

## **Disciplinary Policy**

The aims of this Disciplinary Policy are to set out the standards of conduct expected of all staff and to provide a framework within which managers can work with employees to maintain satisfactory standards of conduct and to encourage improvement where necessary.

It is our policy to ensure that any disciplinary matter is dealt with fairly and that steps are taken to establish the facts and to give employees the opportunity to respond before taking any formal action.

### **1. WHAT IS COVERED BY THIS POLICY?**

- 1.1 This procedure is used to deal with misconduct. It does not apply to cases involving genuine sickness absence, proposed redundancies or poor performance. In those cases reference should be made to the appropriate policy or procedure.
- 1.2 You will not normally be dismissed for a first act of misconduct, unless we decide it amounts to gross misconduct or you have not yet completed your probationary period.
- 1.3 If you have difficulty at any stage of the procedure because of a disability, you should discuss the situation with the HR Manager as soon as possible.

### **2. CONFIDENTIALITY**

- 2.1 Our aim is to deal with disciplinary matters sensitively and with due respect for the privacy of any individuals involved. All employees must treat as confidential any information communicated to them in connection with an investigation or disciplinary matter.
- 2.2 You, and anyone accompanying you (including witnesses), must not make electronic recordings of any meetings or hearings conducted under this procedure.
- 2.3 You will normally be told the names of any witnesses whose evidence is relevant to disciplinary proceedings against you, unless we believe that a witness's identity should remain confidential.

### **3. MISCONDUCT**

- 3.1 The following are examples of matters that will normally be regarded as misconduct and will be dealt with under this Policy:
  - a) Minor breaches of our policies;
  - b) Minor breaches of your contract;
  - c) Damage to, or unauthorised use of, our property;
  - d) Poor timekeeping;
  - e) Time wasting;
  - f) Unauthorised absence from work;
  - g) Refusal to follow instructions;
  - h) Excessive use of our telephones for personal calls;

- i) Excessive personal e-mail or internet usage;
- j) Obscene language or other offensive behaviour;
- k) Negligence in the performance of your duties; or
- l) Smoking in no-smoking areas.

This list is intended as a guide and is not exhaustive.

#### **4. GROSS MISCONDUCT**

- 4.1 Gross misconduct is a serious breach of contract and includes misconduct which, in our opinion, is likely to prejudice our business or reputation or irreparably damage the working relationship and trust between us. Gross misconduct will normally lead to dismissal without notice or pay in lieu of notice (summary dismissal).
- 4.2 The following are examples of matters that are normally regarded as gross misconduct:
- a) Theft or fraud or other dishonesty, including fabrication of expense claims and time sheets;
  - b) Actual or threatened violence, or behaviour which provokes violence;
  - c) Deliberate and serious damage to property;
  - d) Serious misuse of our property or name;
  - e) Deliberately accessing internet sites containing pornographic, offensive or obscene material;
  - f) Repeated or serious failure to obey instructions, or any other serious act of insubordination;
  - g) Unlawful discrimination or harassment;
  - h) Bringing the organisation into serious disrepute;
  - i) Being under the influence of alcohol, illegal drugs or other substances during working hours;
  - j) Causing loss, damage or injury through serious negligence;
  - k) Serious or repeated breach of health and safety rules or serious misuse of safety equipment;
  - l) Unauthorised use or disclosure of confidential information or failure to ensure that confidential information in your possession is kept secure;
  - m) Accepting or offering a bribe or other secret payment or other breach of our anti-corruption and bribery policy;
  - n) Criminal convictions which makes the employee unsuitable for their role and/or would weaken public confidence in the conduct of the organisation's business. Any sexual offences against children or young people will result in dismissal.
  - o) Possession, use, supply or attempted supply of illegal drugs;
  - p) Serious neglect of duties, or a serious or deliberate breach of your contract or operating procedures;
  - q) Unauthorised use, processing or disclosure of personal data contrary to our Data Protection Policy;
  - r) Harassment of, or discrimination against, employees, contractors, clients or members of the public, related to gender, marital or civil partner status,

