



Discipline Policy & Procedure

Policy

A high standard of discipline is essential for the efficient and orderly conduct of the Trust and for the safety and well being of its entire staff. The Chief Executive/Headteacher are responsible for promoting and maintaining that standard.

1. Scope and Purpose

This disciplinary procedure applies to all staff who are permanent employees or directly employed fixed term staff within the establishment of the Trust, regardless of length of service, whether full-time, part-time, in all teaching and support posts, including the Chief Executive Officer and Headteachers.

2. General principles

A high standard of discipline is essential for the efficient and orderly conduct of the School/Trust and for the safety and well being of its entire staff. The Chief Executive Officer and Headteachers are responsible for promoting and maintaining that standard.

For the purpose of this document, misconduct will be assessed by reference to school codes of conduct, contractual obligations and other relevant disciplinary rules laid down by the Trust. Misconduct concerns may be about a single matter or a number of separate issues.

The procedure sets out both general principles, which will apply to the way in which the Trust disciplinary procedures will operate and in some instances, the detailed steps that will have to be followed.

The procedure is designed to help and encourage all employees to achieve and maintain appropriate standards of conduct. The main purpose of the disciplinary procedure is to encourage an employee, whose conduct is unsatisfactory, to improve. Disciplinary action may, at its extreme, lead to dismissal.

The Chief Executive Officer/Headteacher or Trust/Governing Body has overall responsibility for promoting and maintaining standards of work conduct. Informal guidance does not form part of the formal disciplinary procedure.

The following disciplinary procedure has been established by the Trust/Governing Body in line with the powers given under the School Staffing (England) Regulations 2009. In establishing these procedures, care has been taken that the procedure is consistent with the Education Act and Regulations, employment legislation and codes of practice, as well as good HR practice. The Headteacher will have the

delegated responsibility to take disciplinary action up to initial dismissal decisions, following which there will be an opportunity to appeal to a committee of governors.

The Governing Body has a responsibility to apply the provisions of this procedure fairly and with full regard to the School Staffing (England) Regulations 2009.

The procedure should not be viewed primarily as a means of imposing sanctions or as necessarily setting out procedures leading to dismissal or a determination to cease working at the school/trust. Its aim is to ensure that employees of the school covered by this procedure are treated fairly and consistently and that, particularly where an employee's job is at risk, proper and adequate procedures are observed before any decision is taken.

All proceedings under this procedure shall be held in private and shall be confidential.

Where an employee raises a grievance during a disciplinary process the disciplinary process may be temporarily suspended in order to deal with the grievance. Where the grievance and disciplinary cases are related it may be appropriate to deal with both issues concurrently.

3. Informal Action

Many potential disciplinary issues can be resolved informally and employers and employees should always seek to resolve disciplinary issues in the workplace. In many cases the right word at the right time and in the right way may be all that is needed.

Informal action may often be a more satisfactory way of dealing with a breach of rules than a disciplinary meeting if it takes the form of a discussion with the objective of encouraging and helping the employee. It must not turn in to a disciplinary meeting.

In addition:

- The employee should fully understand the outcome and where improvement is required, that their conduct will be reviewed and over what period
- A note of any informal action should be kept for reference purposes

In certain instances mediation may assist in relation to disciplinary issues. In such cases, subject to the agreement of both parties, mediation can be arranged to try to settle the matter. Although a cost will be incurred for this service it is a cheaper alternative to employment tribunal claims. If mediation is felt to be appropriate you should contact the Head of Operations/HR & Governance Manager for further information.

4. Suspension

The Chief Executive Officer, Headteacher or Chair of Governors has the authority to suspend a member of staff from duty on full pay. Where the employee holds more than one post in the same school the suspension will apply to all posts. The employee will refrain from entering into the school or usual place of employment until the investigation is complete and a disciplinary hearing arranged, if appropriate.

Suspension should only be considered in extreme circumstances where the employee's continued presence on site:

- Makes a fair investigation impossible
- Represents a serious risk to the safety of others or themselves
- Seriously undermines the reputation of the school
- The presence of the employee could impede the investigation
- In order to avoid a repetition of the alleged misconduct
- On the loss of accreditation/statutory provision essential to the job or
- When the allegation is potentially gross misconduct that may lead to dismissal

As an alternative to suspension the Headteacher or Chair of Governors may consider temporary variations e.g.

