

Disciplinary
Policy and
Procedure
for Schools

January 1

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Produced by Personnel Team – Schools

School:

Signed Chair of Governors

Date

1. Purpose and Aims:

1.1 The governing body aims through this policy to encourage improvement in an individual's conduct and behaviour. The policy also sets out the procedure which will be followed when disciplinary rules are breached. The procedure is also designed to reflect the individual's right to natural justice and the rights identified in the Human Rights Act.

1.2 The disciplinary procedure is separate and distinct from the grievance procedure. The grievance procedure shall not be used as a means of imposing any disciplinary penalty on the employee. If, however, the question of disciplinary proceedings arises as a result of a hearing of a grievance, it shall be dealt with in accordance with the procedure set out later in this document.

1.3 The aims of the policy are:

- to define the standards of behaviour expected of members of staff;
- to provide a fair procedure in the event that disciplinary action is necessary;
- to set out clearly the process by which staff disciplinary matters will be dealt with;
- to indicate the responsibilities of individual members of staff; and
- to set out the powers and responsibilities of the governing body and relevant Local Authority officers.

2. Scope

2.1 This disciplinary policy will apply to all teaching and support staff within the school, including the Head teacher.

2.2 The disciplinary policy will be applied equally to all employees within the scope described in paragraph 2.1, regardless of age, disability, gender, sexuality orientation, marital status, race, religion and belief, nationality or gender identity or maternity or pregnancy.

3. Principles:

3.1 All employees are required:

- to conduct themselves appropriately;
- to obey the reasonable directions of the employer;
- to be loyal to the employer;
- to take care over the work assigned to them; and
- to strive to maintain a good employment relationship.

3.2 Employees are expected to observe the reasonable rules, policies and procedures set out in the Staff Handbook. These cover amongst other things the governing body's rules on such issues as: absence procedure; timekeeping; standard of dress; health and safety; use of the school's facilities and equipment; discrimination, bullying and harassment, use of social media.

3.3 The employer (in this case 'the governing body') is expected to show consideration to employees and to strive to maintain a good employment relationship.

3.4 The governing body of this School/College will follow a fair and effective procedure in the event that disciplinary action might be necessary and will ensure the policy is applied equitably.

3.5 The timescales referred to in this the following procedure may be varied by mutual consent.

3.6 In order to preserve the rules of the natural justice for the employee concerned, the Head teacher and governors must ensure that matters relating to the allegations are not discussed prior to any formal hearing which may take place.

4. Definitions

4.1 Misconduct:

(a) Misconduct refers to behaviour which falls short of the standard expected of a registered teacher or member of the school's support staff, taking into account the school's/college's rules and all relevant circumstances.

(b) In some cases a single act or omission may be considered to be unacceptable professional conduct in breach of the expected standards of propriety.

4.2 Gross Misconduct:

(a) Gross misconduct is regarded as misconduct serious enough to destroy the employment contract between the employer and the employee and to make any further working relationship and trust impossible.

(b) So serious is gross misconduct that the Head teacher/Governing Body may dismiss the employee (Voluntary Aided Schools)/ make a determination to dismiss an employee without normal notice (Community and Voluntary Controlled Schools) and refer the matter to the Head of Schools and Families.

(c) **Some examples** of what the school/college might consider to be gross misconduct are failure to comply with a reasonable work request, breach of trust and bullying or harassment. A full list of actions deemed to be gross misconduct and further explanation can be found in the management guide.

6. Responsibilities

6.1 Governing Body

(a) The governing body will:

- make and annually review the disciplinary policy;

will delegate to the Head teacher:

- the power to arrange for investigation of alleged breaches of discipline;
- the power to issue warnings where deemed necessary;

AND EITHER

the duty to inform the Governing Body's Disciplinary Committee in the event that the Head teacher considers that the Committee should consider terminating the employee's employment at the school (i.e. dismissal).

OR

the power to terminate the employee's contract/determine that the employee's contract should be terminated in the event that the Head teacher considers that this is the necessary action (i.e. dismissal).

