

Aspire Learning Trust



Managers guide to conducting Investigations

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Policy Owner: HR Committee

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		New Policy

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Date Reviewed by	
Signature of Chair	
Print Name	

1. Introduction

- 1.1. The disciplinary investigation is key to the process that must be followed prior to carrying out a disciplinary hearing or fair dismissal. Prior to the commencement of the investigation decisions will have been made based on the facts known at the time, as to the allegations to be investigated, as to whether the allegations may constitute misconduct or gross misconduct, and as to whether it is necessary to suspend the employee concerned without prejudice whilst the investigation takes place.
- 1.2. The rules of natural justice require that the employee should know the nature of the allegation/s against him or her and should be given the opportunity to state his or her case. Evidence collected during the investigation will be put to the employee in the Disciplinary Hearing and will enable the employee to state his or her case in response.
- 1.3. You should be aware of the ACAS Code of Practice on Disciplinary and Grievance Procedures ('the ACAS Code') and the non-statutory ACAS guidance. Tribunals have discretion to increase or reduce awards by up to 25% where the employer or employee unreasonably fails to comply with the ACAS Code.
- 1.4. It is essential that all complaints, incidents and allegations are investigated and resolved without any unnecessary delay. The aim should be to complete a disciplinary investigation within ten working days (unless your Disciplinary Procedure specifies a different timeframe) of the Investigating Officer receiving instructions from the Headteacher or other person who instigated the process. For ease of reference this person is referred to as the Headteacher for the rest of this guidance. If delays do occur then keep the employee or his/her representative informed.
- 1.5. If allegation(s) of abuse are made against a member of staff that indicate the person might pose a risk of harm if they continue working in regular or close contact with children in their present position or in any capacity, part four of the DfE statutory guidance document Keeping Children Safe in Education must be followed.
- 1.6. If allegations concerning safeguarding come to light an investigation should not commence until advice has been sought from the Designated Officer (DO), usually via the Local Authority's Duty Assessment and Referral Team. If a Police or Section 47 Child Protection Enquiry commences, no disciplinary investigation should commence until the outcome of that investigation is known. In exceptional circumstances the Police or responsible parties acting on behalf of the Local Authority may grant permission for the school to proceed.

2. The Purpose of a Disciplinary Investigation/ The Investigating Officer's role

- 2.1. The disciplinary investigation is the process where all pertinent facts are collected by the Investigating Officer. Facts which relate to a disciplinary issue come in many forms. Some are quite clear e.g. incorrect entries on timesheets/flexisheets, etc. However, in many cases the facts relating to a disciplinary incident are less evident. The role of the Investigating Officer is to establish the facts of the case by interviewing the relevant people and preparing a comprehensive report which contains all of the relevant factual information, copies of any statements received and any other relevant documentary evidence.
- 2.2. Disciplinary procedures are an internal management process. Therefore, the Investigating Officer must come to a conclusion based on what s/he thinks probably occurred or happened. The conclusion must be logical and in keeping with the facts discovered during the investigation. The Investigating Officer must act impartially and ensure that any issues/ points made during the investigation report can be evidenced. The Investigating Officer is responsible for reaching a recommendation as to whether or not there is a disciplinary case to answer, which should be included at the end of the report and, for providing a list of issues and factors to be considered.
- 2.3. A Disciplinary Hearing should be recommended if the Investigating Officer concludes that there is a case to answer. The role of the Investigating Officer is not to recommend what disciplinary outcome is appropriate e.g. "The employee should be issued with a first written warning". It is for the Chair of the Disciplinary Panel to decide whether the allegations should be upheld or dismissed and what, if any, sanction is appropriate.
- 2.4. It is important that the Investigating Officer carries out a reasonable and open-minded investigation. The Investigating Officer should not be connected in any way to the facts giving rise to the disciplinary allegation/s in order to avoid any suggestion of bias in the way that the investigation is conducted.
- 2.5. Investigating Officers must not be selective in fact finding to suit a certain outcome. They must ensure that their investigation is as comprehensive as practicably possible by interviewing all key people involved with the case (and re-interviewing if new information is received or if matters arise which need to be checked) and collating all documentation. The aim is to allow a fair and balanced recommendation to be reached on the balance of probability.