- duties
- working arrangements
- working location

When considering the suspension of an employee, the Headteacher or Governing Body shall immediately inform the Head of Operations/HR & Governance Manager. They should also immediately arrange a meeting with the employee, unless this is totally impractical.

Time permitting, the employee may bring a certified trade union representative or work colleague to this meeting. The employee will be informed of the nature of the allegations. The employee may make representation in respect of the proposed suspension. The Headteacher or Chair of Governing Body will then verbally confirm the decision at the meeting and in writing within five working days. If the decision is to suspend the employee, then the letter will outline the reasons for the suspension and the nature of the allegations.

On occasion more urgent action is necessary. If this is the case the employee should be asked to leave the premises and escorted off the site. The employee should be allowed to make representations at a later stage. Written confirmation of the suspension should be sent as soon as possible afterwards.

Suspension during the course of an investigation is not a sanction in itself and does not imply guilt. The suspension from work will be on full pay.

A suspended employee should be assigned a contact officer who could be a member of the management team not involved with the case,. The contact officer will review the suspension at regular intervals (preferably weekly) and ensure that they

advise the employee of progress with the case. Only the Chair of the Governing Body or a Governor nominated by the Chair can end the suspension.

The powers given to the Governing Body in this procedure is without prejudice to the Education (School Government) Regulations 1999, which provides that the Chair or Vice-Chair of a Governing Body may exercise the functions of the Governing Body in cases of urgency.

5. Investigation

When a disciplinary matter arises the following procedure will apply:

The appropriate person under the scheme of delegation will inform the employee of the nature of the allegations in writing with as much detail as possible and at the earliest opportunity.

The appropriate person under the scheme of delegation will investigate the matter. This will normally be a senior member of staff, or in the case of a Headteacher under investigation and in other extreme cases, the Chief Executive Officer assisted by the HR & Governance Manager.

The investigating officer will promptly carry out a full and thorough investigation into the allegations as the circumstances will allow. This will include the gathering of evidence from the relevant parties and an investigation meeting with the employee.

The Investigating Officer will write to the employee and give the following information:-

- details of the allegations
- a copy of the disciplinary procedure
- time and date of investigation meeting
- right to representation at all meetings

The investigating officer will adjourn the meeting/investigation if other areas of concern require investigation.

If on completion of the investigation, the investigating officer conducting it considers that a complaint of misconduct is justified and may require formal action, a disciplinary hearing before a Headteacher/Hearing Committee will be arranged.

If the investigating officer does not consider that the complaint requires formal action, informal guidance may be appropriate or if there is no case to answer the matter will be closed.

The employee will be informed in writing of the appropriate conclusion.

In the case of a Headteacher, the investigating officer will submit a recommendation to the Chair of Governors as to whether a Hearing Committee of the Governing Body should consider the matter.

Where the decision is made to convene a disciplinary hearing, then the investigating officer will inform the employee in writing.

Persons directly involved in the investigative process may present a case or appear as a witness, but may not give advice to or sit on the subsequent Disciplinary Hearing Committee.

If the decision is taken that a Disciplinary Hearing is to be held the employee will be informed in writing and a Disciplinary hearing will be arranged.

The employee will be informed in writing of the following: -

- The date, time and place with at least 5 working days notice from date of the letter
- The names of the committee members (but this may be subject to change)
- The specific nature of the allegations
- The right to produce written statements and to bring witnesses
- The right to representation
- Names of any management witnesses
- Any supporting documents to be used as evidence by management
- Likely outcome if charges are proven i.e. warnings, dismissal
- A copy of the Disciplinary Procedure

If the employee wishes to call witnesses or provide relevant paperwork, this should be provided to the Headteacher/Chair of Governors as appropriate, at least two working days prior to the Hearing.

The Head of Operations/HR & Governance Manager will be available to attend a disciplinary hearing if required. It is essential that the Head of Operations/HR & Governance Manager attend the Hearing when dismissal is considered to be a likely outcome.

The Headteacher will hear the case. If the Headteacher has been directly involved in the procedures leading to disciplinary action, has instigated a proposal to dismiss or is a witness of particular conduct giving grounds for the disciplinary action in question (or the Headteacher is being considered for disciplinary action) the initial decision can be delegated to a Committee of at least three governors.

