

Ashton West End Primary Academy

Staff Disciplinary Procedure



Approved by: The Full Governing Body

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Last reviewed on: June 2022

Next review due by: June 2024

1. Aims

This policy aims to:

- Help and encourage all employees to achieve and maintain satisfactory standards of conduct
- Set out the procedures for when an employee's conduct falls below the expected standard
- Ensure that all employees are treated fairly and consistently when a disciplinary issue is being dealt with

2. Legislation and guidance

We are required to set out our disciplinary procedures under general employment law.

These disciplinary procedures are based on the [Disciplinary and grievance code of practice from Acas](#).

These procedures also comply with our funding agreement and articles of association.

3. Definitions

- **A disciplinary issue** will arise when a staff member has not behaved to the standard expected of them
- Appendix 1 sets out a non-exhaustive list of examples of what we define as **misconduct and gross misconduct**. For the purpose of this policy, misconduct does not cover staff capability or poor performance issues. These are addressed in our capability of staff policy.

4. Disciplinary procedures

Minor disciplinary issues will be dealt with informally at first, and will be escalated only where:

- There has been no resolution
- The issue is more serious
- There are repeated or multiple instances of misconduct
- There is suspected gross misconduct

When dealing with an issue informally, the employee's line manager will organise a brief meeting with the employee and set out the concerns. They will remind the employee of the expected standard of behaviour and consider what support is needed to help them improve. Notes will be taken and retained.

If the issue cannot be dealt with informally, formal procedures will begin. The employee will be notified of this in a face-to-face meeting with the Principal. This will be followed up in writing.

4.1 Suspension

There may be instances where suspension on full pay is necessary while investigations into concerns or allegations about conduct are carried out. Suspension is not an assumption of wrong doing and is not considered to be a formal sanction. It is most likely to be considered when:

- The allegation relates to a matter of gross misconduct;
- Where the alleged misconduct has, or is liable to, put other parties or property at risk;
- Where there are reasonable grounds for a belief that the investigation may be compromised by the individuals ongoing presence (e.g. tampering with evidence or influencing witnesses);
- Where relationships have severely broken down.

Where this is necessary:

- The Principal must authorise the suspension. If it is the Principal who is the subject of the disciplinary procedure, the governors must authorise the suspension.
- Where possible, the staff member will be informed of the suspension in a face-to-face meeting, followed by a notification in writing within 3 working days.

- The employee will be permitted to be accompanied to the meeting by either a colleague or trade union representative, providing that this does not cause delay.
- The staff member will be suspended on full pay.

4.2 Investigation

The nature and extent of any investigation into alleged misconduct will depend upon the seriousness and complexity of the matter under consideration. The individual's line manager (or Principal, as appropriate) will carry out preliminary enquiries to establish whether or not there appears to be a case to answer. Based on the outcome, either no further action will be taken, or a disciplinary investigation will be initiated. Where this is the case, an independent investigating officer will be appointed.

Some allegations will require referral to one or more outside agencies for advice before an internal investigation can be authorised; for example those involving child protection, financial irregularities or other criminal activities. The guidance of the Local Area Designated Officer (LADO) will be sought at the earliest opportunity in any case involving allegations of a child protection nature against a member of staff, and the school's procedure for investigating and managing such allegations will be followed.

Except where the Police or LADO have been advised otherwise, the employee will be informed of the nature of the allegations against him/her and provided with full details of these as well as confirmation that an investigation is underway and by whom.

Before any disciplinary hearing takes place, the investigating officer will gather the facts of the case and evidence. The investigating officer will, hold investigatory meetings, as necessary, including meeting with the employee accused of misconduct. Investigations should be completed at the earliest opportunity and where the case is complex the individual should be kept informed about the progress of the investigation.

The employee will be informed of the outcome of the investigation in writing.

If the investigating officer determines that the matter should move forward to a formal disciplinary hearing a disciplinary officer will be appointed. This will be a person independent from the investigating officer.