3. Carrying out a Disciplinary Investigation

- 3.1. A crucial ingredient in the handling of a disciplinary matter in terms of employment legislation is an “adequate investigation”. This does not mean exploring every possible avenue, but it does mean:
- enquiring into the circumstances surrounding the suspected or alleged misconduct
 - giving the employee a chance to offer an explanation
 - taking a balanced view of the information that emerges
 - reaching a recommendation of whether or not there are sufficient grounds to substantiate an allegation of misconduct; if so, recommending whether it should be dealt with informally (i.e. by an informal warning or guidance/training) or by formal action under the disciplinary procedure.
- 3.2. The investigation must be adapted to the circumstances of the alleged misconduct. If, for example, complaints have been made from colleagues about an employee’s conduct it will be necessary not only to meet with the complainants and obtain witness statements from them, but also to interview some of those who have not complained but who can be expected to know, or have an opinion about, whether the complaints are justified.
- 3.3. The Investigating Officer should arrange to meet individually with the witnesses to the incident or events giving rise to the investigation. Preparation prior to the interview is necessary. Appendices 2 and 3 contain model templates for use in the witness and employee interviews. The Investigating Officer should ask the employee and witness/es to give an account in his/her own words of what took place. This should be in terms of what s/he personally witnessed or had involvement with. Witnesses should be told that the matter is a confidential one and the Investigating Officer should only give information about the investigation to those who need to know and tell all witnesses to treat the information as confidential. Witnesses should also be told that they may need to be re-interviewed at a later date depending on the facts uncovered as part of the investigation.
- 3.4. There may be occasions when the witnesses are not the employer's employees. If this is the case an Investigating Officer may consider if they should be asked to assist in the disciplinary investigation, for example by providing a written statement. This will help to show that reasonable steps have been taken to complete a thorough investigation. Care should be taken to maintain confidentiality and whether to approach external witnesses will depend on the circumstances and the nature of the allegations. The Investigating Officer will be reliant upon their voluntary cooperation if the witnesses are not employees of the organisation.
- 3.5. Following the meetings with the witnesses, statements should be typed up and the witnesses should be asked to check and sign them. They should be given the opportunity to make any necessary amendments in order to ensure accuracy.

- 3.6. If the allegation is made by a line Manager about a member of staff under their control, it may be necessary to question other employees. If this direction is pursued, care must be taken not to give employees the impression that the Manager's word is being doubted, or that their authority is being undermined.
- 3.7. If there are no witnesses to an incident, it may be worthwhile interviewing those people who last spoke to the employee before the incident took place, and those to whom s/he spoke immediately after it.
- 3.8. If the employee readily admits to a complaint of misconduct, then the investigation may well be confined to that, or to obtaining a measure of confirmation of it.
- 3.9. In a disputed case, the investigation will need to be as sufficient as is reasonable in the circumstances. Only this way will the person(s) conducting the disciplinary hearing be able to make a recommendation on the balance of probabilities and answer the question, **“Is there a reasonable suspicion amounting to a belief in the guilt of the employee of the alleged misconduct, and are there reasonable grounds for that belief?”**
- 3.10. There are a number of things to remember when conducting a disciplinary investigation, amongst these considerations the investigating Officer must:-

(i) Handle the matter promptly

It must be remembered that for all employees subject to possible disciplinary action it is a tense and stressful time and it is in the interests of good employment relations to conclude disciplinary matters as quickly as possible.

(ii) Gather Facts/Information

The Investigating Officer must gather as much pertinent information as possible to the case without going beyond their original remit. The Investigating Officer is aiming to discover the truth and the disciplinary panel will not want a distorted picture. Statements must be obtained from witnesses as quickly as possible to avoid memory loss. The Investigating Officer should also collect any documents that are relevant to the allegation/s or could help to corroborate or refute the allegation/s.

(iii) Be Fair

Maintaining standards of acceptable conduct and work performance calls for objectivity and fairness. It is important to keep an open mind and not prejudice the issues.

(iv) Be Consistent

The attitude and conduct of all employees will be seriously undermined if management fail to apply the same rules and conditions to each case. The Investigating Officer must be able to demonstrate that s/he has arrived at the conclusions objectively and rationally.

