working days of the appeal.

6.2 The Appeal Hearing Process

- 6.2.1. The Governor chairing the hearing will open the proceedings by asking those present to introduce themselves and state their role in the process.
- 6.2.2. The chair will explain that the appeal panel will normally restrict itself to considering only the reasonableness of the decision reached at the original hearing and evidence for and against that decision. They will not reconsider the whole of the case unless it is considered that the grounds of appeal will necessitate a re-hearing. In this case it is not considered that a re-hearing is required.
- 6.2.3. If the employee is not accompanied, the chair must confirm that this is the employee's decision not to be accompanied at the hearing
- 6.2.4. The chair will check with all parties that they have seen the documentation listed in the letter confirming the date of the appeal hearing. He/she will also confirm whether any additional evidence has become available after the formal disciplinary hearing from either the management or the employee which directly relates to the original misconduct. Any such new evidence must have been submitted prior to the hearing. No other new evidence can now be submitted.
- 6.2.5. The chair will explain how the hearing will proceed. The process is as follows:

Toolkit for Policy and Procedure to Discipline for Schools

- a) The appellant will state their reasons for appealing including the calling of witnesses. Witnesses should appear one at a time and may only be present whilst giving evidence or being questioned.
- b) The panel may ask questions of the appellant and any witnesses. The presenting governor, the Principal and advisors may also ask questions of all the parties. The appellant may re-examine the witnesses. The witnesses will then withdraw.
- c) The chair will invite the presenting governor to respond including the calling of witnesses. Witnesses must appear one at a time and may only be present whilst giving their evidence or being questioned.
- d) The appellant and their representative may ask questions of the presenting governor and any witnesses. The panel and their advisor may ask questions of the appellant and any witnesses. The presenting governor may re-examine the witnesses. The witnesses will then withdraw.
- e) Witness may be asked to remain available as they may be required for further questioning.

6.2.6. Summing up

The appellant and the presenting governor must both be given an opportunity to summarise the main points of their case.

6.2.7 Adjournment before decision

The appeal panel will adjourn before a decision is taken. The panel will normally restrict itself to considering only the reasonableness of the decision reached at the original hearing and evidence for and against that decision.

- 6.2.8 If the chair of the panel believes it will take some time to make a decision, the employee (and the representative) and witnesses should be informed and asked not to wait.

Toolkit for Policy and Procedure to Discipline for Schools

6.2.9 The Panel may take one of the following types of action at the end of the hearing:

- To uphold the appeal and dismiss any disciplinary penalty
- To replace with another disciplinary penalty which must not be more severe
- To dismiss the appeal and uphold the original disciplinary penalty.

6.2.10 There is no further right of appeal against the decision of the Appeal Panel.

6.2.11 The outcome of the appeal hearing should be confirmed in writing to the employee as soon as possible, a copy of the letter should be placed on the employee's personal file.

9. Template Action Plan

Name: _____ Date of Informal/Formal Meeting: _____

Concern	Standards to be expected	How falling short of standards/expectations (behaviours)	What employee needs to do improve.	Next Review Date	Outcome following Review

Toolkit for Policy and Procedure to Discipline for Schools

Signed _____ Date _____ _____ Date _____
Employee Manager