4.3 Notification

If it is decided that there is a disciplinary case to answer, the employee will receive a written notification 5 working days before the hearing. The meeting could be sooner if it is agreed by both parties. The notification will include:

- Details of the alleged misconduct and its possible consequences
- Copies of any written evidence, including witness statements
- The time, date and location of the disciplinary meeting
- A statement that the employee has the right to be accompanied by a colleague or a trade union representative
- Notification that the employer intends to call witnesses (if relevant)

If the employee intends to call a witness, they should notify the employer.

For potentially serious disciplinary matters, members of the governing body will conduct the hearing.

4.4 Disciplinary hearing

Before the hearing, the employee will receive a copy of all evidence that will be relied upon during the procedure.

At the hearing, the person conducting the hearing will explain the case against the employee and go through the evidence that has been gathered. The person may choose to have the investigating officer present the management's case.

The employee will be allowed to set out their case and answer any allegations that have been made. The employee will also be given a reasonable opportunity to ask questions, present evidence and call relevant witnesses. They will also be given an opportunity to raise points about any information provided by witnesses.

Employees have a statutory right to be accompanied at a meeting that may result in a formal warning being issued, disciplinary action being taken, or the confirmation of either of these.

The employee has the right to be accompanied by a colleague or a trade union representative. Employees should inform the school who will be accompanying them in advance of the meeting, to allow the school to prepare and to ensure the employer knows who the companion will be.

If an employee's chosen companion will not be available to meet at the proposed time, the hearing will be postponed to a time proposed by the employee. As a general rule a delay of up to 5 days will be acceptable but each request will be considered on its own merits. Any subsequent postponements, or failure of the employee to turn up to a scheduled meeting, without good reason, is likely to result in the formal hearing proceeding as planned and being decided on the basis of other available evidence.

The companion can address the hearing to put and sum up the employee's case, respond on behalf of the employee to any views expressed at the hearing and confer with the employee during the hearing. The companion does not, however, have the right to answer questions on the employee's behalf, address the hearing if the employee does not wish it or prevent the employer from explaining their case.

4.5 Taking appropriate action

The hearing will be adjourned and a decision about whether further disciplinary action is necessary will be taken. The employee will be informed of the decision in writing within 5 working days.

The following Formal Actions taken may be:

- **A first written warning** for a first instance of misconduct. A further instance may result in a final written warning. A first written warning will remain live for 12 months after which point they will be disregarded. The written warning will explain that a further instance of misconduct or no change in behaviour within a given timeframe will result in a final warning
- **A final written warning** where the employee has already received a first warning, or where the employee's misconduct was sufficiently serious. A final written warning will remain live for 12-24 months after which point it will be disregarded.
- **Dismissal** where there has been gross misconduct or a final written warning has already been given for a repetition of similar matters of misconduct.

We will refer a case of teacher gross misconduct to the National College for Teaching and Leadership (National College) if we believe the case is so severe that the National College should consider whether the teacher should be prevented from teaching. We will also refer cases to other relevant authorities where appropriate.

4.6 Dismissal

The power to decide that members of staff should no longer work at this school rests with the governing board. Following a decision to dismiss the Governors will issue notice of termination in accordance with the employee's contractual or statutory notice period (whichever is the greater). As a general rule the employee will not be expected to work during the notice period. In cases of gross misconduct, the employee may be summarily dismissed (without notice).

4.7 Appeals process

The employee has the right to appeal any sanction. Appeals must be made in writing within 5 working days of the decision, setting out at the same time the grounds for appeal.

The purpose of the Hearing is for the Appeals Panel to consider the grounds for appeal and to review the fairness of the outcome of the original meeting. New evidence may be considered at the Appeals stage, but no additional grounds for action against the employee may be introduced.

A disciplinary appeals officer/panel will be appointed.

Appeals will be heard as soon as reasonably practicable, allowing for at least 5 working days' notice of the date (10 working days where the appeal is against a dismissal decision). Employees' statutory right to be accompanied by a companion will apply as with formal disciplinary hearings. Notes will be taken and a copy sent to the employee.

The appeal will be dealt with impartially and by senior leaders or governors who have not previously been involved in the case. Appeals against a dismissal will be heard by a panel of three Governors.