3.11. The Investigating Officer should stop when s/he feels they have a complete picture. The Investigating Officer has to do as much investigating as is reasonable to explore all of the issues/allegations. Exhaustive detail is only needed where there is a particularly complex issue. The Investigating Officer should stop when s/he feels that s/he knows what happened and further enquiries are unlikely to yield new material. The disciplinary panel considering the report is going to decide whether, on the balance of probabilities it has a reasonable belief that the alleged event/s occurred. The Investigating Officer should:

- Be objective.
- Critically examine *all* documents that *might* be relevant.
- Avoid putting answers into an interviewee's mouth.
- Test what an interviewee says, in a non-confrontational way.
- Concentrate on facts, not opinions.
- Collect evidence, and not make judgements.
- Probe the interviewee's memory.
- Make notes and agree them with the interviewee.

Appendix 1 contains a flowchart, which provides a summary of the key steps in a disciplinary investigation process.

4. Conducting an Investigation Interview with the Employee

4.1. All interviews should be conducted in a private setting and away from disturbance and interruption. The person being interviewed should be allowed to be accompanied if s/he so wish. A model template letter inviting the employee to an investigation interview can be provided by your EPM adviser on request. The Investigating Officer should refer to the disciplinary procedure or speak to EPM about who can accompany the employee if s/he is in any doubt. The Investigating Officer may need to make specific provision where the person's first language is not English or where the person has a disability. The Investigating Officer should prepare questions before s/he begins the interview process. If there is no trade union representative or colleague present, the Investigating Officer should confirm with the employee that s/he has chosen not to be accompanied at the interview.

4.2. The statutory right to be accompanied at a disciplinary hearing under the Employment Relations Act 1999, section 10 applies to a disciplinary hearing that could result in the administration of a formal warning to a worker by an employer; the taking of some other action in respect of the worker by the employer; or the confirmation of a warning issued or some other action taken. This does not encompass an investigatory meeting. However, the employer should check whether its own disciplinary procedure gives a right to be accompanied at an investigatory meeting. In addition, if employees have been allowed to be accompanied in the past, this past custom and practice should be followed.

- 4.3. At the start of the interview, the Investigating Officer should tell the interviewee of the format of the interview and that the Investigating Officer (or another) will be taking notes. The Investigating Officer should tell the interviewee that s/he will receive a written statement of the interview and that s/he will have an opportunity to comment on this statement prior to it being used as part of the investigation. The Investigating Officer should state that s/he will be required to sign and date the statement. The interviewee should be reminded of the confidential nature of the interview. The Investigating Officer should advise that what happens thereafter will depend on the information obtained as part of the investigation, but that it could result in disciplinary hearing/disciplinary sanction for the employee.
- 4.4. The Investigating Officer should meet and take a statement from the employee who is the subject of the disciplinary allegation(s), so as to obtain his/her account of the events. It would also be advisable for the investigating Officer to ask the employee whether s/he is aware of any other witnesses to the incident or any other documents or issues that s/he believes are relevant so that the Investigating Officer can follow these up. At the interview it is good practice to try and put the employee at his/her ease. An accusatory tone from the outset is likely to discourage the employee from giving an explanation other than a flat denial. It is an investigation not an interrogation!
- 4.5. The Investigating Officer should begin by outlining the matters to be discussed, even if the employee has been informed of them already. Then the employee should be invited to say anything s/he wants about them.
- 4.6. If the employee responds to this suggestion, the Investigating Officer should refrain from interrupting, other than with prompts as necessary, such as “and what happened after that?” The Investigating Officer should prompt but not lead the witness and should ask questions as openly as possible.
- 4.7. The Investigating Officer should not accuse any person but should allow accusations to be put forward and responses noted. Closed questions should be asked to obtain a response to specific facts. Draw the interviewee back to the matter being investigated as often as necessary.
- 4.8. Although questions about motivation and state of mind at the time are important e.g. how and why questions – ‘Why did you do that?’, greater emphasis should be placed on the ‘hard facts’ of what was said, heard, seen and done. Questions which seek precise detail about the physical aspects of the events which the interviewee is describing – ‘Who sat where? Who said what? What time did it happen? What words were used?’ – will usually give a reliable impression of the strength of an interviewee’s evidence.

