

Disciplinary Policy & Procedure

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The Policy

1. Introduction

- 1.1 Discipline is necessary for the efficient and effective operation of the school. Disciplinary rules and procedures help to promote effective employee relations as well as ensuring fairness and consistency in the treatment of individual employees.
- 1.2 The Disciplinary Policy and Procedure aims to find solutions to overcome difficulties whilst protecting the shared interests of everyone concerned and ensuring the continued provision of high quality services.

2. Definition and Abbreviations

- 2.1 Head teacher means the Head teacher of the school.
- 2.2 LA means Local Authority
- 2.3 Disciplinary Panel means the Committee of the Governing Body authorised to hear disciplinary cases, or the person(s) nominated to undertake that role, or the Headteacher; depending on the level of delegation formally agreed by the governing body.
- 2.4 Appeal Panel means the Committee of the Governing Body authorised to hear disciplinary appeals. The appeal panel should usually be comprised of three governors. In exceptional circumstances it may be a minimum of two governors.
- 2.5 Five days means five working days excluding bank holidays and school holidays, subject to 2.7 below.
- 2.6 Ten days means ten working days, excluding bank holidays and school holidays, subject to 2.7 below.
- 2.7 A working day is any working term day as defined by the LA term dates excluding the three floating occasional days set at the discretion of the school.
- 2.8 Trade Union means trade unions and professional associations that are recognised for the purposes of collective bargaining by the LA.
- 2.9 Trade Union Representatives means any representative of a trade union or any other staff representative.
- 2.10 Senior Human Resources Adviser means the Senior Human Resources Adviser or in the case of appeal hearings the Specialist Adviser - School Performance.
- 2.11 Ex-employee means any employee who has ended (for any reason) their employment with the school, including those who continue to be employed by the LA at another school or central service or within a Voluntary Aided School in Oldham.
- 2.12 School Management means the Senior Leadership Team of the school and the Governing Body.
- 2.13 The investigating officer is the Senior Human Resources Advisor or impartial member of the Senior Leadership Team appointed to investigate the alleged misconduct.

3. Employees covered by this Policy and Procedure

- 3.1 This procedure applies to all staff whose employment comes under the purview of a school governing body including Head teachers, Teachers and locally managed support staff. This procedure is referred to in the Statement of Particulars and forms part of an employee's contract of employment.
- 3.2 If an employee has difficulty reading, or if English is not his/her first language, a manager will explain the content of any written correspondence issued in relation to the Disciplinary Procedure.
- 3.3 It is the responsibility of Governing Bodies and Head Teachers to ensure that all employees have access to a copy of the policy and procedure.

4. Delineation with other Policies and Procedures

- 4.1 In order for schools' to manage conduct issues effectively and maintain a positive employee relations climate it is essential they understand the Disciplinary Policy and Procedure and its delineation from other policies and procedures, including but not limited to: Capability (Performance) Policy and Procedure, Whistleblowing Policy, Grievance Policy and Procedure, Code of conduct, Health and Safety Policies and Procedures etc.
- 4.2 The delineation between the Disciplinary Policy and Procedure and the Capability (Performance) Policy and Procedure;

The Disciplinary Policy and Procedure has been developed to help encourage employees to achieve and maintain acceptable standards of conduct and provide a fair and effective process for managing disciplinary issues.

The Capability (Performance) Policy and Procedure meanwhile has been developed to manage those situations where an employee's unsatisfactory work performance can be attributable to a lack of ability, aptitude, knowledge or skills (Capability (Performance) Policy & Procedure). Advice on the application of the Capability (Performance) Policy and Procedure can be sought from the HR Advisory Service.

5. Policy Statement

- 5.1 Disciplinary rules are necessary to set standards of conduct and performance at work and make clear to workers what is expected of them. They should be recognised as reasonable by the school, the recognised trade unions and individual employees and be in accordance with statutory rules and ACAS guidance.
- 5.2 Knowing and observing the rules and being aware of the consequences of contravening those rules assist employees in attaining standards of conduct and behaviour.
- 5.3 The disciplinary rules are not intended to cover all the possible incidents which may arise. The omission of a particular type of conduct from the policy does not mean that disciplinary action is thereby excluded, the policy gives examples only and any breach of normal good conduct or standards of work may be subject to disciplinary action.

