



Staff Disciplinary Policy

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Broadlands Hall School Staff Disciplinary Policy

1. Application of the procedures

This procedure applies to all teaching and support staff working in the school.

2. Purpose

The overall purpose of these procedures is to promote fairness and order in the relationship between school leadership and the employees who come under their management. It aims to ensure that any disciplinary matter is dealt with promptly, fairly and that, if appropriate, steps are taken to establish the facts and to give the employee an opportunity to respond before taking any formal action. This includes ensuring that individuals involved in the disciplinary process are treated reasonably and equitably, with dignity and respect regardless of age, disability, gender, gender reassignment, marriage and civil partnerships, pregnancy and maternity, race, religion or belief and sexual orientation.

Every member of staff is expected to maintain high standards of professional conduct at all times. This includes times when they are not at work and in a situation where their conduct may potentially bring the school, service, or profession into disrepute.

3. Confidentiality

All proceedings and documentation will remain confidential to the parties concerned and will not be disclosed to others, except for official bodies which have a right to require disclosure of information or where the school has a responsibility to report or refer a case.

All parties should be mindful of the need to preserve confidentiality on matters relating to children and young people. Wherever practicable, pupil statements and other statements referring to pupils will have their details protected by redaction, to avoid pupils being identified and/or sensitive information being shared. In exceptional circumstances, pupils will not be asked to give evidence at disciplinary hearings.

4. Safeguarding children and young people

Separate guidance on managing allegations of abuse relating to children or young people made against school staff.

In such cases, appropriate and prompt consideration by relevant bodies for example, the County Council's Local Authority Designated Officer or a Multi Agency Strategy Meeting should be allowed for before the commencement of any processes under these procedures, usually also including the consideration of suspension. In some cases, this may require consideration of a short period of 'garden leave' pending initial consideration of the allegations under safeguarding procedures.

5. Referral of cases

A referral to the Disclosure and Barring Service and/or the National College for Teaching and Learning may be made by the school, upon the conclusion of disciplinary proceedings and any appeal, in the following circumstances:

A referral to the Disclosure and Barring Service must be made if an employee has harmed, or poses a risk of harm to a child, and who has been removed from working in regulated activity or would have been removed had they not left; or the employer becomes aware that the employee has received a caution or conviction for a relevant offence.

Schools have a legal duty to consider whether to refer to the National College allegations of serious misconduct by a teacher when they have dismissed that teacher for misconduct or would have dismissed them had they not resigned first.

6. Disciplinary Procedure

Scope

This procedure will be used in all cases where misconduct, omission or, in certain circumstances failure in performance is such as to warrant disciplinary action.

The term “misconduct” in this procedure covers instances of misconduct, omissions or failures in performance which may be reasonably attributed to wilful or negligent acts or omissions on the part of an employee.

Separate guidance exists for dealing with problems arising from alcohol dependence or substance abuse. However, significant problems of misconduct arising from behaviour whilst under the influence of alcohol or drugs, particularly in cases of failure to engage with support offered, may also be dealt with under this procedure.

Exclusions

This procedure does not apply where employment is terminated by reason of redundancy or incapability arising from ill-health.

The normal management of employees and the associated processes such as performance review/appraisal are outside the scope of this procedure. There will be occasions when it is appropriate for an employee’s performance and behaviour at work to be discussed with him/her as part of the normal management arrangements. If there is any shortcoming identified, an employee will be assisted to understand the standard of behaviour or performance required. This may be confirmed by a written instruction. By the very nature of these situations, the employee will not normally be accompanied at any meetings or discussions, although they may seek the advice of a trade union representative. Although there is no right to be accompanied at meetings during normal performance management, this may be helpful and a reasonable consideration.

Investigation

If the normal management processes do not bring about the required changes in behaviour or performance, the next step will normally be consideration of action under the formal disciplinary procedure. If it is sufficiently serious, a single instance of misconduct may be such as to warrant immediate consideration under the disciplinary procedure. The school will seek the advice of their HR advisor before instituting formal disciplinary action or suspending an employee.

To establish the appropriateness of using the formal Disciplinary Procedure, it will normally be necessary for the Headteacher to conduct or commission a formal investigation. In cases relating to the Headteacher, the Proprietor would lead the investigation. The employee and any witnesses who make statements during any investigation will normally be asked to check and sign any written statement of evidence.

The Investigating Officer's report will clearly state whether he/she believes there is a case to answer under the school's disciplinary procedures and, if they believe there is, the nature and seriousness of the alleged misconduct that needs to be further considered at a disciplinary hearing.