The employee will be informed in writing of the outcome and any actions which have been determined by the appeal hearing within 5 working days. There is no further right of appeal.

4.8 Special cases

If the employee involved in a disciplinary procedure is also the trade union representative, we will notify the union and discuss the matter with an official employed by the union before action is taken, after obtaining the employee's agreement. The procedure will continue as normal.

If the employee who is subject to disciplinary procedures raises a grievance which relates directly to the instigation or operation of this procedure, this will be addressed in accordance with the existing rights under this procedure to state a case and appeal against any formal action. Grievances which are not directly related to the disciplinary allegations or the procedure itself will be dealt with separately and without delay to the progress of this procedure.

The ill-health absence of an employee during this procedure will not result in any delay to convening meetings or hearings beyond what is reasonable in the circumstances. One attempt to reschedule a hearing will be made where ill-health intervenes, and it should be explained to the employee that if he/she is still unable to attend on the rescheduled date the meeting will proceed in his/her absence. The employee will be offered the alternative options of making a written submission and/or asking his / her companion to attend the rescheduled meeting to make oral submissions and to question the witnesses on his/her behalf before the final decision is reached.

Absence which appears to have been triggered by the instigation of this procedure will usually be referred immediately to Occupational Health to obtain advice. If the absence becomes long term then this will be dealt with in accordance with the attendance management policy.

5. Record keeping

Minutes will be kept of all interviews and meetings. Where possible, these will be confirmed as an accurate reflection of what was discussed during the meeting.

Records of all materials relating to the disciplinary process will be kept securely, only for as long as necessary and in line with data protection law and our privacy notices.

If disciplinary action is taken, a record of this will be added to the employee's personnel file.

We will disclose any proven disciplinary offences by a staff member if a reference is requested by a future employer.

6. Monitoring arrangements

This policy will be reviewed every two years but can be revised as needed.

This policy will be approved by the full governing board.

7. Links with other policies

This policy links with our policies on:

- Staff code of conduct
- Capability of staff policy
- Staff grievance procedures
- Equality
- Safeguarding
- E-safety
- Attendance Management

Appendix 1: instances and behaviours classed as misconduct

The following lists are illustrative and not intended to be exhaustive.

Instances of misconduct include:

- Unauthorised absence or persistent lateness from work
- Using bad language in front of pupils
- Failure to follow the policies, practices and requirements of the school
- Unsatisfactory standards of work (not related to capability)
- Inappropriate use of school facilities
- Failure to comply with reasonable instructions from senior staff

Instances of gross misconduct include:

- Physical violence or assault;
- Discrimination, harassment, victimisation and/or bullying of pupils, colleagues or visitors
- Theft or fraud;
- Sexual offences or misconduct , at or away from work, which affects the employee's suitability to work with children;
- Inappropriate relationships with pupils or any other actions that would be classed as a serious safeguarding issue;
- Serious breaches of confidentiality;
- Serious misuse of position, the school's property or name;
- Deliberately acting in a way that will cause damage to the school's reputation;
- Deliberately damaging school property;
- Deliberately accessing internet sites containing pornographic, offensive or obscene material;
- Serious insubordination;
- Falsification of qualifications or provision of deliberately misleading information used as a basis for employment decisions;
- Serious incapability at work, brought on by alcohol or illegal drugs;
- Causing or risking loss, damage or injury through serious negligence;
- A serious breach of health and safety rules;
- A serious breach of trust and/or confidence;
- Behaviour that is seriously inappropriate and incompatible with the employee's role and position.

[Teacher misconduct guidance](#) from the National College explains that, among other things, the following offences will be serious enough to warrant prohibition of teaching:

- Serious departure from the personal and professional conduct elements of the Teachers' Standards
- Misconduct seriously affecting the education and/or wellbeing of pupils, and particularly where there is a continuing risk
- Actions or behaviours that undermine fundamental British values
- Abuse of position or trust (particularly involving vulnerable pupils) or violation of the rights of pupils
- Sustained or serious bullying, or other deliberate behaviour that undermines pupils, the profession, the school or colleagues