- 4.9. The objective should be to encourage the employee to speak and then to listen carefully to what s/he has to say, jotting down salient points as necessary. If the employee chooses to gloss over an important point, rather than jumping in immediately, it may be better to revisit by asking probing questions such as “I am not quite sure what you meant when you said ‘.....’ would you like to explain it?” this may be a useful tactic to highlight inconsistencies and help clarify misunderstandings.
- 4.10. Specific probing questions may be put to the employee at the end of the interview, such as “I can’t quite see how that matches up with what you said about.....what is it you are really saying?”, can be very valuable.
- 4.11. The Investigating Officer should make notes that should be written up as soon as possible and signed as accurate by the interviewee. The interviewee can then correct any misunderstandings. It may be appropriate for the Investigating Officer to be accompanied by a note taker at investigation interviews, as it can be difficult to listen to a witness, formulate appropriate questions and take notes at the same time.
- 4.12. If an employee’s explanation, or any of the other information which emerges from the interview, introduces points which have not hitherto been considered, it may be sensible to adjourn so that further enquiries can be made.

5. Receipt of new information/allegations

- 5.1. Occasionally during the investigation, the Investigating Officer is alerted to new allegations, which appear to warrant further investigation. If these relate to an employee who is not being investigated, the Headteacher should be informed, and may decide to start a second and separate investigation.
- 5.2. If further allegations are made regarding the employee currently under investigation, the options for the Headteacher to consider are:
 - (i) a new investigation may be started, possibly with a different Investigating Officer
 - (ii) the new allegations may be added to the current investigation
 - (iii) whether the allegations need to be ‘upgraded’ from misconduct to gross misconduct, in which instance suspension should be considered
- 5.3. In these circumstances, the employee would need to receive written confirmation of the additional charges, and be given the opportunity to respond to them prior to any Disciplinary Hearing.

6. Analysing the Information Gathered, Collating the Disciplinary Bundle and Report

6.1. The output of the investigation will be the Disciplinary Bundle, which when finished should have sections as follows:

Cover Page – titled ‘Strictly Private and Confidential’

Contents Page

Schedule 1 - Investigation Report

Schedule 2 - Letters (All letters sent during the investigation including letter of suspension if applicable)

Schedule 3 - Witness Statements

Schedule 4 - Additional Evidence (e.g previous file notes, the employee’s job description and training record, timesheets, photographs, applicable statutory guidance, contract of employment, expense claims etc.)

Schedule 5 - Policies and Procedures (Disciplinary Procedure and any other procedures found to be relevant)

Schedule 6 – Employee’s contract of employment and, if available, their job description and records of any relevant training undertaken

Schedule 7 – A copy of the procedure to be followed at the hearing

6.2. The Investigating Officer should prepare a report into his/her findings immediately after the investigation has concluded. This must contain all relevant issues as this will form the basis of the case put forward by the Investigating Officer to a disciplinary hearing.

6.3. The Investigating Officer may use the standard form for the report, attached at Appendix 4. The report should have a number of identifiable characteristics:

(a) The report should detail all facts that have been gathered and explain how these have been interpreted and contribute to the allegations. Investigating Officers must remember that it is this part of the report which will be the primary part of his/her presentation to the Disciplinary Hearing. It should, therefore, clearly show how s/he arrived at his/her recommendations.

(b) The report should refer to the relevant sections of the Disciplinary Bundle in presenting the facts- The body of the report does not need to repeat large sections of witness statement.

(c) It should recommend whether a Disciplinary Hearing should be convened, or not. In essence the Investigating Officer has to decide whether, on the face of it, there is a case to answer in respect of each of the allegations.

(d) The report should contain NO recommendation regarding the outcome; this is for the Headteacher only to decide (or chair of the Governing Body if the Headteacher is the subject of the allegations).

6.4. The report should be submitted to the Headteacher who will consider the recommendations of the Investigating Officer and decide whether to convene a Disciplinary Hearing.

6.5. After having considered the information in the report, the Headteacher may ask the Investigating Officer to look in more detail at specified areas and/or to investigate areas so far untouched. Any further fact-finding must be undertaken in compliance with the time scales for completing the investigation. In many cases no single piece of evidence will be decisive. What will matter more will be the cumulative effect of all the evidence that points in a particular direction

6.6. The employee should have the opportunity to see this Disciplinary Bundle in good time prior to any Hearing. If the papers are presented to the employee too close to the date of the Hearing, s/he may argue that insufficient time to prepare a proper response to the disciplinary allegation/s has been allowed.

