



Caring **A**chieving **R**espectful **E**xciting

Disciplinary and Dismissals Policy

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Policy Approved **Signed: C Sayers** **Date: 06.06.17**

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Purpose

The Disciplinary and Dismissals Policy sets out the framework of the process for Head Teachers and Governing Bodies to follow when dealing with employees' alleged misconduct.

It is intended to help and encourage employees to achieve and maintain satisfactory standards of conduct and behaviour at work in line with Schools policies, rather than primarily as a way of imposing punishment.

The policy aims to make sure employees are aware of the consequences of failure to meet the required standards of conduct.

By providing for disciplinary issues to be dealt with promptly, thoroughly, fairly, consistently and reasonably, the Disciplinary and Dismissals Policy also aims to give the School and Council protection should an employee make a claim at an Employment Tribunal.

Document Control

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Revision/update	

1 Policy application

- 1.1 The Council, in consultation with recognised trade unions, has agreed this policy for adoption by those employed under the delegated powers of Governing Bodies. Governing Bodies are strongly urged to adopt this policy for all employees within their delegated powers.
- 1.2 The policy applies to conduct issues and where dismissal is being considered for 'some other substantial reason' or because of a statutory restriction.

2 Principles

- 2.1 The Disciplinary and Dismissal Policy complies with the statutory ACAS Code of Practice on Disciplinary and Grievance Procedures, the non-statutory ACAS guidance, as well as equalities legislation and statutory equality duty.
- 2.2 It is a fundamental principle that disciplinary matters are dealt with at the lowest level possible, appropriate to the disciplinary matter under investigation.
- 2.3 Where dismissal is being considered for 'some other substantial reason' or because of statutory restriction, Head Teachers should follow the formal process as outlined in point 2.14.2. The right to appeal, Section 3, will also apply.
- 2.4 Head Teachers and Governing Bodies will carry out the disciplinary process without unreasonable delay and all parties have a responsibility to observe and co-operate fully with any specified timeframes.

In exceptional circumstances, when it is mutually agreeable to both employee and employer, the process may continue during non-working days.

- 2.5 Where there are allegations that appear to involve criminal responsibility or financial irregularities affecting schools' resources, the Chair of the Governing Body and the Strategic Director of Children and Young People Services must be notified and will decide whether to refer the matter to the police or take other action in accordance with the Council's Financial Procedure rules (as appropriate). The exception to this is in allegations involving Safeguarding Children and Safeguarding Adults, where separate procedures apply.
- 2.6 Employees will be notified of any allegations at the earliest appropriate stage, and will have the right to be accompanied by another employee of the school or a trade union representative of their choice.
- 2.7 Where an issue has been raised informally with an employee about their conduct or behaviour, it should be made clear at that time that if there is a further instance of misconduct, formal disciplinary action could be taken.
- 2.8 All parties are expected to attend investigation meetings or disciplinary hearings as arranged. Where an employee is repeatedly unable or unwilling to

attend these, the Head Teacher will come to a reasonable decision on how to proceed, and may conclude that a decision will be made on the evidence available.

2.9 The Disciplinary and Dismissals process must be confidential to all parties.

2.10 At the formal stage of the disciplinary and dismissals process, employees

- will have the right to be accompanied by another employee of the school or a trade union representative of their choice, plus any support as required under the Equality Act 2010 at hearings
- will be given a minimum of 10 working days (pro-rata for part time staff) notice of the hearing
- should make every effort to attend hearings as arranged. They may offer a reasonable alternative time within 5 working days (pro-rata for part time staff) of the original date if their companion cannot attend.

2.11 Disciplinary action will not be taken until full information and facts relating to the case have been gathered and considered. Any action must be reasonable in all circumstances.

2.12 When an employee raises a grievance during any stage of the disciplinary process and this relates to the disciplinary matter in question, grievances should be heard as part of their case under the Disciplinary and Dismissals Policy. Raising a grievance in this way should not delay applying the disciplinary process in any way.

2.13 The School's Disciplinary Rules are attached at Appendix 1

2.14 **A summary of the disciplinary and dismissals framework and process is:**

2.14.1 **Informal process:**

Minor instances of misconduct should normally be dealt with informally by the Head Teacher.

2.14.2 **Formal process:**

Where issues cannot be resolved informally or where there is no improvement through informal processes, the following stages apply;

Stage1

Preliminary fact-finding to decide whether and how to proceed with the issue.
If the decision is to proceed:

Stage 2

Carry out investigation – the investigating officer should be a person with no prior involvement in the matter under investigation, and should normally be the Head teacher unless they have prior involvement in the case.

Suspension should be used in exceptional circumstances and where the allegations are potentially considered to be gross misconduct. It is not an assumption of guilt, neither is it considered to be a disciplinary sanction. Suspension may be appropriate at any point during Stages 1 or 2. During any period of suspension, the employee remains in employment and will be on full pay, including contractual benefits, without prejudice to the outcome of the investigation. The employee will receive written confirmation of the suspension.