- 5.4 The schools aim should be to encourage improvement in individual conduct and performance in order to both develop the individual in accordance with the needs of the service and meet the school's objectives.
- 5.5 This procedure sets out the action which will be taken when the rules are breached. It is intended to encourage employees to conform to acceptable standards.
- 5.6 The procedure must be applied fairly and consistently across the school, and particular care must be taken not to discriminate on the grounds of any of the protected characteristics covered by the Equality Act 2010.
- 5.7 The Human Resources Advisory Service will provide support and advice to school managers working on discipline cases as required by the school, subject to the provision that the school has procured this under a service level agreement through Unity Partnership.

6. Principles

- 6.1 Where possible, or if appropriate to do so, disciplinary problems should be resolved by the school management informally via discussion as part of day-to-day responsibilities, without referral to the formal procedure.
- 6.2 School management are advised, where possible, to seek guidance from the Human Resources Advisory Service before taking the decision to suspend from duty.
- 6.3 No disciplinary action will be taken against an employee until a thorough investigation of the allegations has been completed.
- 6.4 All employees are contractually obliged to make themselves available to attend Investigatory Interviews and Disciplinary Hearings when required, whether they are at work or not (i.e. absent from work due to sickness or suspension).
- 6.5 An employee will be entitled to be accompanied by a trade union representative or work colleague at all investigatory interviews and disciplinary hearings. A Trade Union representative or work colleague will be present to observe proceedings and advise an employee, but he/she cannot answer questions on an employee's behalf. There will be no right to external legal representation in any internal disciplinary proceedings.
- 6.6 Where an employee is not accompanied and makes an admission that may amount to misconduct the interview must be stopped immediately and reconvened at a later date affording the employee the right to be accompanied. All employees are required by their contract of employment to co-operate with the operation of this policy. Refusal to participate in an investigation is potentially a breach of contract.
- 6.7 The trade union or workplace representative supporting an employee under investigation have no right to be present during the questioning of witnesses, other than at the investigatory interview of the employee they are supporting.
- 6.8 Workplace representatives are entitled to reasonable paid time off from work to prepare for and to attend disciplinary hearings.
- 6.9 Where an employee is an accredited representative of a recognised trade union for collective bargaining purposes is suspected of having breached the disciplinary rules

no action will be taken under this procedure until the matter has been discussed with full-time official of that trade union (with the exception of suspending the employee in the case of suspected gross misconduct).

- 6.10 Whilst school management will apply the policy within the time limits specified, it may not always be possible to achieve this due to the availability of relevant individuals. Failure to adhere to the time limits shall not render the operation of the policy invalid.
- 6.11 School management must ensure that employees are informed of their right to appeal against any disciplinary sanction imposed under the formal disciplinary procedure.
- 6.12 For the purpose of natural justice the same officer must not conduct the investigation, and chair the Disciplinary Hearing or Disciplinary Appeal Hearing in any one case.
- 6.13 Officers involved in the disciplinary process, i.e. the Chair, Investigating Officer and Senior Human Resources Advisor must not have any interest or business association, or be a witness, relative, friend, or be personally involved in any way.
- 6.14 In the event of an employee resigning or having his/her contract of employment terminated under a different policy whilst a disciplinary investigation is ongoing, then, in cases involving potential gross misconduct, it may be appropriate to proceed with a hearing in accordance with this procedure in any event. The outcome of the hearing will be recorded on the former employee's file which may be a finding that had the person still been an employee, he/she would have been dismissed.
- 6.15 If, at any stage in the procedure, it appears that there is a significant medical factor involved, then the employee can be referred, via the Human Resources Advisory Service, to occupational health.
- 6.16 The Governing Body has overall responsibility for staffing issues within the school. The Governing Body has the power to delegate the responsibility for disciplinary action and dismissals to the Headteacher, an individual governor or a group of governors with or without the Headteacher.
- 6.17 Where the Governing Body has delegated the responsibility for disciplinary and dismissal procedures to an individual governor or a group of governors the headteacher has a right to attend all meetings to offer advice.
- 6.18 Head teachers who have had direct involvement in disciplinary matters that lead to disciplinary hearings should not be involved in decisions regarding disciplinary sanctions or staff dismissals.
- 6.19 Where the Governing Body has delegated responsibility for disciplinary hearings to the Headteacher, this cannot be delegated on to another person by the Headteacher. In the absence of the Head teacher, this delegation applies to the Acting Headteacher.
- 6.20 Misappropriated or fraudulent loss found to have been caused to the school by the employee may result in the employee being requested to make recompense in either whole or in part. Failure to do so may result in the school pursuing the employee through the County Court. The employee may agree to this being deducted from his/her final payment.
- 6.21 Where the allegations are of a criminal nature they will normally be reported to the police, however an internal investigation may continue and be concluded where it is