7. Is disciplinary action necessary?

7.1. Having gathered all the facts, the Investigating Officer should decide whether to:

(a) Recommend no further action

This may be appropriate where there is no case to answer.

(b) Recommend informal action

The matter may be so trivial as to justify an informal approach in this instance. For example:

- Provide management advice to the employee
- Arrange counselling/training. This is an attempt to correct a situation and resume normal working practices without recourse to the Disciplinary Procedure.

(c) Recommend disciplinary action

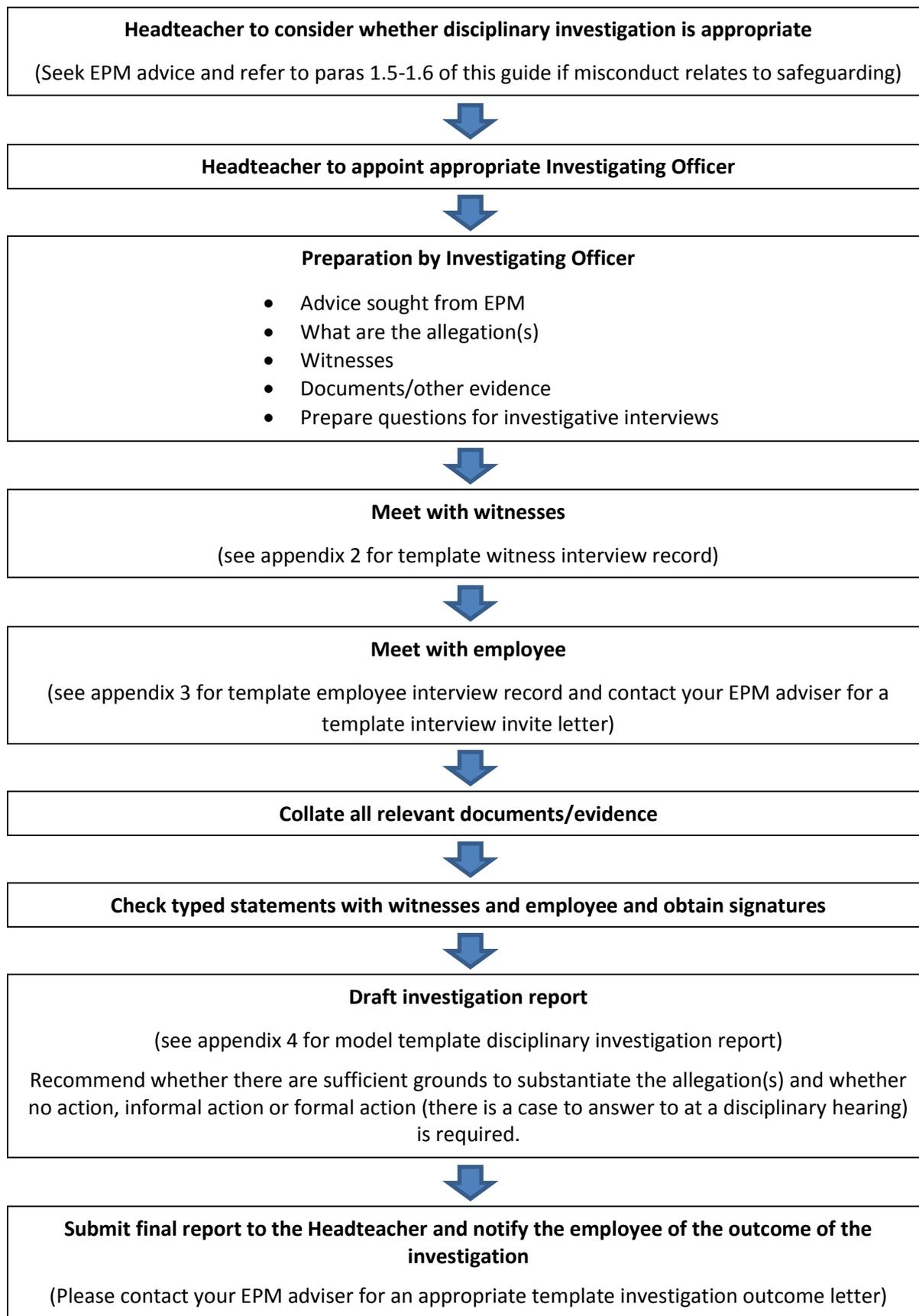
This will be necessary where the matter is more serious and it appears that there has been a disciplinary offence which requires appropriate (formal) disciplinary action i.e. there is a case to answer.