Stage 3

Decide whether to proceed to disciplinary hearing

Stage 4

If appropriate, hold disciplinary hearing and decide whether or not disciplinary action is required.

2.14.3 Categories of formal disciplinary action

Where disciplinary action is required, a number of sanctions are available:

- formal verbal warning
- first written warning
- final written warning
- action short of dismissal including final written warning
- dismissal

All formal warnings will be recorded on employees' personal files and then disregarded for the purposes of further disciplinary action after these periods:

- formal verbal warning – 6 months
- written warnings – 12 months
- final written warning – 18 months

3 Appeal

3.1 Employees will have the right of appeal against the outcome of the disciplinary and dismissals hearing. Further details on the appeals process can be found on the school portal.

3.2 Those conducting the appeal should not have had any prior involvement with the process.

3.3 This is the final stage of the internal disciplinary and dismissals process.

4 Support and guidance

A full description of the process including guidance, supportive information and documentation are available on the school portal.

5. Roles and responsibilities

The roles and responsibilities of key stakeholders are summarised in Appendix 2

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Appendix 1

Disciplinary Rules

Introduction

As a public sector employer, the Council and Governing Bodies must maintain, and is entitled to expect, the highest standards of conduct from its employees.

It is unlikely that any set of rules will cover all possible disciplinary issues, but the information in this appendix contains guidance on the categories of misconduct and examples of acts that we will normally treat as gross misconduct. An employee should not be dismissed for a first disciplinary offence unless it is a case of gross misconduct.

Gross misconduct is defined as conduct so serious that it justifies dismissal. This is because the significance of the act affects the contractual relationship between the school and the employee.

The categories are neither exclusive nor exhaustive, and dismissal on the grounds of gross misconduct could therefore occur for acts of a similar level of seriousness that are not referred to below, where the contractual relationship between the school and the employee has broken down.

1. Personal conduct and responsibility

All employees must carry out their duties on the basis of mutual trust, honesty and respect and show courtesy and consideration to everyone they come into contact with.

Employees who compromise this by their behaviour, and who bring the school or themselves into disrepute, will be subject to disciplinary proceedings.

This includes complying with the reasonable and lawful instructions of Head Teachers and managers, and repeated or serious failure to follow instruction, including insubordination.

Covert recordings of meetings will be considered to be a breach of trust.

All employees must carry out their duties and responsibilities in accordance with relevant policies, i.e.

- Code of Conduct
- Equality and Diversity Policy
- Bullying, Harassment Victimisation and Discrimination Policy Statement

The employer may treat any serious breaches of these policies as gross misconduct. This includes:

- bringing the school into serious disrepute
- physical violence or bullying
- unlawful discrimination or harassment
- serious insubordination.

2. Health and Safety

The school have a duty of care to its employees and to anyone that might be affected by their activities. Employees are under a legal obligation not to endanger themselves or other people. This is particularly important in local government, which, by its nature, provides services to many people, some of whom are vulnerable.

The school regards breaches of health and safety legislation and associated policies seriously and employees must be constantly aware of the need to make sure they observe safe working practices.

When the school issues personal protective equipment, employees must wear it except when otherwise agreed by management, or in line with legislation. Refusing to wear personal protective equipment will be considered a disciplinary matter.

Breaches of the School's Protocol on Consumption of Alcohol will be considered a disciplinary matter.

The consumption of, or being under the influence of illegal drugs or substance abuse while at work will be considered a disciplinary matter.

Any breaches of the school's Smoking Policy will also be considered a disciplinary matter.

Employees are expected to take care of the School's property, plant and equipment. Deliberate, negligent or malicious conduct resulting in the loss, damage or misuse of property, plant or equipment will be considered a disciplinary matter.

The school may treat serious breaches of any health and safety rules and associated policies as gross misconduct. This includes:

- deliberate acts endangering health and safety
- taking or being under the influence of alcohol or illegal drugs, or other substance abuse
- causing loss, damage or injury through serious negligence.

3. Theft, fraud and misappropriation

Employees are expected to act with honesty and integrity. The School may treat any misconduct of this type as serious breaches of gross misconduct.

Deliberately withholding information or falsifying records or documentation will be considered a disciplinary offence. This includes time sheets, recording of working hours, expenses claims, sickness documentation and documentation associated with job applications. This also extends to fraudulent benefit claims as referred to in section 5.

4. Time keeping, attendance and abuse of sickness scheme

All employees must attend work regularly and punctually during their normal working hours and accurately complete all timesheets and other records of working hours as required. Poor timekeeping and absence without permission or valid reason will be considered a disciplinary matter.

When an employee is unable to attend through illness, or for any other reason, they must report this promptly and comply with the sickness notification requirements in the Attendance Management Procedure or other relevant adopted policy.