not prejudicial to the police investigation. In all cases involving safeguarding, the Local Authority Designated Officer will also be informed.

- 6.22 If, during the course of the formal disciplinary process the employee concerned raises a related grievance then consideration should be given to dealing with this as part of the ongoing disciplinary process. Alternatively it may be appropriate to suspend the disciplinary process and consideration be given to the grievance as a separate matter. Neither process should be unduly delayed.
- 6.23 Behaviour which subsequently proves to be frivolous and vexatious, could result in disciplinary action being taken against the perpetrator.
- 6.24 It is intended that this procedure will provide a speedy, fair and equitable basis for effective and consistent disciplinary action to be taken, when necessary.
- 6.25 At all times regard must be had to the Human Rights Act 1998, the Regulation of Investigatory Powers Act 2000 and the Data Protection Act 1998.

The Procedure

7. The Informal Stage

- 7.1 Good management practice is that minor acts of misconduct are dealt with through normal supervision and management conversations with the individuals in the first instance.
- 7.2 Informal instruction, letters of concern, reminders or reprimands regarding the standard of conduct expected may be given to the employee where minor acts of misconduct occur, and recorded where appropriate in writing to the employee, by the school management. These should only be used following a discussion between the employee and management. Such instruction, reprimand or reminders should not be referred to after twelve months unless in the contextual purpose of a subsequent disciplinary matter where the employee claims that they have not participated in such a discussion.
- 7.3 An employee's failure to learn from informal action, written instruction, reminders, or reprimands may be subject to formal disciplinary action.
- 7.4 Where minor acts of misconduct have been unchecked by management the formal disciplinary procedure should not be invoked until the informal process described above has been carried out.

8. Suspension from the workplace

- 8.1 The Governing Body and the Headteacher have the authority to suspend an employee from duty where an allegation involves potential gross misconduct. Suspension will be on normal pay in accordance with contractual entitlement, pending a thorough investigation. The period of suspension will be as brief as the circumstances allow and is a neutral act. School management should seek advice from the Human Resources Advisory Service on the appropriateness of suspending an employee.