(b) Where the governing body has determined that the Head teacher will have the delegated power of dismissal/determine that an employee's contract should be terminated, the governing body will appoint a Disciplinary Appeals Committee, consisting of three governors who have not been associated in any way with the disciplinary matter in question to hear any subsequent appeal.

(c) Where the governing body has determined that the Head teacher will not have the delegated power of dismissal/determine that an employee's contract should be terminated the Chair of the governing body has the authority to appoint the Disciplinary Committee and to nominate a Committee Chair. The Chair of the governing body must report his/her actions to the next governing body meeting.

(d) The Clerk to the Governing Body will be responsible for the arrangements for the Disciplinary Committee and/or the Disciplinary Appeals Committee in liaison with the School.

(e) Staff governors are not eligible to sit on either the Disciplinary Committee or the Disciplinary Appeal Committee

(f) When the person whose conduct is in question is the Head teacher, the Governing Body will appoint a Disciplinary Committee consisting of three governors to hear any disciplinary case and to determine if any sanction is necessary. Any appeal against this committee's decision will be heard by the Appeals Committee, appointed by the Chair, consisting of three governors (who took no part in the original disciplinary hearing).

(g) Decisions of the Appeals Committee are final.

(h) In the case of a school with a small governing body, where it is not possible to appoint three governors to each committee; two governors on each committee will be considered quorate.

6.2 The Head teacher

The Head teacher is responsible for the fair and effective management of the governors' policy. Where the Head teacher is to hear the disciplinary case, he/she should not take any part in the investigation and should appoint an investigating officer. In particular, the Head teacher is responsible for ensuring fair and proper investigation of the issues surrounding the alleged misconduct, and for deciding at which stage an employee's misconduct should be dealt with.

Where the Head teacher formally hears the disciplinary case he/she may decide that:

- no action is necessary

OR to issue:

- a formal oral warning
- a first formal written warning; or
- a final formal written warning;

In the cases of misconduct as defined in paragraph 4.1 sub paragraph b, or in cases of gross misconduct, or following a current final formal written warning already held on the employees file, the Head teacher may

EITHER

refer the matter to the governors' Disciplinary Committee to formally hear the disciplinary case.

OR

where the Head teacher has the delegated power of dismissal/determine that an employee's contract should be terminated, and following a formal disciplinary hearing, either terminate the employee's contract, or refer the matter to the Head of Schools and Families, and inform the employee of their right to appeal. The matter must be reported to the Governing Body in a manner that will not jeopardise an appeal.

6.3 Investigating Officer

(a) In appropriate cases the Head teacher (or governing body) may appoint an 'Investigating Officer' to investigate the matter and to advise the Head teacher (or governing body Disciplinary Committee). The Investigating

Officer may be a senior member of staff who has not been connected in any way with the alleged misconduct. In exceptional circumstances an external investigator may be appointed as the investigating officer, in cases where in consultation with the LA, the Head teacher (or governing body) considers this to be appropriate.

The Investigating Officer must approach the task with professionalism and objectivity, and must recognise that everyone associated with the case are likely to be anxious and distressed. The Investigating Officer will not discuss, or share any information about the issue other than as provided within the procedure and his/her brief. The Investigating Officer is expected to seek legal and professional advice from the Local Authority.

6.3.1 Governing Body

Where allegations of misconduct are made against the Head teacher, the Chair of the Governing Body will become the Investigating Officer or commission an Investigating Officer in consultation with the LA. The Investigating Officer will undertake the full investigation of the allegations and, if appropriate, present the case before a disciplinary committee. The Chair of Governors, as Investigating Officer will not be able to be a member of the Disciplinary nor Appeals Committee. Alternatively the Chair may wish to, in consultation with the LA, consider inviting an external investigator to undertake the disciplinary investigation and to present the case on his/her behalf.

The Chair of Governors will inform the Head that an investigation into their alleged misconduct is being undertaken.

The Local Authority

(a) The Head of Schools and Families, or representative, will have the statutory right to attend all formal meetings held in relation to this procedure. This attendance will ensure that advice is available on procedural issues and any employment legislation matters.