Consideration of suspension or redeployment

In certain circumstances it may be necessary to suspend an employee while an investigation is carried out into the situation giving rise to concern. The Headteacher may suspend an employee but she/he must immediately inform the Proprietor of the action s/he has taken.

If it is necessary to suspend the Headteacher, the decision must be taken by the Proprietor.

Suspension will normally be considered only:

- Where there is a reasonable belief the employee's continued presence at work may put themselves or others at risk, or risk their employer's responsibilities to other parties;
- Where there is a reasonable belief that the employee's continued presence at work may hamper or compromise an investigation process; or
- Where relationships have broken down.

In all cases, consideration should be given to alternatives to suspension (for example, additional supervision or alternative/restricted duties, work arrangements or garden leave), remembering that consideration can be given to suspension at any time during the investigation. In cases of alleged gross misconduct where it is decided that suspension is not necessary, the school should record that, having considered this procedure and normal practices, it has been decided not to suspend.

Suspension does not constitute disciplinary action; it is a neutral act. If it is necessary to suspend an employee during investigations, it will be on full pay.

Suspension should not be unnecessarily protracted. The continuance of suspension should be kept under regular review and immediately lifted if the circumstances of the case no longer justify it. When suspension is lifted, it may be necessary to consider a re-integration plan before making arrangements for the employee's return to work.

Disciplinary Hearing

If it appears, after investigation, that there is a case to consider, a disciplinary hearing will be convened. In accordance with the School Staffing Regulations, a hearing may be conducted by the Headteacher or the Proprietor, If dismissal is a possible outcome, the hearing must be conducted by the Proprietor.

Where it is proposed to hold a disciplinary hearing, the employee will be informed in writing, of:

- the nature of the alleged misconduct and, where it possible to state, the warning stage which the employee has already reached;

- the date, time and place for the hearing;
- the name of the person presenting the case and witnesses;
- the name(s) of the person(s) hearing the case
- the employee's right to produce written statements and invite relevant witnesses to give evidence on his/her behalf;
- the employee's statutory right to be accompanied by a trade union official or work colleague of his/her choice
- where a possible outcome of the hearing is a determination that the person shall cease to work at the school/be dismissed, the possible outcome of the meeting.

Any request by the employee for the school to make available documents for consideration at the hearing should be made in good time, in order that the above timescales can be observed.

The hearing will be conducted in as informal a manner as possible.

The conclusion of the meeting may be communicated orally to the employee after the hearing, but will in any case be confirmed in writing, normally within five working days. The employee will be informed whether or not the allegations have been upheld. If the allegations are upheld, in full or in part, the findings and the decision will be confirmed in terms of:

- the nature of the misconduct
- the appropriate sanction i.e. a first or final warning or determination that the employee shall cease to work at the school
- how to appeal against the decision and/or any disciplinary sanction, the length of time within which an appeal must be lodged, and whom it should be addressed to
- If the determination is to issue a disciplinary warning, the employee will also be informed in writing of
- what improvement is expected for the future
- the length of time for which the warning is active (not usually less than three months nor greater than twelve)
- any other information in respect of the improvement required e.g. any review of arrangements, and whom the employee should contact for assistance
- what might happen if the matter proceeds to the next stage e.g. what the possible sanction might be

Employees will be required to sign and return a copy of any such letter confirming receipt.

Postponement of hearings and non-attendance

Employees must take all reasonable steps to attend a hearing. A hearing will not normally be held in the absence of the employee, except by mutual agreement, unless she/he fails to attend a hearing without reasonable cause, is otherwise constrained from attending (e.g. she/he is held in custody), or as described below. Separate advice should be sought in respect of employees absent from work due to pregnancy or maternity leave.

Sickness will be considered reasonable cause for non-attendance where the employee's GP or medical practitioner has certified the individual is too ill to attend formal meetings, and further advice on this matter may be sought from the school/Council's occupational health services provider. If the employee is unable to attend due to long-term sickness absence and no alternative date can be mutually agreed, the hearing may be held in their absence.

It is important that every effort is made to reach a conclusion in all cases of safeguarding allegations that have a bearing on the safety or welfare of children. If an employee tenders their resignation or refuses to co-operate with the process, this must not prevent such a safeguarding allegation being followed up in accordance with safeguarding procedures. Wherever possible, the person should be given a full opportunity to answer the safeguarding allegation and make representations about it. However, it may be necessary to conduct a hearing in their absence and reach a judgement about whether the safeguarding allegation can be regarded as substantiated based on all the information available. In these circumstances, the a decision will be made regarding the sanction that would have been applied had the employee remained in employment.