- 8.2 Where the decision has been taken to suspend an employee it is the duty of the Headteacher or Governing Body to inform the Human Resources Advisory Service.
- 8.3 If an employee is suspended from the workplace they should be afforded the right to be represented by their trade union representative or work colleague, where this does not unduly delay the suspension, however suspension meetings can not be delayed to allow representation. Where it is not possible to meet with the employee in person the employee can be informed of the suspension by telephone or in writing.
- 8.4 Suspension from the workplace does not represent disciplinary action and does not involve prejudgements or an assumption of guilt. A period of suspension must be kept under review to ensure it does not become unnecessarily protracted.
- 8.5 The suspension of an employee will be reviewed at regular intervals by the Investigating Officer who will inform the employee and their representative of the current position (or reasons for delay). If the review (including Union submissions) warrants that a suspension be lifted, the decision is referred to the Chair of Governors.
- 8.6 In the instance that it is known that the suspension may be lengthy (such as where there is an ongoing external investigation), the employee should be made aware of this fact. This will take the form of a letter at least once per half term if the suspension is prolonged.
- 8.7 An employee's contract of employment will remain in force during a period of suspension.
- 8.8 A suspended employee will be required to hand over any equipment in his/her possession belonging to the school, pending the completion of an investigation e.g. keys, security passes, ID badges, mobile phone, IT equipment, vehicles etc.
- 8.9 An employee who is suspended should be afforded the opportunity to access any personal property that may be in school at a mutually convenient time.
- 8.10 The employee will also be advised that they should not discuss the matter of their suspension and any potential allegations with any work colleagues or Schools Governors. This includes the use of social media such as facebook and twitter and emails.
- 8.11 Whilst on suspension an employee must make him/her self available to attend meetings in connection with the disciplinary investigation.
- 8.12 Where a suspended employee requests a visit to the school premises e.g. to prepare their case, the request should be made in writing to the Investigating Officer setting out the purpose of the visit. Requests will not be unreasonably refused.
- 8.13 Whilst on suspension an employee must not book any leave without having first obtained the written authorisation from the school management. Where an employee has pre-booked annual leave he/she should confirm this in writing with the Investigating Officer.
- 8.14 A period of suspension and the terms of suspension will be outlined in writing with an employee, within 5 working days, of suspension commencing.

- 8.15 Suspension may be lifted during the investigation by agreement of the Chair of Governors acting on behalf of the Governing Body.
- 8.16 Where the employee who is suspended is a Trade Union representative, the school must contact the Regional Union representative.
- 8.17 Whilst on suspension the individual should be made aware of access to EAP and Teachers Helpline (as applicable).

9. Investigations

- 9.1 When the informal route has been exhausted or where the matter is serious enough to justify formal action, a thorough investigation 'as much [investigation] as is reasonable in the circumstances' must be undertaken by an Investigating Officer. No disciplinary action will be taken until an investigation has been completed. The investigation must be concluded as quickly as possible.
- 9.2 Where the school has the appropriate level of Service Level Agreement in place the Senior Human Resources Advisor will normally act as the Investigating Officer. Alternatively the school should appoint an Investigating Officer; either a member of the Senior Leadership Team or a Governor, who is not part of the disciplinary panel. It is important that the Investigating Officer has received some training in this activity. He/she may recommend that formal action is instigated.
- 9.3 The Investigating Officer will review the progress of the investigation at regular intervals and notify the employee of this or any reasons for delay.
- 9.4 An employee will be notified of the general nature of the allegation(s) against him/her, in writing, during the investigation stage, as soon as practicable, and where possible, of known specific allegations, including dates and times, provided this does not compromise the integrity of the investigation. The employee will be notified in any event of the specific allegation(s) once the investigation has been concluded and he/she receives the letter requiring him/her to attend a disciplinary hearing.
- 9.5 The key purpose of an investigation is to ascertain the facts through the scrutiny of manual and computerised files, records and documents, customer complaints or any other relevant documentation. An employee will also be interviewed along with witnesses where appropriate.
- 9.6 The employee should be informed in writing of the investigatory interview and the appropriate notice of 5 working days provided. At the interview the employee should know the details of the allegation(s) and have the opportunity to present their side of the matter. If further allegations come to light further interviews will be necessary.
- 9.7 A record of all interviews held with the employee will be made. The record will not be verbatim notes of an interview but a summary of the key points and therefore will not require agreement. Employees are entitled to submit a written account of their explanation/answers at any interviews, which will be taken into account by the Investigating Officer.
- 9.8 It may be necessary to interview witnesses as part of the investigation. Witness statements will be produced and a signed copy retained by the Investigating Officer. Witnesses will be informed that their statements and testimony may be used at a subsequent hearing, appeal or Employment Tribunal.