7. Criminal Proceedings

Where a member of staff is charged with a criminal offence connected with his/her employment, the governing body may take disciplinary action against him/her in accordance with this policy. Such action would be completely independent of any investigations being made by the Police. Disciplinary investigation may be delayed to avoid compromising any police investigation.

Where a member of staff is charged with a criminal offence outside his/her employment and the nature of the allegation may have a consequence upon the individual's contract, the employee will be suspended on full pay and no further disciplinary action will be taken until circumstances are more clearly known. A conviction, or a plea which will lead to conviction, would be

considered against the job and responsibility of the post holder and could, in some circumstances, be construed as gross misconduct.

In the event that the employee is remanded in custody until trial, pay will be suspended but set aside to be paid at a later date, in the case of innocence.

8. The Procedure

It is the aim of the governing body to ensure that the requirements of natural justice are borne in mind. Disciplinary action will not be taken until the issue has been investigated.

8.1. Informal Procedure

Cases of minor misconduct will normally be dealt with informally by a line manager. Wherever possible a minor disciplinary issue should be dealt with through counselling. This might involve giving strong advice on how the employee's conduct could be improved. The line manager will immediately inform the Head teacher of the nature of the misconduct and the advice given.

It is the Head teacher's responsibility to determine at which point formal disciplinary action should be taken. The Head must ensure that there is no confusion as to when formal procedures are being initiated.

In some circumstances it may be more appropriate to issue the employee with a management letter. This letter should clearly set out the standards of behaviour expected and any potential future consequences of failing to observe these standards. It is not a disciplinary sanction.

8.2 Formal Disciplinary Procedures

8.2.1 Precautionary Suspension

The Head teacher/Chair of the governing body (in the case of the Head teacher) has the power to suspend a member of staff (on full pay) as a precautionary measure on disciplinary grounds, where the issue that is subject to disciplinary action is considered by the Head teacher/Chair of the governing body (in the case of the Head teacher) to involve gross misconduct, or it is in the interests of the school, or a pupil, or an employee, or the member of staff facing the allegations.

A precautionary suspension is a neutral act and does not constitute a disciplinary sanction and is without prejudice.

The Head teacher/Chair (in the case of the head teacher) may suspend an employee from work, in accordance with paragraphs 11.1(a) and (b) on full pay and benefits whilst an investigation takes place.

In taking a decision to suspend an employee the Head teacher/Chair (in the case of the Head teacher) must consider the nature of the allegations and to whom they may apply. It may be appropriate to suspend other employees who may be associated with the alleged misconduct.

(a) If suspension is being considered, a meeting will be convened with the employee. The employee may seek representation from a Trade Union representative or school colleague. The employee will be allowed one hour (and no more than a maximum of three hours in exceptional circumstances) to find a representative. Failure to find representation will not stop the meeting and any decision to suspend. The employee will be told of the allegation(s) made against him/her and offered an opportunity to make a statement.

(b) If the decision to suspend is made the employee will be informed when he/she must leave work premises. The employee must be available for contact throughout the period of suspension. A single employee will be appointed as the employee's point of contact with the school during the period of suspension. All property belonging to the employer must be returned during the period of suspension, e.g. laptops, ICT equipment, keys to buildings. Access to the Schools Internet and E-mail facilities will be suspended along with any other systems to which the employee has access.

The Head teacher/Chair will seek advice from Personnel Team - Schools before making a decision to suspend, and will inform the Personnel Team - Schools when a suspension has been made.

Suspension will be reviewed at reasonable intervals by the Head teacher /Chair (in the case of the Head teacher) to ensure that it is not unnecessarily protracted.

8.2.2. The Investigation Stage

All disciplinary issues will be properly investigated as a first step. The Head teacher/Chair (in the case of the Head teacher) will appoint an appropriate Investigating Officer. The Head teacher/Chair (in the case of the Head teacher) may seek advice from the Personnel Team - Schools before making the appointment.

Where the facts are undisputed the Investigating Officer must ensure that the employee is satisfied that no further investigation is called for.

The Investigating Officer will make his/her recommendation to the Head teacher/Chair, normally within five working days of completion of the investigation, of whether or not the matter should proceed to a formal hearing.