In cases where it is necessary to proceed with a hearing in the absence of the employee and it is known this will be necessary in advance of the hearing, the employee will be offered the opportunity to make additional written submissions to the hearing.

7. Warning Stages and Disciplinary Sanctions

The Disciplinary Procedure provides for the employee to be given every reasonable opportunity to improve his/her conduct or performance. Unless the circumstances are exceptional e.g. gross misconduct, no employee should be dismissed without first having received at least one written warning and having had the opportunity to improve his/her conduct. Under most circumstances, this procedure provides for an employee to receive two written warnings for misconduct of the same or similar nature, a first warning and a final warning, before dismissal is considered.

Written warnings will normally remain in force for between six and twelve months. In exceptional cases, the warning will stay in force for a longer period. This may be appropriate where there is a history of repeated breaches of the same or similar disciplinary rules, or where the misconduct is serious enough that the committee hearing the case could consider dismissal as a possible sanction. The employee may appeal against the imposition of an extended warning period.

First Warning

Where an employee's misconduct is such as to warrant a formal warning, and where there is no previous warning current, a first written warning will normally be the appropriate sanction.

Final Warning

Where a first written warning is current any further misconduct during the currency of that warning will normally lead to a final written warning being issued. A final written warning may also be issued in circumstances where an employee is shown to have committed serious misconduct, omission, or failure in performance short of gross misconduct. It may also be appropriate where dismissal would be a reasonable sanction, but the Proprietor hearing the case has good reason to believe that a warning will prove to be effective. A final written warning will contain a clear indication that any further disciplinary offence during the currency of the warning will normally, if substantiated at a hearing, result in dismissal without further warning.

Dismissal

If further allegations of misconduct are brought while a final written warning is current, it will normally be determined that the employee shall cease to work at the school, unless there are

strong mitigating circumstances. In appropriate circumstances the final warning period may be extended for between three and twelve months.

If the allegations against the employee are so serious that they would constitute gross misconduct the committee or individual hearing the case may determine that the employee shall cease to work at the school even where no disciplinary warning is current.

Where the employee's misconduct is not such as to constitute gross misconduct, but has, nevertheless, led to a fundamental breakdown of mutual trust and confidence such that it would be impossible or impractical to continue his/her employment, it may be determined that the employee shall cease to work at the school.

8. Appeals

An employee is entitled to appeal against any disciplinary sanction imposed. If the sanction has been imposed by the Headteacher, the appeal will be to the Proprietor.

An employee who wishes to appeal against a disciplinary sanction must lodge notification of his/her intention to appeal along with full grounds for their appeal (including any supporting documentation) within 14 days of the date of written notification of that sanction, as directed in the letter of notification.

A date for an appeal hearing will normally be arranged and notified to the parties within 14 days of an appeal being registered. Any further submissions from those responding to the appeal should normally be provided to the school at least five working days before the appeal hearing, to enable them to be circulated to the parties in good time before the hearing.

The main grounds for an appeal are likely to be, although are not limited to:

- if the employee wishes to contest the finding and/or the disciplinary sanction;
- if new relevant evidence not available to the original hearing becomes available;
- if there is an alleged lack of fairness in the original hearing.
- If the appeal is against the finding and the sanction imposed by the original hearing, the appeal will normally constitute a complete re-hearing.

9. Records and lapsed warnings

Advice given during normal performance management and records of any allegations, complaints and subsequent investigatory or disciplinary processes all form part of an employee's employment history.

As such, although a disciplinary warning may be deemed to have 'lapsed' after the period of the warning has expired, the record of the disciplinary matter should not be removed from the employee's employment history/personal file held by the school.

Allegations that are found to be malicious should be removed the employee's employment history/personal file held by the school, and any that are unsubstantiated, are unfounded or malicious should not be referred to in employer references.

10. Headteachers

Where there is a concern or complaint about misconduct on the part of the Headteacher, it will normally be the responsibility of the Proprietor to initiate any necessary action.

The procedure will be conducted as for all other employees.

11. Advice and Support to Employees

Employees may address questions about procedure, the conduct of investigations or hearings, or other related matters to the Headteacher or the Proprietor, where they are directly responsible for those procedures.