- 9.9 Employees under investigation may provide the names of any witnesses that should be interviewed as part of the investigation to the Investigating Officer.
- 9.10 If the matter to be investigated involves or is believed to involve gross misconduct, then suspension in line with Section 7 must be considered, while the investigation takes place. Since suspension is not disciplinary action the employee must therefore be advised in writing of the decision to suspend with reasons given.
- 9.11 If at any time, or on completion of the investigation the allegations are shown to be unfounded or less serious, the Investigating Officer can recommend that the disciplinary suspension be lifted and the employee returned to work. There may still be sufficient grounds for proceeding to a disciplinary hearing and in such cases employees will be advised of this.
- 9.12 Similarly, in an investigation where suspension has not been agreed initially but where the information acquired during the course of the investigation is sufficiently serious and constitutes gross misconduct, suspension may be considered at that time.
- 9.13 As soon as reasonably practicable after the completion of an investigation, an employee will be notified in writing that the investigation has been completed and whether or not the case will proceed to a hearing.

10. The Disciplinary Hearing

- 10.1 The purpose of a disciplinary hearing is for the Chair to establish the facts of the case, and then decide whether or not the employee should be disciplined, and to take the appropriate action.
- 10.2 The employee, and if appropriate his/her representative, will be notified in writing that he/she is required to attend a disciplinary hearing, and be given sufficient notice to prepare for the hearing. The Investigating Officer will determine the date of the hearing after consulting with the employee's representative where possible.
- 10.3 An employee will receive copies of all relevant information, which will include statements from witnesses the Investigating Officer intends to call, no less than 10 working days in advance of the hearing. The same information will also be provided to the Chair of the hearing and the Senior Human Resources Adviser.
- 10.4 If an employee intends to present any documents as evidence, including witness statements, these must be submitted to the Investigating Officer 5 working days in advance of the hearing.
- 10.5 At the disciplinary hearing an employee, or their representative, will have the opportunity to present his/her case, together with any witnesses, before any decision is taken.
- 10.6 If an employee, or his/her chosen representative, cannot legitimately attend a disciplinary hearing, on an appointed date, the hearing will be re-arranged and, as far as is reasonably practical, the school will endeavour to reschedule the hearing within 10 working days of the original date, consulting with Unions for availability where possible. If an employee or his/her representative, is unable to attend the re-arranged hearing it will normally proceed in his/her absence with the Panel giving due consideration to any written statement(s) submitted by the employee in advance of

the re-arranged hearing. A Trade Union representative or work colleague can attend in an employee's absence and make representation on his/her behalf.

- 10.7 The Chair of the hearing will decide whether or not to accept the submission of any late evidence, i.e. evidence not previously submitted, and whether or not to adjourn the hearing.
- 10.8 The hearing may be adjourned at any time if the Chair deems further investigation is necessary or additional information is required, or at the request of either party if the Chair decides the reason to be valid. The Chair will determine the length of the adjournment.
- 10.9 An employee will receive written confirmation of the outcome of the hearing. This letter must be sent within 5 working days of the conclusion of the hearing.

11. Disciplinary Sanctions

- 11.1 Disciplinary sanctions need not be sequential. For example, if a single breach of discipline is considered to be serious but not serious enough to warrant dismissal, a final written warning may be given even though the employee may not have previously received a written warning. This could also include additional disciplinary action (see 11.10).
- 11.2 With the exception of gross misconduct, an employee will not be dismissed for a first breach of discipline.
- 11.3 Before arriving at a decision, the Chair of a disciplinary hearing will consider the seriousness of the offence, any mitigating circumstances and the employee's previous employment record.
- 11.4 Where a 'reasonable belief' in the employee's blameworthiness of the misconduct alleged is established, based on the evidence submitted and on the 'balance of probabilities', there are a number of formal sanctions available to a Disciplinary Panel:
- First Written Warning;
 - Final Written Warning;
 - Dismissal;
 - Summary Dismissal.
- 11.5 **First Written Warning** – A first written warning will normally be issued to an employee whose conduct is considered to be of a serious nature, or if previous unheeded informal warnings have not prevented further acts of misconduct. A first written warning will remain live on an employee's personal file for 6 -12 months.
- 11.6 **Final Written Warning** - If an employee's conduct does not improve, or if the case warrants it or a further offence is committed requiring disciplinary action, a final written warning may be issued. A final written warning will remain live on an employee's personal file for 12 months.
- 11.7 **Dismissal** - An act or acts of further misconduct, other than gross misconduct, by an employee who already has a final written warning in force (i.e. 12 months), could result in the employee being dismissed with notice or with pay in lieu of notice, i.e. for persistent misconduct. The Chair also has the facility to issue a further written or final

written warning, if the act of misconduct is not the same or similar to that to which the final written warning was given.