- gender reassignment, race, colour, nationality, ethnic or national origin, disability, religion or belief or age;
- s) Refusal to disclose any of the information required by your employment or any other information that may have a bearing on the performance of your duties;
  - t) Giving false information as to qualifications or entitlement to work (including immigration status) in order to gain employment or other benefits;
  - u) Making a disclosure of false or misleading information under our Whistleblowing Policy maliciously, for personal gain, or otherwise in bad faith;
  - v) Making untrue allegations in bad faith against a colleague;
  - w) Victimising a colleague who has raised concerns, made a complaint or given evidence or information under our Whistleblowing Policy, Anti-corruption and bribery policy, Anti-harassment and Bullying Policy, Grievance Procedure, Disciplinary Policy or otherwise;
  - x) Misuse of our information technology systems (including misuse of developed or licensed software, use of unauthorised software and misuse of e-mail and the internet) contrary to our Information and Communications Systems Policy;
  - y) Leaving the workplace without permission or unauthorised absence of any duration without sufficient cause. This includes arranging or taking extended annual leave.
  - z) Physical assault, violent and/or intimidating conduct, including fighting.
  - aa) Abuse of the sickness absence scheme, including undertaking secondary or alternative paid work whilst reporting unfit for work.
  - bb) Failure to disclose or declare private interests that conflict, or potentially conflict or adversely, potentially adversely affect the organisation's interests and/or that breach statutory requirements of an education organisation or weaken public confidence in the delivery of the organisation's business.

This list is neither exclusive nor exhaustive. There may be other offences of a similar gravity which could constitute gross misconduct.

## **5. INVESTIGATIONS**

- 5.1 The purpose of an investigation is for us to establish a fair and balanced view of the facts relating to any disciplinary allegations against you, before deciding whether to proceed with a disciplinary hearing. The amount of investigation required will depend on the nature of the allegations and will vary from case to case. It may involve interviewing and taking statements from you and any witnesses, and/or reviewing relevant documents.
- 5.2 Investigative interviews are solely for the purpose of fact-finding and no decision on disciplinary action will be taken until after a disciplinary hearing has been held.

- 5.3 You do not normally have the right to bring a companion to an investigative interview. However, we may allow you to bring a companion if it helps you to overcome any disability, or any difficulty in understanding English.
- 5.4 You must co-operate fully and promptly in any investigation. This will include informing us of the names of any relevant witnesses, disclosing any relevant documents to us and attending investigative interviews if required.

## **6. MANAGEMENT INSTRUCTIONS**

- 6.1 Where an investigation of the facts has revealed a minor breach of discipline, it is possible for the Headteacher (or Investigating Officer) to issue a management instruction without recourse to a formal disciplinary hearing. This should be recorded for reference purposes. Such management instructions may result from persistent or frequent small breaches of discipline (e.g. lateness) and their purpose is to encourage you to improve your conduct. The warnings escalate if the misconduct or incapacity persists, providing every reasonable opportunity has been afforded for you to improve.
- 6.2 When issuing a management instruction the investigating officer will confirm the reasons for misconduct or unacceptable work performance and advise you of the standards expected and where appropriate what assistance will be provided, e.g. additional training or supervision, and you will be informed that if there are further acts of misconduct or if unacceptable work performance continues then further formal disciplinary action will be taken.
- 6.3 A dated, written record of this management instruction will be kept on your personal file and a copy of this record will be sent to you. The letter should confirm the findings of the investigation including any advice and guidance given to enable the required standards to be achieved.
- 6.4 When determining if a management instruction is appropriate consideration will be given to the number of management instructions that are already held on your file.
- 6.5 Management Instructions should be reviewed, ideally every 12 months, to decide if they are still relevant. Where there is no reoccurrence these will be removed and where they are still relevant and remain on file, you will be made aware. You have the right to refuse to accept a management instruction on the understanding that this could result in the matter being referred to a full disciplinary hearing.

## **7. CRIMINAL CHARGES**

- 7.1 Where your conduct is the subject of a criminal investigation, charge or conviction we will investigate the facts before deciding whether to take formal disciplinary action.

We will not usually wait for the outcome of any prosecution before deciding what action, if any, to take. Where you are unable or have been advised not to attend a disciplinary hearing or say anything about a pending criminal matter, we may have to take a decision based on the available evidence.

- 7.2 A criminal investigation, charge or conviction relating to conduct outside work may be treated as a disciplinary matter if we consider that it is relevant to your employment.

## **8. SUSPENSION**

- 8.1 In some circumstances we may need to suspend you from work. The suspension will be for no longer than is necessary to investigate the allegations and we will confirm the arrangements to you in writing. While suspended you should not visit our premises or contact any of our clients, customers, suppliers, contractors or staff, unless you have been authorised to do so.

- 8.2 Suspension of this kind is not a disciplinary penalty and does not imply that any decision has already been made about the allegations. You will continue to receive your full basic salary and benefits during the period of suspension.

## **9. NOTIFICATION OF A HEARING**

- 9.1 Following any investigation, if we consider there are grounds for disciplinary action, you will be required to attend a disciplinary hearing. We will inform you in writing of the allegations against you, the basis for those allegations, and what the likely range of consequences will be if we decide after the hearing that the allegations are true. We will also include the following where appropriate:

- a) a summary of relevant information gathered during the investigation;
- b) a copy of any relevant documents which will be used at the disciplinary hearing; and
- c) a copy of any relevant witness statements, except where a witness's identity is to be kept confidential, in which case we will give you as much information as possible while maintaining confidentiality.