It will normally be appropriate to make arrangements for a nominated individual to keep the employee informed of developments and to offer support, particularly in cases where the investigation is prolonged, the employee is suspended from duty, or has been offered and accepted leave of absence, pending investigations. This should be arranged through a suitable senior member of the School's staff.

12. Criminal offences

An allegation of a criminal offence committed outside of work will not be treated as an automatic reason for disciplinary action. Consideration needs to be given to what effect any warning, caution, charge or conviction has on the employee's suitability to do their job and their relationship with their employer, work colleagues and the school community. Where it is felt necessary to investigate the matter, consideration will be given to whether or not this can be completed before the outcome of any criminal investigation/prosecution is known.

13. Examples of potential Misconduct

It is not possible to specify all forms of behaviour that will result in disciplinary action. Each case must be judged in the light of the circumstances and context surrounding it. Varying circumstances may well allow different disciplinary actions or no disciplinary action at all to be taken for what are similar offences.

The following examples give an indication of the types of behaviour which constitute misconduct. The examples are not exhaustive and omissions from the list are not in themselves grounds for appeal.

Employees should, so far as is reasonably practicable, be familiar with the working rules and procedures relating to their own school/department and their particular area of work. These rules may be in the form of codes of practice, school policies and procedures, induction material, manuals, posters, notices and periodic memoranda and failure to have due regard to these may be grounds for disciplinary action in relation to general misconduct or professional negligence.

Professional negligence, misconduct, omission or, in certain situations failure in performance to a reasonable and acceptable standard. Examples include: breaches of safeguarding procedures; failure to report or properly comply with school procedures for reporting allegations of abuse; failure to observe proper professional boundaries in staff-pupil relationships; failure to exercise reasonable care for the safety and welfare of oneself, other employees, students, members of the public or others on school premises; actions causing loss, damage or injury through negligence; failure to use school funds in a proper and lawful way or observe basic 'value for money' tests.

Failure to observe school rules and procedures or those relating to the employee's area of work

Examples include: those relating to time-keeping, attendance, signing in/out, proper reporting of sickness absence, smoking, Persistent lateness or absence.

General misconduct. Examples include rudeness, insolence, drunken or aggressive behaviour, use of foul or abusive language, sexist, racist or other offensive behaviour. Expressing personal beliefs in ways which exploit pupils' vulnerability or might lead them to break the law.

Cases of harassment or bullying, including cyber bullying

Cases of discrimination, harassment or victimisation contrary to the law and/or the school's equalities policies, including giving instructions or bringing pressure to bear on others to do so or malicious complaints against or victimisation of employees using school procedures e.g. harassment, disclosure of malpractice etc.

A breach of health and safety rules, failure to observe health and safety policies and procedures, or endangering self or others.

Misuse of school property or that belonging to others while in the course of work.

Use of paid time or the school materials or facilities for purposes unrelated to the job.

Taking unauthorised leave.

Insubordination, non-compliance, failure to obey a reasonable and lawful instruction or direction, or conduct intended to otherwise undermine.

Bringing the school, service or profession into serious disrepute, including failure to observe reasonable standards of ethics and behaviour (or appropriate professional standards) within and outside work, or to have proper and professional regard for the ethos, policies and practices of the school. This might include information on social networking sites, particularly where this involves malicious, defamatory or abusive communication .

Misuse of the internet or inappropriate use of electronic mail

Wrongful sharing of security passwords in connection with building security and computer systems

Unauthorised or inappropriate disclosure of confidential information, failure to observe data protection principles or the use of such information or official contacts for personal interest or gain.

Misuse of the school name, equipment, materials or information, including copyright and other intellectual property rights.

Deliberate failure to disclose unspent criminal convictions or, in respect of employment exempt from the terms of the Rehabilitation of Offenders Act (i.e. employment with children or young people), failure to disclose any Police warning, caution, bind-over or conviction before and during relevant employment.

14. Examples of potential Gross Misconduct

As stated above, It is not possible to specify all forms of behaviour that will result in disciplinary action. Each case must be judged in the light of the circumstances and context surrounding it. Varying circumstances may well allow different disciplinary actions or no disciplinary action at all to be taken for what are similar offences.

The following examples give an indication of the types of behaviour which constitute gross misconduct. The examples are not exhaustive and omissions from the list are not in themselves grounds for appeal. This allows for appropriate consideration of the seriousness of the alleged misconduct/gross misconduct. The appearance or absence of an example in one schedule or the other should not substitute proper consideration of circumstances surrounding each case, or be in itself grounds for appeal.