- 11.8 **Summary Dismissal** - In cases where gross misconduct has been established, an employee is likely to be summarily dismissed. In the case of summary dismissal the employee's contract will be terminated immediately and he/she will not be entitled to notice or pay in lieu of notice. The employee will receive payment for any untaken annual leave.
- 11.9 **Action as an alternative to dismissal** - In cases justifying dismissal, if there are special circumstances or significant mitigating circumstances (e.g. evidence that the behaviour was out of character), the Chair of the disciplinary hearing may consider, if practicable, another sanction as an alternative to dismissal, which must be agreed by the employee. Such other sanctions would be a final written warning, which should be in conjunction with another action e.g.:
- suspension for up to a maximum of two weeks without pay, or
 - permanent or temporary transfer to a different location, or to alternative employment, which may include demotion (with no protection of grade/salary).
- 11.10 **Additional Disciplinary Action** - as well as the disciplinary sanctions detailed above, the Chair of a disciplinary hearing may decide that, if relevant to the allegations, additional disciplinary action is also required:
- Some examples include:
- withdrawal of flexi-time facilities (e.g. for abuse of flexi-time privileges)
 - withdrawal of paid leave for attendance at college/professional qualification courses (e.g. for falsely claiming attendance).
 - Repayment for any loss or damage caused by the misconduct
- 11.11 An employee will be provided with written reason(s) for the decision to issue a formal warning or for the dismissal, normally within 5 working days.
- 11.12 An employee has the right of appeal against formal warnings and any dismissal. The appeal must be made within 10 working days of receipt of the letter confirming the sanction. An employee should state the specific reasons for his/her appeal i.e. whether it is against the finding that he/she committed the alleged misconduct and/or the level of disciplinary sanction.

12. Appeals

- 12.1 In normal circumstances the Appeal should be heard within 28 working days of the receipt of the written notification of the Appeal.
- 12.2 The written notification of appeal must be submitted within 10 working days of receipt of written notification of the letter confirming the outcome of the disciplinary hearing to the Chair of the Hearing.
- The employee's written notice of appeal should, where possible specify the basis upon which the appeal is being made, (and to save time should provide details of the employee's and representative's non availability to attend the appeal over the next month). Examples include:
 - the finding that he/she was guilty of committing the alleged act(s) of misconduct and/or;
 - the severity of the disciplinary action imposed; and/or,
 - the procedure was not followed.

- 12.3 In respect of an appeal against a dismissal, the right of appeal will be to the Appeals Committee and the panel will be advised by the Specialist Adviser - School Performance.
- 12.4 The employee will be given not less than ten working days notice in writing of the date, time, place and any other arrangements, of the Appeals Hearing.
- 12.5 The decision of the Appeals Hearing will be confirmed in writing to all parties within 5 working days of the decision being given verbally.
- 12.6 In either case, the appeal decision may confirm, overturn or reduce the decision to impose one of the disciplinary actions set out in Section 11 above.

13. Interpreting this policy

- 13.1 For advice and guidance on the interpretation of this policy, contact the Human Resources Advisory Service.

14. Monitoring

- 14.1 The Human Resources Advisory Service will collate anonymous diversity monitoring information regarding formal disciplinary cases and appeals lodged on a quarterly basis, in accordance with the Equality Act 2010.