6. At the Hearing

Where the allegation is being considered by a committee of governors, the Headteacher (except where she/he is the subject of the disciplinary) may attend the meeting to give advice.

If the employee fails to attend the hearing, the case will be heard in their absence, unless acceptable reasons have been presented in advance and it is therefore agreed to postpone the hearing to a later date.

Copies of the allegations and all relevant papers including those submitted by the employee concerned must be available for the Headteacher/ Governors to use when hearing the allegation.

It is for the Headteacher/Governors to decide whether late evidence from either side is acceptable. The Committee should seek the views of both sides when considering whether to accept late evidence, and consider the reasonableness and fairness of the decision. If late evidence were accepted in the form of written documentation, it would be usual to allow reading time by way of a brief adjournment.

The Headteacher/Governors must ensure that the employee receives a fair and impartial hearing, is encouraged to be represented or accompanied, is allowed to present his/her case or have it presented and is allowed to bring witnesses and to question the management presenter and any management witnesses.

Once the Headteacher/Governors are satisfied that all the relevant evidence has been heard then the committee must reach a decision and convey the decision to the employee and representative. All parties other than the assigned HR representative advising the Headteacher/ Governors shall withdraw when the decision is considered.

Before deciding what disciplinary sanction to impose, the Headteacher/Governors should consider whether the employee has been subject to any previous disciplinary action and whether any warnings are still current. The Headteacher/ Governors should also consider any mitigating factors that may have been presented during the Hearing.

Codes of conduct and action taken in similar cases in the past may be considered and representations as to whether the proposed action is reasonable in the circumstances.

The order of the proceedings is detailed at Appendix 1.

7. Disciplinary Action

The decision will usually be given verbally to the employee in the presence of his/her representative. However, this may be varied by mutual agreement. The decision will also be confirmed in writing.

The possible actions arising from a disciplinary hearing are:

- **No further action**

- **Guidance and/or training** – appropriate for more minor breaches of conduct. The committee must set timescales and review periods.
- **Written warning** – Where an employee is found guilty of misconduct, the first step would be to give them a written warning setting out the nature of the misconduct, any improvements and the change in behaviour required. The employee will be informed that the warning is part of the formal disciplinary process and the consequences of any further misconduct could be a final written warning and ultimately, dismissal.
- **Final written warning** – appropriate where the misconduct is considered to be insufficiently serious to justify dismissal but sufficiently serious to warrant only one warning, or where the misconduct is considered to be serious enough to justify dismissal but where a lesser sanction is appropriate in the particular circumstances (e.g. where there are exceptional mitigating circumstances). A final written warning may be the first and last warning, even if there is no previous record of disciplinary action against the employee and it must draw the employee's attention to the fact that his/her job is at risk if he/she does not improve.

In addition where appropriate, there are a number of supplementary sanctions that a committee may consider to accompany a written warning, a final written warning or dismissal. Such sanctions may include, for example, the necessity to attend specified training.

8. Dismissal or other penalty

If the employee's conduct still fails to improve, the final stage in the disciplinary process will be dismissal. The employee will be informed of the reasons for the dismissal, the date on which the employment contract will terminate, the appropriate period of notice and their right of appeal.

9. Referrals

Under the Teachers' Disciplinary (England) Regulations 2012 if the outcome of the case is serious misconduct, the matter will be referred to the National College for Teaching and Leadership (NCTL), to make a decision about whether you should be prohibited from teaching in any school, children's home or youth accommodation in England.

If the outcome of the case relates to a safeguarding issue (harm or risk of harm to a child/vulnerable adult in the workplace) the matter will be referred to the Disclosure and Barring Service.

10. Gross misconduct

Some cases of misconduct are so serious they may be termed gross misconduct. In such cases the employee may be dismissed without notice.

Gross misconduct is regarded as misconduct of such a nature that it fundamentally breaches the contractual relationship between the employee and employer and justifies management in no longer accepting the continued presence of the employee at the place of work.

Certain breaches of discipline may be regarded as serious enough to warrant summary (instant) dismissal for gross misconduct without reference to any prior warnings.