- 9.2 We will give you written notice of the date, time and place of the disciplinary hearing. The hearing will be held as soon as reasonably practicable, but you will be given a reasonable amount of time (at least 48 hours) to prepare your case based on the information we have given you.

## **10. THE RIGHT TO BE ACCOMPANIED**

- 10.1 You may bring a companion to any disciplinary hearing or appeal hearing under this procedure. The companion may be either a trade union representative or a colleague. You must tell us who your chosen companion is, in good time before the hearing.
- 10.2 A companion is allowed reasonable time off from duties without loss of pay but no-one is obliged to act as a companion if they do not wish to do so.

- 10.3 If your choice of companion is unreasonable we may require you to choose someone else, for example if in our opinion your companion may have a conflict of interest or may prejudice the hearing; or if your companion is unavailable at the time a hearing is scheduled and will not be available for more than five working days.
- 10.4 We may, at our discretion, allow you to bring a companion who is not a colleague or union representative (for example, a member of your family) where this will help overcome a disability, or where you have difficulty understanding English.

## **11. PROCEDURE AT DISCIPLINARY HEARINGS**

- 11.1 If you or your companion cannot attend the hearing you should inform us immediately and we will arrange an alternative time. You must make every effort to attend the hearing, and failure to attend without good reason may be treated as misconduct in itself. If you fail to attend without good reason, or are persistently unable to do so (for example for health reasons), we may have to take a decision based on the available evidence.
- 11.2 The hearing will usually be chaired by the Headteacher. In the event of allegations against the Headteacher, the hearing will be chaired by a Director. The Investigating Officer may also be present. You may bring a companion with you to the disciplinary hearing.
- 11.3 At the disciplinary hearing we will go through the allegations against you and the evidence that has been gathered. You will be able to respond and present any evidence of your own. Your companion may make representations to us and ask questions, but should not answer questions on your behalf. You may confer privately with your companion at any time during the hearing.
- 11.4 You may ask relevant witnesses to appear at the hearing, provided you give us sufficient advance notice to arrange their attendance. You will be given the opportunity to respond to any information given by a witness.
- 11.5 We may adjourn the disciplinary hearing if we need to carry out any further investigations such as re-interviewing witnesses in the light of any new points you have raised at the hearing. You will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.
- 11.6 We will inform you in writing of our decision and our reasons for it, usually within one week of the disciplinary hearing. Where possible we will also explain this information to you in person.

## **12. DISCIPLINARY PENALTIES**

The usual penalties for misconduct are set out below. No penalty should be imposed without a hearing. We aim to treat all employees fairly and consistently, and a penalty imposed on another employee for similar misconduct will usually be taken into account but should not be treated as a precedent. Each case will be assessed on its own merits.

**Stage 1 - First written warning.** A first written warning may usually be appropriate for a first act of misconduct where there are no other active written warnings on your disciplinary record.

**Stage 2 - Final written warning.** A final written warning will usually be appropriate for:

- a) misconduct where there is already an active written warning on your record; or
- b) misconduct that we consider sufficiently serious to warrant a final written warning even though there are no other active warnings on your record.

**Stage 3 - Dismissal.** Dismissal will usually only be appropriate for:

- a) any misconduct during your probationary period;
- b) further misconduct where there is an active final written warning on your record; or
- c) any gross misconduct regardless of whether there are active warnings on your record. Gross misconduct will usually result in immediate dismissal without notice or payment in lieu of notice (summary dismissal).

**Alternatives to dismissal.** In some cases we may at our discretion consider alternatives to dismissal and will usually be accompanied by a final written warning. Examples include:

- a) Demotion.
- b) Transfer to another department or job.
- c) A period of suspension without pay.
- d) Loss of seniority.
- e) Reduction in pay.
- f) Loss of future pay increment or bonus.
- g) Loss of overtime.

## **13. THE EFFECT OF A WARNING**

- 13.1 Written warnings will set out the nature of the misconduct, the change in behaviour required, the period for which the warning will remain active, and the likely consequences of further misconduct in that active period.
- 13.2 A first written warning will usually remain active for six months and a final written warning will usually remain active for 12 months.
- 13.3 After the active period, the warning will remain permanently on your personnel file but will usually be disregarded in deciding the outcome of future disciplinary proceedings.

## **14. APPEALS AGAINST DISCIPLINARY ACTION**

- 14.1 If you feel that disciplinary action taken against you is wrong or unjust you should appeal in writing, stating your full grounds of appeal within one week of the date on which you were informed of the decision.