Appendix 1

Examples of Gross Misconduct

The following list, not intended to be exhaustive, provides examples of what may be considered gross misconduct and which through the application of the Disciplinary Procedure could lead to an employee being dismissed from the school:

- Gross negligence in performing duties which causes or might cause unacceptable loss, damage or injury
- Physical violence, bullying or harassment;
- Deliberate and serious breach of safety rules and instructions
- Physical violence, bullying or harassment; including wilful assaults or fighting with fellow employees, clients or members of the public during working hours
- Any form of unlawful discrimination, victimisation, harassment and/or bullying on the grounds of sex, pregnancy, marital or civil partnership status, gender re-assignment, sexual orientation, race, colour, ethnic or national origin, religion or belief, disability or age;
- Misuse or unauthorised use of the school's computer systems/equipment e.g. e-mail and internet facilities, personal use, including contravention of the school's guidelines for acceptable use of the Internet
- Downloading and/or circulating inappropriate, offensive, defamatory and/or illegal material;
- Failure to protect confidential or sensitive information held on either portable devices or in paper format in transit, off site and/or at home.
- Using social media sites to post inappropriate or offensive material which could adversely impact on or damage the reputation of the school;
- Using social media sites to post information which could constitute a contempt of court, a breach of copyright, a breach of the Data Protection Act, the Human Rights Act, the Freedom of Information Act or the Regulation of Investigatory Powers Act;
- Fraud, theft or incitement to steal;
- Fraudulent timekeeping, abuse of leave entitlements, the school's sick pay scheme or similar procedure.
- Using or disclosing confidential, personal, secure or protected information obtained during the course of employment with school. This would include issues involving confidentiality breaches under the Data Protection Act 1998;
- Being under the influence of drugs or alcohol whilst at work, including being in possession, custody or control of illegal drugs on the school premises;
- Accepting or offering bribes under the Bribery Act 2010;
- Making false and misleading statements e.g. on application forms, at medical examinations, on medical questionnaires, at an accident investigation or as part of a disciplinary investigation;
- Deliberately disobeying a reasonable lawful contractual instruction from management or gross insubordination;
- Bringing the school into disrepute;
- Conduct outside the workplace which could result in a loss of trust;
- A criminal conviction which renders it unlawful for an employee to undertake the full range of duties as laid down in his/her job description or person specification e.g. the loss of a driving license where driving is a mandatory requirement of an employee's role;
- Serious misuse of the schools brand, name, premises, property, or equipment;
- Incitement to use, or actually using, physical violence on school premises or whilst working on behalf of the school;
- Bringing firearms or offensive weapons onto school premises.
- Malicious damage to school property

- Sexual misconduct whilst working or on school property or with any person in or under the schools care including professional misconduct or sexual offences. In particular this includes persons (defined under the Children's Act 1989 as being "in need") under the age of 21 years, and vulnerable adults
- Serious breach of the schools Code of Conduct for Employees
- Failure to declare an interest when involved in recruitment or similar activity where declaration of any interest is required.
- Smoking in non-designated areas of the school premises

Appendix 2

Examples of Misconduct

Frustration

The following is likely to result in the termination of the contract of employment on the grounds of frustration:

- Claiming false qualifications, or other material fact, age or previous experience, or good health essential for an appointment with the school;
- Failure to disclose a conviction detrimental to the performance of the employee's job (including a spent conviction) and any bind over order or caution if the employee's job involves access to children under 18 years or children under 21 years assessed as being "in need" under the Children's Act 1989.

Misconduct

- i) Unsatisfactory timekeeping
- ii) Absence without permission
- iii) Unsatisfactory standards of work not related to capability
- iv) Failure to follow recognised procedures, e.g. holiday and sickness notification
- v) Rudeness or incivility to clients, members of the public or fellow employees
- vi) Failure to protect information held on either portable devices or in paper format in transit, off site and/or at home

Appendix 3

Conduct of a Disciplinary Hearing

Preliminaries

- a) The employee will have been notified in writing of the allegation(s) and the right to representation.
- b) Those present will be as follows:
The disciplinary panel to hear the case
Investigating Officer - to present the case
Employee (and representative)
Witnesses called by either side (not in the room until called)

The following may be present if applicable
Director of Children, Young Peoples and Families representative- advisory capacity
Head teacher - advisory capacity
- c) The employee, representative and the investigating officer will enter the room together, when invited to do so.

The Hearing

1. A member of the disciplinary panel introduces all parties, and outlines the procedure.
2. The investigating officer presents the facts of the case and may call witnesses.

