

STAFF DISCIPLINARY PROCEDURES

1. Governing bodies are required by law, as stated in **The Staffing of Maintained Schools (Wales) Regulations 2006** and **The Government of Maintained Schools (Wales) Regulations 2005**, to establish procedures for the discipline and conduct (including dismissal) of the staff for whom they are responsible.
2. Although governing bodies may wish to choose to agree and adopt policies provided by their LEA or diocesan authority (where appropriate), they must adopt such procedures as their own, in accordance with relevant Welsh legislation. Governing bodies must ensure that all staff are fully aware of the procedures.
3. Staff disciplinary/dismissal procedures must be separate from grievance and capability procedures.
4. As with all policies and procedures governing bodies should review disciplinary/dismissal procedures from time to time. Where any proposed changes are to be made, consultation should take place with members of staff and their union representatives, the LEA and diocesan authority (where appropriate), before making any amendments.
5. Governing bodies must have due



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STAFF DISCIPLINARY PROCEDURES - SUMMARY

GOVERNORS WALES

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- regard to the timescales set out in the disciplinary procedures, as well as the principles of natural justice, impartiality and fairness.
6. Governing bodies can delegate to the headteacher, cases which would constitute lesser misconduct where dismissal is not a possible outcome. The staff disciplinary policy should clearly state which matters could be dealt with by the Headteacher and those which should be referred to the staff disciplinary/dismissal committee.
 7. Governing bodies must have a staff disciplinary/dismissal committee and a staff disciplinary/dismissal appeals committee. Like all committees, the membership should be reviewed annually. It should not be left until a case arises. The same governors cannot sit on both committees.
 8. Each staff disciplinary/dismissal committee is normally made up of a minimum of three governors. The disciplinary/dismissal appeal committee however, cannot have fewer governors than the first committee.
 9. The headteacher cannot be a member of the staff disciplinary/dismissal committee or staff disciplinary/dismissal appeals committee. This is because the headteacher is likely to be involved in cases before they come to committee, and/or may be presenting cases to the

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10. The chair of the governing body should not normally be a member of the staff disciplinary/dismissal committee or appeals committee because he/she may be consulted on cases by the headteacher at an earlier stage.
Furthermore, If an allegation is made against the headteacher, the chair will need to instigate disciplinary procedures.
11. Each committee must appoint a clerk. The clerk can be the same person for both committees and may be the clerk to the governing body.
12. The appointed chairs of both committees have a casting vote.
13. Non governors can be members of each committee but they do not have voting rights. **If, however, there are allegations of child protection being considered**, the staff disciplinary/dismissal and appeals committee must include a non governor member with voting rights.
14. A non governor member cannot act as chair.
15. Any investigation by the statutory authorities (i.e. the Police and Local Authority Social Services) will normally, take precedence over the school's disciplinary proceedings.
16. Where there are allegations made against staff involving child protection issues, an independent investigator must be appointed to investigate the allegations prior to the commencement of any staff disciplinary

proceedings.

17. The Welsh Assembly Government has established an independent investigation service which governing bodies can use free of charge, for allegations of child protection, which are considered to be gross misconduct i.e. if proven could lead to the dismissal of a member of staff. However, where after consultation with the relevant LEA officer, the headteacher/Chair of governing body come to the conclusion, without doubt, that the allegation is demonstrably false or it is considered to be lesser misconduct – an independent investigator would not need to be appointed and the governing body would not necessarily need to instigate disciplinary proceedings (in the case of lesser misconduct where this is delegated, it could be handled by the headteacher).
18. Advice and guidance on staff disciplinary issues can always be sought from your governor support office within your LEA, or diocesan authority (where appropriate) and from the Governors Wales' helpline 0845 6020100.
19. Governors who are members of the staff disciplinary/dismissal and appeals committees should receive training to fulfil this role. Disciplinary cases can be very complex - it is therefore crucial that governors involved know how to handle cases.
20. Although the Assembly Government

Circular 45/2004 – **Staff Disciplinary Procedures in Schools** is non – statutory guidance, governing bodies should have regard to the advice given, both in adopting and reviewing their disciplinary policy/procedures. Likewise, it is important that governing bodies consider the advice from the LEA. If advice is ignored and the governing body loses a case in an Employment Tribunal, the cost of any compensation may fall on the school budget.

21. **Essential reference material for governors:**

The Government of Maintained Schools (Wales) Regulations 2005
The Staffing of Maintained Schools (Wales) Regulations 2006.
The Education (Modification of Enactments Relating to Employment) (Wales) Order 2006
National Assembly for Wales Circular 45/2004: Staff Disciplinary Procedures in Schools available on:
www.new.wales.gov.uk
The ACAS Code of Practice on Disciplinary and Grievance Procedures, available www.acas.org.uk

N.B This is just a summary of some of the main points that governors should be aware of when producing and implementing staff disciplinary procedures. This fact file should be read in conjunction with the legislation and guidance listed in paragraph 21 above; your own agreed governing body staff disciplinary procedure and information produced by your LEA and diocesan authority where appropriate.