Any witness statements must be dated and signed and attached to the Investigating Officer's report.

The details of the investigation should remain confidential and not be disclosed to any party who may be involved in any subsequent disciplinary hearing.

If after the investigation it appears that there are no reasonable grounds for continuing with the procedure, the person(s) concerned will be informed, and, if has remained suspended, allowed to return to work as normal.

8.2.3 Notification of Formal Hearing

If it is determined that there are grounds for disciplinary action the Head teacher/Clerk to the Governors will write to the employee requesting their attendance at a disciplinary hearing; the letter will set out the grounds for the action and the potential consequences and will provide the employee with at least 10 working days notice of the hearing. This time constraint may be shortened at the employee's request where the employer can accommodate it. The employee's request must be made in writing to the Head teacher/Clerk to Governors.

The letter will remind the employee concerned of their rights at the formal hearing:

- to representation by a Trade Union Representative or work colleague,
- to state their case, and
- to appeal against any decision taken.

In any cases of alleged gross misconduct the letter must state that the outcome may result in dismissal.

If the representative cannot attend on the date set, another date can be proposed by the employee, so long as this is reasonable and is not more than five working days after the original date set by the Head teacher/Clerk to Governors.

If the employee is unable to attend the meeting through unforeseen circumstances outside the employee's control, the hearing will be rearranged. If the employee is unable to attend the hearing due to sickness this must be covered by a GP's certificate. If the hearing is to be rearranged the letter must state that the hearing will be held in the employees absence if they fail to attend.

8.2.4 The Hearing

(a) Any disciplinary hearing will be conducted by the Head teacher at the warning stages unless the Head teacher has carried out or been involved in the investigation, or will be attending as a witness.

(b) If there is a possibility of dismissal then the Head teacher will conduct the hearing **if the Head has the delegated power to dismiss/determine that the employees contract should be terminated on disciplinary grounds.**

(c) **If the governing body has retained the power to dismiss/determine that the employees contract should be terminated on disciplinary grounds** the hearing will be conducted by the Chair of the Governors' Disciplinary Committee accompanied by two other governors (unless the circumstances set out in paragraph 6.1 (h) apply). The Head may not be a member of this Committee. He/she may appear as the Investigating Officer to present the school's case or as a witness.

8.2.5 Documentation for formal disciplinary hearings.

- (a) To the employee

All documentation for the school's case must be supplied to the employee no later than 10 working days prior to the hearing, including the names of witnesses to be called.

- (b) To the employer

All documentation for the employee's case must be supplied to the school no later than 5 working days prior to the hearing, including the names of witnesses to be called.

8.2.6 Conduct of the Meeting

- (a) The Investigating Officer will present the School's case and call any witnesses.

The employee (or representative) will then respond to the allegations and present his/her defence and call any witnesses.

Each party has the opportunity to question each other and witnesses. It is the responsibility of the employee to contact witnesses for their case.

The Head teacher/Disciplinary Committee will have the opportunity to question all parties.

- (d) The Investigating Officer and the employee (or representative) will sum up their case in turn.

8.2.7 Adjournment during the hearing.

- (a) The Head teacher/Disciplinary Committee may adjourn the proceedings at any stage if this appears necessary or desirable. If the adjournment is for the purpose of enabling further information to be obtained the Head teacher/Disciplinary Committee will specify the nature of that information.

- (b) Both parties may request an adjournment for a specific reason at any time. Any adjournment will normally be for a specified time and must be agreed by the Head teacher/Chair of Disciplinary Committee.

8.2.8 Decision-Making

On completion of the hearing the Head teacher/Disciplinary Committee will adjourn to consider the evidence and reach a decision. The Head teacher/Disciplinary Committee is entitled to be advised by the appropriate officers of the LA. No other parties will take part in the decision making process.

8.2.9 Communication of the Decision

- (a) The Head teacher/Disciplinary Committee will deliver the decision to the employee as soon as practical. The decision must be confirmed in writing

to the employee no later than 5 working days following the hearing. The employee will be informed of the disciplinary action to be taken, if any, together with an explanation of the penalty to be imposed, and the right of appeal to the Governors' Appeal Panel.