Questioning of witnesses proceeds in the following order

Investigating Officer questions the witness
Employee or Representative question the witness
Disciplinary Panel members may question the witness
Directors representative may question the witness

Witnesses leave the room at the conclusion of their evidence and examination.

3. The employee/representative may seek clarification from the investigating officer.
4. Members of the disciplinary panel and the Directors representative) may seek clarification from the investigating officer.
5. The employee/representative has the opportunity to respond and may call witnesses.

Questioning of witnesses proceeds in the following order

Employee or representative question the witness
Investigating Officer questions the witness
Disciplinary Panel members may question the witness
Directors' representative may question the witness

6. The investigating officer may seek clarification from the employee.
7. The disciplinary panel and the directors' representative may seek clarification from the employee.
8. The investigating officer sums up the management case (no new evidence may be introduced).
9. The employee/representative sums up (no new evidence may be introduced).
10. All retire from the room except the disciplinary panel and the Director's representative (and Head teacher if present in an advisory capacity).
11. The disciplinary panel consider the evidence and determine whether the allegation(s) are proven before considering any previous live disciplinary record. Only when considering what level of disciplinary action is appropriate should previous proven live disciplinary matters be taken into account.
12. Before reaching a decision, the disciplinary panel may recall the parties to clarify points and/or adjourn for further investigation if required.
13. The employee/representative and the investigating officer are invited to return and are informed of the decision and, in proven cases, the employee's right of appeal.
14. The decision and the right of appeal are confirmed in writing within 5 working days.

Appendix 4

Conduct of a Disciplinary Appeals Hearing

Preliminaries

- a) Those present will be as follows:
The appeal panel to hear the case
Investigating Officer & Chair of Disciplinary panel - to present the case for the disciplinary panel decision
Appellant (and representative) – to present the case for the appeal
Witnesses called by the appeals panel
- The following may be present if applicable
Director of Children, Young Peoples and Families representative- advisory capacity
Head teacher - advisory capacity
- b) The appellant, representative and the investigating officer will enter the room together, when invited to do so.

The Hearing

1. A member of the appeal panel introduces all parties, and outlines the procedure.
2. The appellant presents the grounds for the appeal and their case for overturning the original disciplinary decision.
3. Witnesses called by the appeal panel that originally gave evidence in support of the appellant are called at this point.

Questioning of witnesses proceeds in the following order

Investigating Officer or Chair of Disciplinary Panel (not both) question the witness

Appeal Panel members may question the witness

Directors' representative may question the witness

4. The Investigating Officer / Chair of Disciplinary Panel may seek clarification from the Appellant.
5. Members of the disciplinary panel and the Directors representative may seek clarification from the Appellant.
6. The Investigating officer / Chair of the disciplinary panel put forward the case for the disciplinary decision.
7. Witnesses called by the appeal panel that originally gave evidence in support of the investigating officers case are called at this point.

Questioning of witnesses proceeds in the following order

Appellant or representative (not both) question the witness

Appeal Panel members may question the witness

Directors' representative may question the witness .

8. The appellant or representative may seek clarification from the investigating officer / chair or the panel.
9. The appeal panel and the directors' representative may seek clarification from the investigating officer/ chair of disciplinary panel
10. The appellant or representative is afforded the opportunity to summarise their case (no new evidence may be introduced).
11. The investigating officer / chair of disciplinary panel sums up (no new evidence may be introduced).
12. All retire from the room except the appeals panel and the Director's representative (and Head teacher if present in an advisory capacity).
13. The appeals panel consider the evidence and determine whether to uphold the decision of the disciplinary panel and if so whether the level of disciplinary sanction was appropriate.
14. Before reaching a decision, the appeals panel may recall the parties to clarify points and/or adjourn for further investigation if required.
15. The employee/representative and the investigating officer / chair of disciplinary panel are invited to return and are informed of the decision. There is no further right of appeal.
16. The decision is confirmed in writing within 5 working days.

Record of document review and amendments		
Date	Amended by	Comments
Policy - September 2014		
September 2017	AS	Slight change to wording re action short of dismissal