The Council takes abuse of the sickness scheme seriously, and will treat it as a disciplinary matter. This includes false sickness claims, undertaking activities prejudicial to recovery and prolonging absences by failing to seek, or neglecting, medical advice.

5. Criminal Offences

Any relevant criminal proceedings that impact on the employee's contract of employment will be considered a disciplinary matter. This includes deliberate fraudulent benefit claims.

Dependent upon the seriousness and circumstances of the issue, the school may treat it as gross misconduct.

6. Use of e-mail, internet and related technology

The school expects employees to use e-mail, the internet, intranet and other technology responsibly at all times. Unauthorised use or misuse of technology will be considered a disciplinary matter.

Employees must comply with standards of use required by the:

- Network Email and Internet User Policy
- E-mail and Internet Monitoring Policy
- Information Security Policy
- Software Licensing Policy
- Anti-Virus Policy.

The school may treat breaches of these policies as gross misconduct.

7. Unauthorised disclosure of, or access to information, breaches of confidence and abuse of authority

Employees have a position of trust and responsibility and must not communicate work related information. All employees must comply with the requirements of data protection legislation and carry out their duties and responsibilities in accordance with the;

- Data Protection Policy
- Information Security Policy.

Knowingly or recklessly accessing, disclosing or otherwise using personal or confidential information without the school's consent will normally be treated as a disciplinary offence. Any such actions in relation to personal information may also be a criminal offence under the Data Protection Act 1998. This is subject to the provisions of the Public Interest Disclosure Act 1998.

Any communications or requests for information from the media must be referred to the relevant person. Employees communicating with the media as private individuals are responsible for making it absolutely clear that they are not speaking on behalf of their employer or school.

Employees must not use their official position for private advantage of themselves or someone else. This includes unauthorised use of work time for non-Council business.

Soliciting or accepting favours or financial gain are also disciplinary offences. This includes soliciting or accepting anything that affects, or could be seen to affect the integrity of employees, or may place them in a position of having a conflict of interests.

The school may treat as gross misconduct:

- serious breaches of confidence
- unauthorised access, disclosure or other use of confidential or personal information
- significant abuses of official position.

Appendix 2 DISCIPLINARY AND DISMISSALS POLICY ROLES AND RESPONSIBILITIES OF KEY STAKEHOLDERS

Governing Body	Governor's First Committee	Head Teacher	Employees	HR
Fairness and equality				
To ensure this policy is implemented in a fair, consistent and non-discriminatory manner.	To facilitate reasonable adjustments as required.	To provide reasonable adjustments as required.		To ensure this policy is implemented in a fair, consistent and non-discriminatory manner.
General Operation of the Scheme				
Ensure Head teachers carry out their roles and responsibilities				Provide advice to Head teachers, Governing Bodies and employees
		Become aware of alleged misconduct and decide if informal or formal process is necessary. Referral to LADO if appropriate		Provide advice to Head teacher, Governing Bodies and employees.
Informal process				
		Arrange to meet employee to discuss alleged misconduct. Keep a record of the meeting	Attend meeting	Provide advice to managers as required
Formal process				
Stage 1 Preliminary Fact finding				
		Decide on what basis to proceed		Provide advice to Head teachers and

Governing Body	Governor's First Committee	Head Teacher		Employees	HR
		Notify of allegations Decide on precautionary suspension or Carry out suspension at stages 1 or 2		Adhere to suspension conditions	Governing Bodies Advise Head teachers and Governing Bodies on suspension issues
Stage 2 Investigation					
		Appoint Support contact. Conduct investigation Review suspension		Attend investigation meetings as required	Provide advice to Head teachers and Governing Bodies.
Stage 3 Proceed to disciplinary hearing					
		Conclude investigation Decide if case to answer If case to answer, prepare statement of case			Provide advice to Head teachers and Governing Bodies.
Stage 4 Disciplinary hearing					
Community, Voluntary Controlled, Community Nursery and Special Schools. Notify the Local Authority in writing if an employee is dismissed and the reason for the dismissal.	Hold the hearing Follow the disciplinary hearing process	Present School's statement of case at hearing. Conduct supplementary investigation if required		Attends hearing and arranges for companion and any witnesses to be present Participate in hearing and respond to allegations	Provide advice and attend hearing

Governing Body	Governor's First Committee	Head Teacher	Employees	HR
Document Retention				
Ensure documents are treated in confidence and in line with the School and Council's data protection and IT policies	Ensure documents are treated in confidence and in line with the School and Council's data protection and IT policies	Ensure documents are treated in confidence and in line with the Council's data protection and IT policies	Keep a copy of documents and decision letters and are treated in confidence.	<p>Ensure documents are treated in confidence and in line with the School and Council's data protection and IT policies</p> <p>Ensure information is processed through VISION and that key documents are placed on the employee's personal file</p> <p>Keep a copy of documents and decision letter in case file.</p>