

**HUMAN RESOURCES
SCHOOL MODEL POLICY & PROCEDURE**

DISCIPLINARY PROCEDURE

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1.0 POLICY STATEMENT

The Disciplinary Procedure ensures that employees are dealt with fairly and consistently when the disciplinary rules are breached.

The Code of Conduct, Disciplinary Rules and Disciplinary Procedure have been developed with headteachers and education managers, and have been agreed with relevant trade unions and professional associations in Southampton.

1.1 Eligibility

These procedures will apply in full to all employees directly employed by the school.

1.2 Exceptions

- For employees subject to statutory Induction Period (teachers) or contractual Probationary Period (support employees) the outcome of disciplinary hearings will be taken into account by the headteacher in determining whether a teacher has successfully completed his / her statutory Induction Period or whether a member of the support has successfully completed his / her contractual Probationary Period.
- These procedures are not applicable in cases where the headteacher of a school is dissatisfied with the performance of a member of staff and where the Capability Procedure for Support Staff or the Procedure for Professional Support for Teaching Staff applies.

1.3 Responsibility

The governing body has a statutory responsibility to determine any disciplinary rules and a disciplinary procedure to be followed when dealing with alleged misconduct.

Under the School Staffing Regulations made under the Education Act 2002, governing bodies are expected to delegate all decisions under the disciplinary procedure, including dismissal, to the headteacher.

If suspension of an employee is necessary, this remains the responsibility of the headteacher or the governing body. Only the governing body may end a suspension.

PROCEDURE

For employees (Excluding headteachers)

2.0 INVESTIGATION STAGE

Step One **Wherever possible, discipline problems will initially be dealt with by informal counselling by the headteacher or senior manager.**

Where this does not lead to the desired improvement in the standard of behaviour, or the matter is sufficiently serious, the disciplinary procedure will be operated. Except in cases of serious or gross misconduct, the formal procedure should not be used as a first resort. If the procedure is to be used the employee **MUST** be provided with a copy of this document.

Headteachers and governing bodies are encouraged to seek advice from HR whenever action is being contemplated under this procedure.

Step Two The headteacher should judge all the evidence carefully before making a decision about any formal disciplinary action. This becomes particularly pertinent when consideration is being given to dismissal of the employee. If the headteacher has led the investigation and gathering of evidence, then his/her judgement may be seen to be biased by the employee.

Schools are therefore strongly recommended to identify who will undertake the role of “investigating officer” in cases of alleged misconduct. The investigating officer would be responsible for gathering evidence surrounding the allegation, and for presenting a case to the headteacher at any formal disciplinary hearing that may result. Training and support and advice on this role will be available from HR.

Where meetings and hearings are being held as part of this procedure (e.g. to either gather facts or consider disciplinary action) the headteacher (or Chair of Governors), as advised by HR, must ensure the employee is aware of the status of the meeting or hearing concerned.

There will be five stages of the procedure as follows:

- Stage 1 - Initial oral warning;
- Stage 2 - First written warning;
- Stage 3 - Final written warning;
- Stage 4 - Disciplinary hearing;
- Stage 5 - Appeal Hearing.

Before any formal disciplinary hearing which could lead to a warning under stages 1, 2 or 3 is convened, the investigating officer will make proper enquiries into the complaint and gather all relevant facts.

If it is necessary for all five stages of the procedure to be followed, this will be done consecutively.

Action of these procedures will not be taken in respect of an accredited representative of a professional association/trade union **until** the headteacher (or HR if the headteacher so wishes) has informed the appropriate full-time professional association / trade union official of the disciplinary action that is being contemplated.

3.0 SUSPENSION

Step Three In the case of alleged gross misconduct, the employee concerned, once it has been established there is a prima facie case to answer, will normally be suspended from duty immediately and - if disciplinary action becomes necessary - the procedure will commence at the dismissal hearing (please see Dismissal and Appeal Procedure).

The employee will be suspended from duty by the headteacher. The headteacher is advised to consult with Human Resources (HR) before suspending an employee from duty.

Suspension of the employee on full pay may be considered at any time in the investigation.

In the case of an Aided School the headteacher should also consult with the Chair of Governors.

The headteacher, will immediately confirm the suspension, and the reasons for the suspension in a letter to the employee concerned.