8. Record keeping

- 8.1. Records kept during a disciplinary investigation should be clear and concise, bearing in mind that it may be necessary not only to refer to them, but also to produce and disclose them to the employee during the course of any subsequent Disciplinary Hearing or Employment Tribunal proceedings, or if the employee makes a subject access request under the Data Protection Act 1998.
- 8.2. Where the investigation report includes details about individuals, it is important to keep the report and accompanying documents securely stored and restrict access only to those individuals who need it. If an individual wishes to see an investigation report they are named in, they should be given access only to the information in the report that is about them after considering whether another third party needs to give their consent for release of the information (for example where a witness has given an opinion about the individual), whether it is reasonable in all the circumstances to release the information to the individual without consent and whether any redaction of the information is necessary to protect identity. Private information belonging to other individuals in the report should not be shared with them.
- 8.3. To ensure that records of investigations are compliant with the Data Protection Act 1998 it is important that employers only retain and use the documents in connection with the purpose for which they were obtained and, once disciplinary proceedings are concluded, are retained for no longer than is necessary and are securely disposed of.
- 8.4. For further information on data protection, please refer to the ICO Guide to Data Protection.

Appendix 1: EPM Disciplinary Investigation Flowchart

This flowchart provides a summary of the process. Please refer to the full guide for details.



Appendix 2: Model template for Investigating Officer to use in interview with witness

Disciplinary investigation witness statement

Date: Start Time: Location:

Witness: Job Title/Position:

Investigating Officer: Job Title/Position:

Others present (e.g note taker HR Adviser, work colleague, trade union representative)

.....

IO	As you are aware I am the person who has been appointed as the Investigating Officer to carry out an investigation into a potential disciplinary matter. [You will see that I'm joined by [insert name] who is here to take notes].
HR	My role is to support (name) in his/her role as Investigating Officer, I'll be supporting the meeting today and I'll also be asking questions whenever further detail or clarification is required.
IO	<p>The purpose of today's meeting is to establish your account of events. A record of your statement will be taken by (name) in note form during the meeting, and this will then form part of my investigation. A copy of the notes will be sent to you to review and sign. You will have the opportunity to amend anything that you do not feel accurately reflects what was said at this meeting.</p> <p>If this case is referred to a Disciplinary Hearing, the meeting notes may be included in a bundle of evidence, along with statements from any other witnesses. As such the employee/s subject to investigation will be able to view your statement.</p> <p>If at any point during the meeting you would like to adjourn then please let me know.</p> <p>Do you understand all of the above so far?</p>
Wit	Confirms
IO	Commence Q's – Firstly please can you tell me about your role in school....
Wit	A
IO	(Last question) Do you have any further comments or information that you would like to tell me in relation to what we've discussed today before we end this meeting?
Wit	A

IO

I hope I have gathered all of the information from you that I need, although I may have to meet with you again if I require more information from you. A copy of the notes will be sent to you to review and sign. You will have the opportunity to amend anything that you do not feel accurately reflects what was said at this meeting. Please note that any amendments must reflect our discussion.

Please may I take this opportunity to remind you that the matters under investigation remain confidential, and as such you should not discuss the matters or your statement with any members of the school community. Any failure by you to maintain confidentiality may be managed in accordance with the disciplinary procedure.

If you have any concerns regarding the investigation or your statement please contact me in the first instance.

Thank you for your time

Meeting closed (Time):

Detail of any documents referred to by IO or Employee during the course of the meeting:

Employee: **Investigating Officer:**.....

Signature: **Signature:**.....

Date: **Date:**

Appendix 3: Model template for Investigating Officer to use in interview with the employee

Disciplinary Investigation Employee Interview Record

Date: **Start Time:** **Location:**

Name: **Job Title/Position:**

Investigating Officer: **Job Title/Position:**

Others present (e.g note taker HR Adviser, work colleague, trade union representative)

.....

