

SHELTON INFANT SCHOOL

DISCIPLINE AND GRIEVANCE POLICY

DEFINITION

Disciplinary issues arise when problems of conduct or capability are identified by the employer and management seeks to address them through well recognised procedures.

In contrast, grievances are raised by individuals, bringing to management's attention concerns or complaints about their working environment, terms and conditions and work place relationships.

WHY HAVE DISCIPLINARY RULES AND PROCEDURES?

Disciplinary rules and procedures are necessary for promoting orderly employment relations as well as fairness and consistency in the treatment of individuals. They enable organisations to influence the conduct of employees, deal with problems of poor performance and attendance thereby assisting organisations to operate effectively. Rules set standards of conduct and performance at work; procedures help to ensure that the standards are adhered to and also provide a fair method of dealing with alleged failures to observe them. This policy will apply to all staff.

Employees will be made aware of the likely consequence of breaking disciplinary rules or failing to meet performance standards.

Gross misconduct, which may warrant summary dismissal, (ie dismissal without notice) will include the following:

1. Theft, fraud and deliberate falsification of records.
2. Physical violence.
3. Serious bullying or harassment.
4. Deliberate damage to property.
5. Serious subordination.
6. Misuse of the School's/Local Authority's property or name.
7. Bringing the School and/or Local Authority into serious disrepute.
8. Serious incapability whilst on duty brought on by alcohol or illegal drugs.
9. Serious negligence, which causes or might cause unacceptable loss, damage or injury.
10. Serious infringement of health and safety rules.
11. Serious breach of confidence (subject to Public Interest (Disclosure) Act 1998).

This list is not exhaustive. Summary dismissal is not necessarily synonymous with instant dismissal. Instances of gross misconduct will usually still need to be investigated as part of a formal procedure. Acts that constitute gross misconduct are those resulting in a serious breach of contractual terms.

In certain circumstances, eg in cases of gross misconduct, consideration will be given to suspension with pay whilst investigation is conducted. Suspension is not considered as a disciplinary action.

Disciplinary procedures are not viewed primarily as imposing sanctions, but are a way of helping and encouraging improvement amongst workers whose conduct or standard of work is unsatisfactory.

Employees will be informed in advance of any disciplinary hearing and of the allegations that are being made against them, together with the supporting evidence. Employees will be given the opportunity of challenging the allegations and evidence before decisions are reached. Employees will also be given the right of appeal against any decisions taken.

When a disciplinary matter arises, the Headteacher or Chair of Governors will first establish the facts promptly and, where appropriate, obtain statements from available witnesses, which will be kept as a record for later reference. Having investigated all the facts, the Headteacher or Chair of Governors will decide whether to take no further action, arrange informal coaching, issue an informal oral warning or arrange for the matter to be dealt with under the disciplinary procedure.

Informal oral warnings may be issued for minor cases of misconduct or poor performance and problems will be discussed with the objective of encouraging and helping employees to improve. Employees will be informed of what needs to be done, how performance and conduct will be reviewed and over what period of time. They will also be made aware of what action will be taken if they fail to improve either their performance or conduct. Informal warnings and/or coaching are not part of the formal disciplinary procedure. Where matters remain informal, the statutory right to be accompanied does not arise.

Where the facts of the case appear to call for formal disciplinary action, a formal procedure will be followed. A disciplinary hearing at which employees will have the opportunity to state their case and to answer allegations that have been made will be arranged at a mutually convenient time. In advance of the hearing the employee will be advised of any rights under the disciplinary procedure, including the statutory right to be accompanied.

Depending on the outcome of the procedure some form of disciplinary action may be taken as follows:

First warning

Oral - In the case of minor infringements the employee will be given a formal oral warning. Employees will be advised of the reason for the warning, that it constitutes the first step of the disciplinary procedure and of their right to appeal. A note of the oral warning will be kept but will be disregarded for disciplinary purposes after a period of six months.

Written - If the infringement is regarded as more serious, the employee will be given a formal written warning giving details of the complaint, the improvement or change in behaviour required, the timescale allowed for this and the right of appeal. The warning will also inform the employee that a final written warning may be considered if there is no sustained satisfactory improvement or change. A copy of the written warning will be kept on file but will be disregarded for disciplinary purposes after twelve months.

Final written warning - Where there is a failure to improve or change behaviour during the currency of a prior warning, or where the infringement is sufficiently serious, the employee will normally be given a final written warning. This will give details of the complaint, warn the employee that failure to improve or modify behaviour may lead to dismissal or to some other action short of dismissal and refer to the right of appeal. The final written warning will be disregarded for disciplinary purposes after twelve months.

Dismissal or other sanction - If the worker's conduct or performance still fails to improve the final step might be disciplinary suspension without pay (this will not exceed any period allowed by the contract of employment), demotion, loss of increment or dismissal.

The decision to dismiss will be taken only by the appropriate designated panel of Governors. The employee will be informed as soon as reasonably practicable of the reasons for the dismissal, the date on which the contract between parties will terminate, the appropriate period of notice (or pay in lieu of notice) and information on the right of appeal, including how to make the appeal and to whom. The decision to dismiss will be confirmed in writing. Employees with one year's continuous service or more have the right, on request, to have a "written statement of particulars of reasons for dismissal". The right to a written statement of reasons for dismissal applies automatically to employees dismissed while pregnant or during ordinary maternity leave without them having to request it.