4.0 DISCIPLINARY HEARING STAGE

Step Four Having established that there appears to be a case to answer and decided to proceed with a disciplinary hearing, the investigative officer (or his/her representative) shall:

- i. Give the employee at least 3 clear working days notice (6 working days where the investigation officer considers a final written warning is possible and 14 working days where the investigation officers believes that a dismissal is a possible outcome) of the date for the hearing;
- ii. Provide the employee at the same time with information

as to the nature of the allegation(s), and ensure that the employee has been provided with a copy of this document and a copy of the disciplinary rules and code of conduct.

- iii. Advise the employee of his/her right to be accompanied by a trade union representative or other person and;
- iv. Ensure that the employee is given an opportunity to state his/her case before any decision is taken.

If the investigative officer considers that a dismissal is a possible decision then the timescales outlined under the Dismissal and Appeal Procedure should be followed. Please see Dismissal and Appeal Procedure.

A separate dismissal hearing need not be arranged as this can be heard as part of the disciplinary hearing (see stages of procedure step 2).

Step Five If, after hearing all the evidence and adjourning, as necessary, the headteacher decides that a level of warning should be issued, the employee will be informed of:

- i. The nature and level of the warning;
- ii. The reasons why it is being given;
- iii. The standards of conduct required in future;
- iv. The consequences of further misconduct;
- v. The right of appeal.

The employee should verbally be told of the outcome of the disciplinary hearing as soon as possible, within 48 hours.

The outcome should be confirmed in writing within 10 working days of the hearing. The employee must be informed of the right to appeal.

If the headteacher decides to recommend the withholding of a salary increment as part of the disciplinary action, this should be communicated to the employee at the same time.

In the case of an oral warning, the employee should be required to sign a record confirming that an oral warning has been given. Written warnings - including the conclusions of the disciplinary hearing - will be summarised and confirmed by letter to the employee.

Under Stages 1 to 3 of this document (oral warning, first written warning or final written warning) these matters should not be formally reported to the governing body at that stage.

Under normal circumstances, previous warnings given under the stages of this document will be disregarded in the following circumstances:

- a. formal oral warning - after 20 school weeks satisfactory conduct from the date of issue of the warning
- b. first written warning - after one years satisfactory conduct from the date of issue of warning
- c. final written warning - after two years satisfactory conduct from the date of issue of the warning

Where there is to be any departure from these time periods, this will be drawn specifically to the employee's attention in writing with an explanation. Exceptionally, there may be circumstances where the misconduct is so serious that it cannot realistically be disregarded for future disciplinary purposes. In such circumstances, it should be made very clear that the final written warning can never be removed and that any recurrence will lead to dismissal.

5.0 DISMISSAL

Step Six Please see Dismissal and Appeal Procedure for further details

6.0 APPEAL AGAINST DISMISSAL OR FORMAL WARNING

Step Seven There will be a formal right of appeal afforded to an employee under this procedure in the following circumstances:

- As a consequence of the issuing of a formal warning under Stages 1, 2 or 3
- As a consequence of a decision of the headteacher (or alternative decision maker) to dismiss the employee

Please see Dismissal and Appeal Procedure for further details.

There will be no further right of appeal.

7.0 FOR HEADTEACHERS

References in this document to the Head of School Standards should be understood to mean the Head of School Standards or their designated representative.

The procedure for headteachers will embrace the same stages and considerations as are contained in the previous steps with the following variations:

The headteacher, will be suspended by the Chair of the Governing Body. The Chair of the Governing Body is advised to consult with HR before suspending the headteacher from duty.

The Chair of Governors or the Head of School Standards if so requested by the Chair of Governors will immediately confirm the suspension, and the reasons for the suspension in a letter to the headteacher concerned.

Stage I - The Chair of the Governing Body, (in consultation with the Head of School Standards) will take any action and will be advised by the Head of School Standards on the maintenance of any official records kept.

Stage II - Similarly, the Chair of the Governing Body in consultation with the Head of School Standards will initiate the action and take the appropriate steps as defined within this stage. The Head of School Standards will be provided with a copy of any warning given.

Stage III - The Chair of the Governing Body should consult with the Head of School Standards where action under this stage is considered necessary but, if a disciplinary hearing is called, this will be conducted by the Chair and two other governors supported by the Head of School Standards acting in an advisory capacity. The governors will be responsible for the production and issue of any written statement, advised by the Head of School Standards.

Stage IV - Any decision for reference of a disciplinary matter relating to a headteacher to a governing or disciplinary body under this stage should only be made after full consultation has taken place between the Chair of the Governing Body and the Head of School Standards.