If a decision has been taken to dismiss the employee/determine that the employee's contract should be terminated on disciplinary grounds he/she will be informed of the reasons for the dismissal, the date on which the termination of the contract will take place, the appropriate period of notice* (or pay in lieu of notice) as well as the notification of the right of appeal.

**In cases of summary dismissal termination of the contract will take place immediately without any notice period.*

A detailed minute of the meeting will be taken on behalf of the Committee by the clerk to the Committee who has no other role to play in the proceedings.

8.2.10 Sanctions

(a) Depending on the nature of any misconduct found to have been committed and any mitigating circumstances, the Head teacher/Disciplinary Committee may impose any of the following sanctions:

- no sanction;
- a formal oral warning (to remain on file for 6 months);
- a formal written warning (to remain on file for 12 months);
- a final written warning (to remain on file for 24 months); or
- dismissal/summary dismissal

(b) An employee's contract of employment will not be terminated for a first offence unless the misconduct is gross misconduct.

(c) The sanctions can be applied progressively starting with an oral warning, or the Head teacher/Disciplinary Committee may choose to give a written or final warning for a first or subsequent offence.

9. The Appeal

9.1 Right of Appeal:

(a) The employee may appeal against any disciplinary decision to the Governors' Appeal Committee. The appeal should be submitted in writing to the Clerk to the Governing Body within ten working days of being notified of the Head teacher's/Committee's decision. The employee must give full details of the reason for the appeal.

9.2 Appeal Procedure:

The established Appeal Committee will not include the head teacher, nor the investigating officer, nor any member of the original Disciplinary Committee, nor anyone who has an interest in the issues.

The Clerk to the Governing Body will arrange a hearing as soon as reasonably practicable, and normally within twenty-eight working days from the receipt of the written appeal.

The procedure for the appeal hearing will be the same as that for the first disciplinary hearing, save that there will be no right of appeal from the decision of the Appeal Committee.

The Clerk to the Governing Body will write to the employee and his/her representative confirming the arrangements for the appeal hearing, requesting details of the witnesses he/she intends to call and stipulating that any statement of case/documents that are to be submitted (by either side), must be received by the Clerk to the Governing Body, at least 10 working days before the hearing.

The Appeal Committee may decide to:-

- uphold the original decision.
- uphold the appeal and withdraw the original sanction issued.
- issue a disciplinary sanction at a lower level than the original.

The Appeal Committee may not increase the sanction awarded by the Head teacher/Disciplinary Committee. The decision must be confirmed in writing to the employee within 5 working days.

A detailed minute of the meeting will be taken on behalf of the Committee by the clerk to the Committee who has no other role to play in the proceedings.

10. Other Matters

10.1 Statutory Duty to Refer

Depending on the nature of the misconduct and the sanction given there is a statutory requirement to refer the matter to either the Disclosure and Barring Service and/or the National College for Teaching and Learning. See Annex A of the Managers' Guide.

10.2 Statutory Ban

"Statutory Ban" is the term used to describe a fair reason for dismissing an employee, when allowing them to continue in employment will contravene (on the employee's or employer's part) a duty or restriction imposed by or under enactment.

The most common example of a Statutory Ban is a Driving Ban when an employee has lost his/her driving license. However, a Statutory Ban may or may not result in the use of the Disciplinary Procedure, or dismissal, dependant on the circumstances of the case. Further information on Statutory Ban is in the Managers Guide to the Disciplinary Procedure.

10.3 Anonymous Witness

Where there is a request to preserve the anonymity of a witness the Personnel Team - Schools should be consulted before any **decision is made.**

10.4 Grievance

If a grievance is raised during the course of the hearing the Head teacher/Disciplinary Committee must decide whether the procedure shall be suspended for a specified period while the grievance is dealt with. In coming to a decision the Head teacher/Disciplinary Committee may seek advice from the Personnel Team – Schools.

11. Monitoring and Review.

11.1 The Head teacher or Clerk to the Governing Body, as appropriate, will inform the governing body when any formal disciplinary action has been taken but without giving any details.

11.2 The Governing Body will review the policy annually