- 14.2 If you are appealing against dismissal, the date on which dismissal takes effect will not be delayed pending the outcome of the appeal. However, if your appeal is successful you will be reinstated with no loss of continuity or pay.
- 14.3 If you raise any new matters in your appeal, we may need to carry out further investigation. If any new information comes to light we will provide you with a summary including, where appropriate, copies of additional relevant documents and witness statements. You will have a reasonable opportunity to consider this information before the hearing.
- 14.4 We will give you written notice of the date, time and place of the appeal hearing. This will normally be two to seven days after you receive the written notice.
- 14.5 The appeal hearing may be a complete re-hearing of the matter or it may be a review of the fairness of the original decision in the light of the procedure that was followed and any new information that may have come to light. This will be at our discretion depending on the circumstances of your case. In any event the appeal will be dealt with as impartially as possible.
- 14.6 Where possible, the appeal hearing will be conducted impartially by a manager who has not been previously involved in the case. You may bring a companion with you to the appeal hearing.
- 14.7 We may adjourn the appeal hearing if we need to carry out any further investigations in the light of any new points you have raised at the hearing. You will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.
- 14.8 Following the appeal hearing we may (a) confirm the original decision;(b) revoke the original decision; or (c) substitute a different penalty.
- 14.9 If following the appeal hearing we decide to substitute a different penalty, we reserve the right to increase the sanction if deemed necessary.
- 14.10 We will inform you in writing of our final decision as soon as possible, usually within one week of the appeal hearing. Where possible we will also explain this to you in person. There will be no further right of appeal.

## **APPENDIX 1: ORDER OF PRECEEDINGS FOR DISCIPLINARY HEARING**

During any disciplinary hearing, the following will take place:

- a. The person leading the hearing (the chair) will introduce the hearing, and explain its purpose and how it will be conducted. The purpose of the hearing will normally be to establish the facts and determine whether there are proper grounds to take disciplinary action against the employee and, if so, the level of such disciplinary action.
- b. The parties present at the hearing will introduce themselves and confirm their respective roles in the hearing. The employee will be entitled to be accompanied, if they wish, by either a fellow worker, a trade union official or a trade union representative (who is certified by the union as being competent to accompany the worker) of their choice.
- c. The chair will state that the hearing is being conducted as part of the disciplinary procedure, and confirm that a written record of the hearing will be made.
- d. The chair will remind parties present that they are not permitted to record the hearing electronically and any breach of this provision may lead to disciplinary action against the employee. An exception to this would be where the employee has a disability and it would be a reasonable adjustment under the Equality Act 2010. In this circumstance, the organisation will take responsibility for making the recording.
- e. The chair will state whether any witnesses have been asked to give evidence at the hearing, and if so, who they are.
- f. The chair or investigating officer will explain the disciplinary case, i.e. the employee's alleged or suspected misconduct or other circumstance leading to the possibility of disciplinary action being taken against them. All the relevant facts will be put to the employee, with specific examples of relevant incidents being given where possible.
- g. Where evidence has been obtained from third parties in the form of written statements, either the statements themselves or a summary of their content will be given to the employee. The organisation reserves the right, however, to conceal the identity of the parties who provided this evidence if it thinks it is necessary or appropriate to do so.
- h. Any witnesses whom the organisation has decided to call will be called into the hearing and asked to state their evidence in front of the parties.
- i. The employee or their representative will be allowed a full opportunity to raise questions on the organisation's case, and to raise points about any information provided by witnesses.
- j. The employee will be allowed a full and fair opportunity to state their side of events, explain their conduct and state any mitigating factors. They may do this personally, or the employee's representative (if they have elected to be represented) may do this on their behalf.
- k. Any witnesses whom the employee has arranged to call will be called into the hearing and asked to state their evidence in front of the parties.
- l. The chair will question the employee on their evidence and raise points about any information provided by witnesses. Although the employee may confer with their representative at any time during the hearing on request, the chair has the right to ask the employee personally to answer any questions put to them.

- m. The chair will take into account any mitigating factors put forward by the employee when subsequently making a decision about whether or not to impose a disciplinary penalty, and the level of any such penalty.
  - n. The chair will sum up the key points of the hearing.
  - o. The chair will inform the employee on when a decision will be made on whether to impose a disciplinary penalty on the employee.
  - p. The chair will inform the employee that they will have the right to appeal against any disciplinary penalty imposed on them.
  - q. The chair will close the hearing.
- At any point during the hearing, the chair may adjourn the proceedings if it appears necessary or appropriate to do so (including for the purpose of gathering further information).