Breaches of unreasonable conduct at work may take many forms. Appendix 4 provides a list which is not exclusive and there may be other examples appropriate to the nature of a particular job which would warrant disciplinary action following a thorough examination of the circumstances involved.

Should the Headteacher/Governors decide that the appropriate sanction is dismissal, the written notification from the Committee of their decision will include the following:

- The precise nature of the misconduct proven.
- The basis of the decision.
- The period of time given for improvement, if appropriate and the standard of improvement expected.
- The disciplinary sanction being applied and, where appropriate, how long any sanctions will last.
- An indication of the likely consequences of further proven misconduct.
- Information about the employee's right of appeal, including how it should be made, by when and to whom.

11. Duration of Warnings

The following time limits for warnings will apply:

- formal warning and final warning - can be up to a maximum of 24 months

Normal practice is for different types of warnings to remain in force for different periods. For example, a first written warning might be valid for up to six months while a final written warning may remain in force for 12 months (or more in exceptional circumstances).

There may be occasions where an employee's conduct is satisfactory throughout the period the warning is in force, only to lapse very soon thereafter. Where a pattern

emerges and/or there is evidence of abuse, the employee's disciplinary record should be borne in mind in deciding how long any warning should last.

After the expiry of any warning period and the employee's conduct is satisfactory, the warnings will be removed for the purpose of the employment relationship in general, e.g. for promotion, or selection for training courses. However, a valid record of employment history will be retained centrally by the Head of Operations/HR & Governance Manager.

12. Appeal

An employee can appeal against any formal action taken as a result of this procedure. All appeals will be conducted as a full re-hearing of the case. The Appeal Committee may reduce, nullify or confirm the decision.

Employees may appeal in writing against the following disciplinary sanctions:-

- Written warnings
- Supplementary sanctions
- Dismissal

Or on the grounds that:

- The action taken was unfair or unjust
- Unfair procedures were used
- New evidence that has come to light

An appeal must be sent to the Chair of Governors. A pro-forma will be included with the written notification of formal action, on which the employee can give notice of appeal, including identification of the grounds of appeal, see Appendix 2. Notice of appeal must be received within 5 working days of receipt of the decision letter. This time limit will be strictly observed.

Arrangements for the Appeal will be made on receipt of the appeal request. Wherever possible the Appeal should be heard within 20 working days of the lodging of the appeal and the employee should have at least 5 working days notice of the Appeal Hearing.

13. Appeals Committee

An Appeals Committee should be formed from the Governing Body to include no fewer members of the Governing Body than that of the Disciplinary Hearing Committee whose decision is subject to appeal. The Head of Operations/HR & Governance Manager should also assist the Appeals Committee but the representative shall not be entitled to vote in any proceedings of the Committee.

No member of the Disciplinary Hearing Committee concerned shall be a member of the Appeal Committee.

All papers presented to the hearing, together with the decision of the Headteacher/Chair of the Hearing Committee and any subsequent correspondence must be available to the Appeals Committee. Any new evidence, which the employee wishes to introduce, should be copied to all parties at least 2 working days in advance of the Appeal hearing.

14. Appeal Hearing

The Appeal Hearing Procedure is as set out in earlier sections of this document and the order of proceedings is set out in Appendix 3.

The Appeals Committee will deliberate the grounds for the appeal in private, paying particular attention to any new evidence that has been introduced by the employee and hear representations from both management and the employee or representative in order to determine whether the decision of the hearing was fair and reasonable in view of the evidence available.

The decision of the Appeal Committee is final and binding on all parties and once made must then be notified to the employee in writing.

15. Representation

At all stages of this procedure, employees have a statutory right to be accompanied by a recognised trade union representative or by a work colleague. A Trade Union representative who is not an employed official must have been certified by their union as being competent to accompany the employee. To exercise the statutory right to be accompanied, employees must make a reasonable request. What is reasonable will depend on the circumstances of each individual case. However, it would not normally be reasonable for employees to insist on being accompanied by someone whose presence would not prejudice the hearing nor would it be reasonable for an employee to ask to be accompanied by someone from a remote geographical location if there is someone suitable and willing available on site. (No other categories of representative will be allowed to attend). For avoidance of doubt an investigating officer will not be entitled to representation when acting in the role of investigating officer.

It is the responsibility of the employee to arrange for his/her representation including notifying the representative of the hearing date in good time and sending copies of all relevant documentation. Where the employee's chosen Trade Union representative or work colleague is not available at the time proposed for the meeting/hearing, the employee may propose an alternative time. If the alternative

time is reasonable and falls within 5 working days after the original date proposed, the meeting/hearing must be postponed to that time.

The Trade Union representative or work colleague may also address a hearing/meeting to put and sum up the employee's case, respond on behalf of the employee to any views expressed at the meeting and confer with the employee, but may not answer questions on their behalf.

It is good practice for management to try and agree a mutually convenient date for the meeting with the employee and their representative or work colleague to ensure that meetings do not have to be delayed or postponed.

Schools will also need to consider whether any additional support for the employee is required, for example when a physical disability or other special need is identified.

16. Discipline of Employee Representatives

Where disciplinary action is being considered against an employee who is a trade union representative the normal disciplinary procedure will be followed. Depending on the circumstances however, it is advisable to discuss the matter at an early stage with an official employed by the union only after obtaining the employee's agreement.

17. Records

The maintenance of accurate and contemporaneous records is essential, particularly in the event of referral to an Employment Tribunal. Notes are not necessarily verbatim, and there is no requirement for agreed minutes, it should be noted that consideration by an employment tribunal might be an extended time after the matter was considered internally.

Records should be held in a secure and confidential manner, often the issues raised by an employee are particularly sensitive and it is essential that information is kept in accordance with the Data Protection Act 1998.

Documentation that should normally be retained includes:

- all papers presented at the Disciplinary and Appeal hearings;
- notes of meetings (contemporaneous or otherwise);
- information collated by the committee or used to assist in making a decision;
- confirmation of the decision, or other supplementary correspondence;
- clarity on how decisions were reached and disciplinary action determined.

DISCIPLINARY PROCEDURE FOR SCHOOLS

PROCEDURE FOR A HEARING

1. The Management representative to present the facts of the case and may call witnesses.
2. The employee or his/her representative to have the opportunity to question the Management representative and any witnesses about the facts provided.
3. The Headteacher/Hearing Committee to have the opportunity to question the Management representative and any witnesses.
4. The employee or his/her representative to put his/her case and to call such witnesses as he/she wishes.
5. The Management representative to have the opportunity to ask questions of the employee or his/her representative and witnesses.
6. The Headteacher/Hearing Committee to have the opportunity to ask questions of the employee or his/her representative, or the witnesses.
7. The Management representative to have the opportunity to sum up his/her case. (No new evidence should be submitted at this point)
8. The employee or his/her representative to have the opportunity to sum up his/her case. (No new evidence should be submitted at this point)
9. The Management representative and the employee and his/her representative to withdraw.
10. The Headteacher/Hearing Committee to consider the facts presented to them.

**DISCIPLINARY PROCEDURE FOR SCHOOLS
APPEAL PRO-FORMA**

NAME :	TRADE UNION:
POST TITLE:	UNION REPRESENTATIVE NAME AND CONTACT DETAILS:
SCHOOL NAME:.....

DATE OF HEARING:
DECISION:
.....
DATE LETTER ISSUED:.....

THE GROUNDS FOR MY APPEAL ARE:

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Continue on a separate sheet if necessary. Please ensure that additional sheets are signed, numbered and dated.

SIGNED: **DATE:**

**PLEASE RETURN THIS PRO-FORMA WITHIN 5 WORKING DAYS OF RECEIPT OF THE
DECISION LETTER TO:**

.....

Time limits for appeal will be strictly observed

DISCIPLINARY PROCEDURE FOR SCHOOLS

PROCEDURE FOR AN APPEAL HEARING

1. The Management representative to present the facts of the case and may call witnesses.
2. The employee or his/her representative to have the opportunity to question the Management representative and any witnesses about the facts provided.
3. Members of the Committee to have the opportunity to question the Management representative and any witnesses.
4. The employee or his/her representative to put his/her case and to call such witnesses as he/she wishes.
5. The Management representative to have the opportunity to ask questions of the employee or his/her representative and witnesses.
6. Members of the Committee to have the opportunity to ask questions of the employee or his/her representative, or the witnesses.
7. The Management representative to have the opportunity to sum up his/her case. (No new evidence should be submitted at this point)
8. The employee or his/her representative to have the opportunity to sum up his/her case. (No new evidence should be submitted at this point)
9. The Management representative and the employee and his/her representative to withdraw.
10. The members of the Appeals Committee to consider the facts presented to them.

The appeal hearing may also be adjourned at the deliberation stage, in order to allow for further investigation if the Committee feels that there are points that need clarification. An opportunity may be given to re-examine the evidence/witnesses.

Disciplinary Offences

Breaches of reasonable conduct at work may take many forms. The following list is not exclusive and there may be other examples appropriate to the nature of a particular job which would warrant disciplinary action following a thorough examination of the circumstances involved -

- unauthorised absence from work (including bad timekeeping), persistent and frequent absenteeism and failure to follow notification procedures
- failure to follow reasonable instructions given by manager, or supervisor/senior staff
- wilful neglect of duty
- breaches of safety regulations and safe working practices
- theft or embezzlement whilst at work
- deliberately falsifying work records
- being unfit for duty through drink or drugs (other than those which have been medically prescribed)
- sexual misconduct at work including indecent behaviour, offensive behaviour or sexual harassment
- discrimination against pupils, employees or members of the public on grounds of their colour, race, disability, ethnic origins, sex, sexual orientation, age, marital status or religious beliefs
- fighting, physical assault or threatening behaviour towards a pupil, fellow employee or member of the public
- bullying, abusing or threatening behaviour towards pupils and other employees
- wilful damage to or concealment of official records
- improper disclosure of written or verbal information which is clearly identifiable as confidential
- improper use of IT equipment and systems, including Contact Point
- knowingly aiding and abetting a disciplinary offence
- knowingly making false or malicious statements about other employees or members of the Governing Body
- deliberate failure to report evidence or suspicion of any impropriety or breach of procedure on the part of another employee
- wilful non-compliance with Data Protection principles
- activity that could potentially bring the school or Trust in to disrepute
- smoking on school premises

Gross Misconduct

Such breaches may be rare and could include:-

- substantiated allegations in relation to child protection issues
- stealing from the school, members of staff, pupils or the public
- other offences of dishonesty
- sexual misconduct at work
- fighting, physical assault
- falsification of a qualification which is a stated requirement of the employment or which results in financial gain
- deliberate and or inappropriate misuse of ICT facilities, including Contact Point
- deliberate damage to or misuse of the employer's property
- inability to perform duties or improper conduct as a result of being under the influence of alcohol or drugs (other than those which have been medically prescribed)

- falsification of records or claims
- corrupt or improper practice for private gain
- completing application forms and or other essential clearance forms in relation to employment in such a way as to gain employment under false pretences
- engaging in other employment during normal working hours or working privately on activities, which are detrimental to the school's interest.
- activity that could potentially bring the school or Trust in to disrepute

NB - the above lists are not exhaustive.

Allegations Against Staff - Child Protection Issues – Local Authority Designated Officer

If a complaint against an employee relates to a child protection issue then it is essential that the investigator contact the Local Authority's Designated Officer (LADO) at the outset to discuss how to proceed. The outcome may be that an allegations strategy meeting is required and the LADO will make the referral to Social Care and convene a strategy meeting in accordance with guidance in the "Managing Allegations procedure"

If the allegation is substantiated and the person is dismissed or the employer ceases to use the person's services, or the person resigns or otherwise ceases to provide his/her services, the LADO should discuss with the employer whether a referral should be made for consideration as to the individual being barred from, or have conditions imposed in respect of, working with children.

Alleged Criminal Offences

If an employee is charged with, or convicted of a criminal offence, this is not normally in itself reason for disciplinary action. Consideration needs to be given to what effect the charge of conviction has on the employee's suitability to do the job and their relationship with their employer and work colleagues. The disciplinary procedure will only be instigated where there are reasonable grounds for believing that the nature of the activities is sufficiently serious to have an adverse effect on the ability of, or confidence in, the employee to carry out his/her duties properly.

Where an employee is alleged to have committed a criminal offence and Police investigations are underway, disciplinary proceedings can be taken and a decision implemented in accordance with this procedure before Police investigations are completed.

The Trust will normally wish the Police to independently prosecute offenders where financial impropriety at work is discovered, in addition to whatever disciplinary action is felt appropriate.