IO	As you are aware I am the person who has been appointed as the Investigating Officer to look into the allegation/s against you, which were outlined in the letter that I sent to you on (date) . [You will see that I'm joined by [insert name] who is here to take notes].
IO	<p><i>(Only where the school's disciplinary procedure allows the employee to be accompanied – not statutory)As you have attended the meeting by yourself, please can you confirm that you were aware of your right to representation by a trade union representative or work colleague today? Are you happy to continue without a representative present?</i></p> <p>The allegation/s against you is/are as follows: [detail allegations from the letter sent to the employee to advise of the investigatory meeting].</p> <p>[If applicable - If the/any of the above allegation/s is/are found to be substantiated either in full or in part, this may amount to gross misconduct and may lead to your dismissal.</p> <p>In Child Protection Cases If the/any of the above allegation/s is/are found to be substantiated either in full or in part, the school may need to comply with its statutory duty to refer the case to the Disclosure and Barring Service.]</p> <p>The purpose of today's meeting is to give you the opportunity to provide an explanation and give your account of events regarding this/these allegation/s and any mitigating circumstances.</p> <p>This meeting is not disciplinary action in itself, nor is it a decision making meeting. It is an opportunity to gather all the relevant information.</p> <p>A record of your statement will be taken by (name) in note form during this meeting. The information gathered at this meeting will then form part of my investigation, and if this case is referred to a Disciplinary Hearing, the meeting notes may be included in a bundle of evidence, along with any other relevant information and statements from any other witnesses. (If allegations relate to dishonesty – Please may I remind you that you are expected to provide an honest account of events, and that if any evidence of</p>

	<p>dishonesty comes to light this will be managed in accordance with the Disciplinary Procedure)</p> <p>If at any point during the meeting you would like to adjourn then please let me know. Do you understand all of the above so far?</p>
Emp	Confirms or asks questions for further clarification.
IO	Commence Q's – Firstly can I confirm that your position in school is..... and that you have been employed since.....
Emp	A
IO	Q [additional questions to elicit all necessary information from the employee]
Emp	A
IO	(Last question) Do you have any further comments or information that you would like to tell me in relation to the allegation/s against you before we end this meeting?
Emp	A
IO	<p>I hope I have gathered all of the information from you that I need, although I may have to meet with you again if I require more information from you. A copy of the notes will be sent to you to review, sign and return to me. You will have the opportunity to amend anything that you do not feel accurately reflects what was said at this meeting. Please note that any amendments must reflect our discussion.</p> <p>Please may I take this opportunity to remind you that the matters under investigation remain confidential, and as such you should not discuss the matters with any members of the school community, other than your official nominated representative. Any failure by you to maintain confidentiality may be managed in accordance with the disciplinary procedure.</p> <p><i>Please may I also take this opportunity to remind you of the terms of your suspension..... (name) will continue to keep your suspension under review, and Occupational Health support remains available to you.</i></p> <p><i>[IO to discuss anything further of relevance e.g. approximate timescale for investigation to be completed, conditions attached to the employee remaining in school during the course of the investigation if applicable.</i></p> <p>Do you have any further questions?</p> <p>Thank you for your time</p> <p>Meeting closed (Time):</p> <p>Detail of any documents referred to by IO or Employee during the course of the meeting:</p>

Employee:	Investigating Officer:
Signature:	Signature:
Date:	Date:

Appendix 4: Model template for a disciplinary investigation report

Strictly Confidential - Access Restricted
An Investigation into the allegations against
[insert]

Final Report

by
[insert]

STRICTLY CONFIDENTIAL The contents of this report are of a sensitive and confidential nature and intended solely for the review and consideration of the matter described in the report. No other use is permitted and those with authorised access to the report undertake not to disclose all or part of this report to any third party (including but not limited, where applicable, pursuant to the Freedom of Information Act 2000) without the prior written consent of (the headteacher) (governing body).