8.0 GUIDANCE FOR MANAGERS

Disciplinary rules set standards for the headteacher and the governing body to maintain. They should be clear, in writing, and known and understood by all employees.

All employees should be given a copy of the Disciplinary Rules and Procedures upon appointment. A copy of this code should be supplied to all employees

The professional associations/trade unions and the City Council recognise that it is to the mutual benefit of the City Council, the governing body and the staff at the school for the procedures described above to be followed when it becomes necessary to take disciplinary action in relation to the misconduct of an employee.

The governors should specify the types of misconduct that could warrant consideration under the school's disciplinary procedure.

At any stage of this procedure the employee may be accompanied by a trade union / professional association representative or other person.

Senior staff in schools (and some governors) should be trained to ensure understanding of the content and operation of both the rules and procedures.

A copy of the Disciplinary Rules and Procedures should be made available to employees on request, and always when any action is being considered under its terms.

9. Model Code of Conduct and Disciplinary Rules

The list below is not exclusive or exhaustive. It is intended to give examples of the types of conduct which could warrant categorisation as “misconduct” or “gross misconduct”. Gross misconduct is defined as alleged actions which are of such a nature that the continued presence of the employee at the place of work cannot be tolerated whilst the matter is being investigated and, if proven, could lead to summary dismissal.

It is important to note that misconduct or gross misconduct can arise out of either an act or an omission on the part of the employee, such that negligence amounting to a breach of contract will be included under the term misconduct.

Each instance of alleged misconduct will be investigated thoroughly, and the circumstances surrounding the alleged action will determine whether it will be treated as misconduct or gross misconduct. It is expected that the employee will be suspended from duty when an allegation is being treated as potential gross misconduct for the purposes of the disciplinary procedure.

1. General Conduct

Employees are expected to conduct themselves at all times in a manner which supports the ethos of a school, and will maintain public confidence in their integrity and the service provided the school.

2. Examples of misconduct

Poor timekeeping or persistent lateness

Failure to comply with sickness absence procedures

Unauthorised absence from work (excluding lawful industrial action)*

Wilful failure to comply with school policies

Wilful failure to comply with a reasonable instruction from a member of senior management or line-manager*

Rude or insubordinate behaviour towards colleagues or members of management*

Acting in an aggressive or threatening manner*

Use of foul or abusive language*

Misuse or unauthorised use of school facilities (to include telephones, photocopiers, computers and other equipment)*

Installing or using unlicensed software on a school computer

Using school or Authority computers to access wider facilities (e.g. the Internet) without authorisation, or to access non-work sites, especially those with material unsuited to use within a school (e.g. pornography, illegitimate drugs related etc.)*

Persistent minor breaches of health and safety requirements or failure to observe agreed working procedures

Unauthorised removal of school property, or that of any of its employees or pupils*

Wilful damage to or waste of school property*

Knowingly condoning or failing to report a serious disciplinary offence

Being unfit for duty due to consumption of either alcoholic drink or drugs, or consuming these on school premises whilst on duty. (Note 1: where alcohol dependency is admitted by the employee or intoxication is due to legitimately prescribed drugs, the ill-health procedure should be observed)*

Unauthorised use or disclosure of confidential information (including that stored electronically) gained through employment at the school, or failure to protect such information from being disclosed*

Failure to disclose a pecuniary interest when asked to do so by the governors, or when that interest could come into conflict with the work of the school (e.g. relationships with contractors)*

Off-duty conduct which could conflict with the interests of the school or the Authority, or bring the school or the Authority into disrepute (to include criminal offences committed whilst off-duty)*

Illegal copying of computer software, breaching copyright agreements*

**Could be gross misconduct if sufficiently serious.*

3. Examples of Gross Misconduct

Making false statements or omissions to gain employment or other benefit at work (e.g. failure to disclose criminal convictions when legitimately required to do so, making false statements about qualifications)

Falsification of, damage to or tampering with timesheets or expenses claims, or other financial documents, amounting to fraud

Deliberate falsification of pupil or school records or marks

Harassment, bullying or intimidation (including incitement), on the grounds of race, sex or disability, or on other grounds

Fighting and/or serious physical assault

Sexual misconduct at work

Serious breaches of health and safety requirements which cause danger to self or others

Theft, or attempted theft, of money or property from the school or its employees or pupils

Malicious damage to school property

Omission or conduct liable to lead to a serious loss of confidence in the school by parents and pupils