In addition, employees should, so far as is reasonably practicable, be familiar with the working rules and procedures relating to their own school/department and their particular area of work. These rules may be in the form of codes of practice, school policies and procedures, induction material, manuals, posters, notices and periodic memoranda.

Serious professional negligence, misconduct, omission or, in certain situations failure in performance to a reasonable and acceptable standard.

Examples include: serious breaches of safeguarding procedures; failure to report or properly comply with school procedures for reporting allegations of abuse; failure to observe proper professional boundaries in staff-pupil relationships; abuse of a position of trust; serious failure to exercise reasonable care for the safety and welfare of oneself, other employees, pupils, members of the public or others on school premises; actions causing loss, damage or injury through serious negligence; serious failure to use funds in a proper and lawful way or observe basic 'value for money' tests.

Threatened or actual physical assault or violence towards employees, pupils or others on school premises or in the course of work.

Serious sexual misconduct.

Abuse against children or young people.

Expressing personal beliefs in ways which exploit pupils' vulnerability or might lead them to break the law.

Serious cases of harassment or bullying, including cyber bullying.

Serious cases of discrimination, harassment or victimisation contrary to the law and/or the school's equalities policies, including giving instructions or bringing pressure to bear on others to do so or malicious complaints against or victimisation of employees using school procedures e.g. harassment, disclosure of malpractice etc.

Malicious or vexatious complaints against colleagues or other members of the school community.

Serious offences involving the misuse or illegal possession of drugs, and/or serious cases of being under the influence of alcohol or drugs at work.

A serious breach of health and safety rules, failure to observe health and safety policies and procedures, or endangering self or others.

Deliberate and serious damage or misuse of school property or that belonging to others while in the course of work.

Theft or misappropriation of cash or property belonging to the school, fellow employees, pupils and others at school.

Fraud or dishonesty, including falsely reporting sickness absence, falsification of work records, timesheets, travelling and subsistence or similar claims, or serious use of paid time or the school's materials or facilities for purposes unrelated to the job.

Taking significant unauthorised leave.

Serious insubordination, non-compliance, failure to obey a reasonable and lawful instruction or direction, or conduct intended to otherwise undermine.

Bringing the school, service or profession into serious disrepute, including failure to observe reasonable standards of ethics and behaviour (or appropriate professional standards) within and outside work, or to have proper and professional regard for the ethos, policies and practices of the school. This might include information on social networking sites, particularly where this involves malicious, defamatory or abusive communication.

Serious misuse of the internet or inappropriate use of electronic mail, including deliberately accessing or sharing pornographic, offensive or obscene material.

Deliberate and wrongful disclosure of security passwords in connection with building security and computer systems.

Serious unauthorised or inappropriate disclosure of confidential information, failure to observe data protection principles or the use of such information or official contacts for personal interest or gain.

Serious misuse of the school name, equipment, materials or information, including copyright and other intellectual property rights.

False statements or failure to disclose relevant information in applications for employment, including any personal incapacity which may be incompatible with the satisfactory discharge of the duties and responsibilities of the job.

Deliberate failure to disclose unspent criminal convictions or, in respect of employment exempt from the terms of the Rehabilitation of Offenders Act (i.e. employment with children or young people), failure to disclose any Police warning, caution, bind-over or conviction before and during relevant employment.

15. Some Reasons Which Might Justify Dismissal With Notice

As distinct from gross misconduct, for which the normal sanction is dismissal without notice, dismissal will normally only take place after due warning through the disciplinary procedure. However, there are a limited number of circumstances which fall short of gross misconduct where the governing body may determine that an employee shall cease to work at the school without prior warning being issued. These are circumstances where the action of the employee has broken the mutual trust and confidence necessary to sustain the employment relationship. The following is a non-exhaustive list of circumstances which may give rise to such a determination:

- Behaviour of a serious or criminal nature outside employment the nature of which makes continued employment impossible.
- Committal to prison for an offence which is of such a kind, or entails a sentence of such length, as to make continued employment impossible.
- Depending on the seriousness of such matters, dismissal without notice may also be considered.

16. Procedure for a Hearing

Hearings will be held in as informal a manner as possible and the employee will be afforded every reasonable assistance to put his/her case. The conduct of the hearing is at the discretion of the Proprietor or Headteacher hearing the case, but she/he will allow the parties every reasonable opportunity to make their case and present evidence.

17. Decision

If possible, the decision will be communicated orally to the employee after the hearing. The decision will be confirmed in writing to the parties involved as soon as possible after the hearing.