A Disciplinary Investigation into the allegations made against [] of []School

1. Introduction

- 1.1 This investigation has been carried out following a request from [*insert who commissioned the report*] about [*nature of allegations*]. [and when the report was commissioned]
- 1.2 Position of the Investigator. Whether or not the investigator has direct line management responsibility for the employee. Confirmation that the Investigator is unbiased and has not had prior involvement in the matter.
- 1.3 Confirmation that the Investigator is a competent person to investigate by reason of previous experience, training, familiarity with ACAS and EPM guidance, and has sought professional HR advice.

2. Background

- 2.1 Give relevant background information about how the allegations came to light, the parties involved, their roles and responsibilities within the school
- 2.2 Any other relevant information that will assist in giving the decision makers background into why an investigation is necessary, if not covered by the *nature of allegations* above.

3. Key Dates/Events

- 3.1 A chronological summary of the event or events that are relevant to the allegation. Sometimes in grievances, or where someone's behaviour is being investigated, it may be a series of interactions over a period of time. It is often helpful to present this in a table.
- 3.2 The key dates/events should also include reference to any relevant documentary evidence which evidences or refutes the allegations or otherwise is important to considering the matter fully and fairly. This may include policies and procedures, job descriptions etc.

4. Conduct of the Investigation

- 4.1 This describes how you conducted your investigation and lists who you interviewed about the allegation and why. If for some reason you did not interview a potential witness, the reason this person was not interviewed.
- 4.2 How was the evidence recorded? The notes of the interview and witness statements should be included in the final report as Appendices
- 4.3 If there was a delay in completing the report e.g. availability of employee's representative or holidays or sickness, it may be noted here and / or in the chronological table above.

5. Allegations

Each of the allegations will now be addressed in turn. For each allegation the evidence that supports it and the evidence that goes against it will be presented, along with any mitigation. Any apparent conflicting evidence will also be highlighted. For each

allegation I will conclude on the basis of the evidence whether there is a case to answer or not.

5.1 *Allegation 1 : that Mr X behaved in an insulting and intimidatory way towards a colleague*

This is where the first of the allegations is discussed highlighting briefly what evidence as a result of your investigation supports the allegation or supports the employee's version of events.

5.1.1 What do the witnesses say about this particular allegation? (including the person against whom the allegation has been made.) Refer to statements in Bundle- only repeat brief pertinent sections here.

5.1.2 What documentary evidence supports the allegation or supports the counter view?

5.1.3 If the allegation is part of a policy or procedure a brief reference to the policy and procedure concerned and whether or not there have been breaches of policy and procedure in relation to those policies.

5.1.4 Are there any mitigating circumstances / has any mitigation been offered?

5.1.5 State one of the following:

- I conclude that there is a case to answer in respect of Allegation 1
- I conclude that there is no case to answer in respect of Allegation 1
- I conclude that there is insufficient evidence to determine whether there is a case to answer in respect of Allegation 1
- I conclude that as a result of conflicting evidence I am unable to determine whether there is a case to answer in respect of Allegation 1

5.2 *Allegation 2: that Mr X failed to notify the Headteacher of his intention to take annual leave following a period of sickness in December 2010.*

The second and subsequent allegations are discussed in the same way as the first allegation.

If you have provided a good key dates section it makes a chronological discussion of the evidence a lot easier and will also highlight where such evidence can be found either in the interview notes or documentary evidence.

5.3 *Allegation 3: Mr X disclosed confidential information about pupils to a third party*

and any further allegations as before.

6. Conclusions and Recommendations

6.1 It is my responsibility to decide whether or not there is a case to answer and whether a Disciplinary Hearing should be convened to consider the allegations. In accordance with the evidence set out above I have determined that – either

a) there is a case to answer in respect of the following allegations:

I therefore conclude that the matter should be referred to a Disciplinary Hearing.

Or

b) that there is no case to answer in respect of the allegations

c) due to insufficient / conflicting evidence I cannot determine whether there is a case to answer in respect of the allegations

I therefore conclude that the matter should not be referred to a Disciplinary Hearing, but make the following recommendations below.

6.2 Recommendations:

Where the investigation has highlighted that there may be flaws in either policies or procedures, or the way in which matters have been handled, a recommendation may be that the Governing Body asks the senior management team to review [policies, procedures or the way in which similar incidents are to be handled in the future].

If appropriate recommendations may also be made as to how such allegations may be avoided in the future for example via training or changes to working practices.

Signed: Name:

Dated: Position: