



Disciplinary and Dismissals Policy

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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Author	Celia Dyson
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Revised/updated	1 January 2013

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 of community, voluntary controlled and trust schools. Governing Bodies are strongly urged to adopt this policy for all employees within their delegated powers.
- 1.2.1 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 Policy complies with the statutory ACAS Code of Practice on Disciplinary and Grievance Procedures effective from April 2009 under the provisions of the Employment Act 2008, as well as equalities legislation and statutory equality duty, and takes account of the non statutory ACAS Guide.
- 2.2 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.

Occasionally, when it is mutually agreeable to both employee and employer, the process may continue during non-working days.
- 2.3 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 (as appropriate) must be notified, who 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.
- 2.4 Employees will be notified of any allegations at the earliest appropriate stage.
- 2.5 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.
- 2.6 The Disciplinary and Dismissals process must be confidential. A breach of confidentiality may result in the disciplinary process being used in respect of the breach.
- 2.7 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 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.

2.8 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.

2.9 When an employee raises a grievance during any stage of the disciplinary process and this relates to the disciplinary matter in question, they must present their grievance as part of their case under the Disciplinary and Dismissals Policy. Raising a grievance in this way will not delay applying the disciplinary process in any way.

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

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

2.11.1 **Informal process:**

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

2.11.1 **Formal process:**

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

Stage 1

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

Stage 2

Carry out investigation

Suspension may be appropriate at any point during Stages 1 or 2

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.

2.11.2 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.

3.2 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 from Human Resources.

5. Roles and responsibilities

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

Appendix 1

Disciplinary Rules

Introduction

As a public sector employer, the Council, Community, Voluntary Controlled and Trust Schools 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.

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 Employer 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 Employer 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 Employer or themselves into disrepute, will be subject to disciplinary proceedings.

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

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 employing body into serious disrepute
- physical violence or bullying
- unlawful discrimination or harassment
- serious insubordination.

2. Health and Safety

Employers have a duty of care to their 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 Employing body 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 Employer 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 Employer'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 Employer's Smoking Policy will 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 Employer 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 Employer will treat any misconduct of this type seriously.

Deliberately withholding information or falsifying records or documentation will be considered a disciplinary offence. This includes time sheets, working hours records, expenses claims, sickness documentation and documentation

associated with job applications. This also extends to fraudulent benefit claims as referred to in section 5.

The Employing body may treat as gross misconduct:

- theft or misappropriation of school or other property
- fraud
- deliberate provision of false information for personal gain.

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.

The Employer may treat as gross misconduct:

- deliberately submitting false sickness claims,
- persistent poor timekeeping or attendance.

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 Employing body may treat it as gross misconduct.

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

The Employer 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 Employing body may treat breaches of these policies as gross misconduct. This includes:

- serious misuse of Council technology and equipment
- deliberately accessing or circulating inappropriate material.

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 Employer'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.

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 Employing body 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.	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
		<p>Notify of allegations</p> <p>Decide on precautionary suspension or Carry out suspension at stages 1 or 2</p>	<p>Adhere to suspension conditions</p>	<p>Governing Bodies</p> <p>Advise Head teachers and Governing Bodies on suspension issues</p>
Stage 2 Investigation				
		<p>Appoint Support contact. Conduct investigation Review suspension</p>	<p>Attend investigation meetings as required</p>	<p>Provide advice to Head teachers and Governing Bodies.</p>
Stage 3 Proceed to disciplinary hearing				
		<p>Conclude investigation</p> <p>Decide if case to answer</p> <p>If case to answer, prepare statement of case</p>		<p>Provide advice to Head teachers and Governing Bodies.</p>
Stage 4 Disciplinary hearing				
<p>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.</p>	<p>Hold the hearing</p> <p>Follow the disciplinary hearing process</p>	<p>Present School's statement of case at hearing.</p> <p>Conduct supplementary investigation if required</p>	<p>Attends hearing and arranges for companion and any witnesses to be present</p> <p>Participate in hearing and respond to allegations</p>	<p>Provide advice and attend hearing</p>

Governing Body	Governor's First Committee	Head teacher	Employees	HR
Document Retention				
<p>Ensure documents are treated in confidence and in line with the School and Council's data protection and IT policies</p>	<p>Ensure documents are treated in confidence and in line with the School and Council's data protection and IT policies</p>	<p>Ensure documents are treated in confidence and in line with the Council's data protection and IT policies</p>	<p>Keep a copy of documents and decision letters</p>	<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>