When deciding whether a disciplinary penalty is appropriate and what form it should take, the need to act reasonably in all circumstances will be considered. Factors which might be relevant include, the extent to which standards have been breached, precedent, the employee's general record, position, length of service and special circumstances which might make it appropriate to adjust the severity of the penalty. Care will be taken not to discriminate on the grounds of race, gender or disability.

In the course of a disciplinary case an employee might raise a grievance about the behaviour of the manager handling the case. Where this happens, and depending upon the circumstances, it might be appropriate to suspend the disciplinary procedure for a short period until the grievance can be considered.

DEALING WITH ABSENCE

All staff absence is monitored by the LA. A distinction will be made between absences on the grounds of medically certified illness, both physical and mental, and those that may call for disciplinary action. The provisions of the Disability Discrimination Act 1995 and the obligation to make reasonable adjustments when dealing with sickness related absences, will be taken account of.

All unexpected absences will be investigated promptly and the employee asked to give an explanation. If, after investigation, it appears that there were no acceptable reasons for the absence the matter will be treated as a conduct issue and will be dealt with under the disciplinary procedure. The worker will be told of what improvements in attendance are expected and warned of the likely consequences if this does not happen.

Where the absence is due to medically certificated illness the issue becomes one of capability and the approach outlined in the school's Capability Policy will be followed.

DEALING WITH POOR PERFORMANCE

Individuals have a contractual responsibility to perform to a satisfactory level and should be given every help and encouragement to do so. Where employees are found to be failing to perform to the required standard the matter will be investigated before any action is taken.

Where the reason for the substandard performance is found to be a lack of the required skills, the employee will, wherever practicable, be assisted through training or coaching and given reasonable time to reach the required standard. Where the substandard performance is due to negligence or lack of application on the part of the employee then some form of disciplinary action will normally be appropriate.

Failures to perform to the required standard can either be dealt with through the normal disciplinary procedure or through the separate capability procedure as outlined in the school's Capability Policy.

An employee will not normally be dismissed because of failure to perform to the required standard unless warnings and an opportunity to improve (with reasonable targets and timescales) have been given. However, where an employee commits a single error due to negligence and the actual or potential consequences of that error are, or could be extremely serious, warning may not be appropriate. Summary dismissal action may be taken in such cases.

CRIMINAL CHARGES OR CONVICTIONS OUTSIDE EMPLOYMENT

These will not be regarded as automatic reasons for dismissal. The main consideration will be whether the offence is one that makes employees unsuitable for their type of work, especially contact with children.

APPEALS

Employees will have the opportunity to appeal against a disciplinary decision. Employees may raise appeals on a number of grounds which could include perceived unfairness of the judgement, the severity of the penalty, new evidence coming to light or procedural irregularities. These grounds will be considered when deciding the extent of any new investigation or re-hearing in order to remedy previous defects in the disciplinary process.

A time limit of five working days will be set within which appeals must be lodged. Appeals will be heard by the Appeals Committee of the Governing Body. Where new evidence arises during the appeal, the employee or their representative will be given the opportunity to comment before any action is taken. It may be appropriate to adjourn the appeal to investigate or consider such points.

The employee will be informed of the results of the appeal and the reasons for the decision as soon as possible and this must be confirmed in writing. If the decision constitutes the final stage of the appeal's procedure, this will be made clear to the employee.

Records

Records will be kept detailing the nature of any breach of disciplinary rules or unsatisfactory performance, the employee's defence or mitigation, the action taken and the reasons for it, whether an appeal was lodged, its outcome and any subsequent developments.

These records will be confidential and retained in accordance with the disciplinary procedure and the Data Protection Act 1998. Copies of any meeting records will be given to the individual concerned, although in certain circumstances some information may be withheld, eg to protect a witness.

GRIEVANCE PROCEDURES

A grievance procedure provides a mechanism for problems or concerns about work, the working environment or relationships to be addressed fairly and speedily before they develop into major problems and potentially collective disputes. In circumstances where a grievance may apply to more than one person and where a trade union is recognised, it may be appropriate for the problem to be resolved through collective agreements between the trade union and the employer.

Procedures

Most routine complaints and grievances are best resolved informally in discussion with the employee and the Headteacher. Where the grievance cannot be resolved informally it will be dealt with under the formal grievance procedure.

First stage

Employees put their grievance in writing to the Headteacher. (Where the grievance is against the Headteacher the matter will be raised with the Chair of Governors.) If the grievance is contested, the Headteacher will invite the employee to attend a hearing in order to discuss the grievance and will inform the employee of his/her statutory right to accompaniment.

The Headteacher will respond in writing to the grievance within five working days of the hearing or where no hearing has taken place within five working days of receiving written notice of the grievance. If it is not possible to respond within the specified time period, the employee should be given an explanation for the delay and informed of when a response can be expected.

Second stage

If the matter is not resolved at the first stage the employee will be permitted to raise the matter with the Chair of Governors. The Chair of Governors will arrange to hear the grievance within five working days and will inform the employee of the statutory right to be accompanied. Following the hearing, the Chair of Governors will respond to the grievance in writing within ten working days. If it is not possible to respond within the specified time, the employee will be given an explanation for the delay and informed of when a response can be expected.

Final stage

Where the matter cannot be resolved at the second stage, the employee will be able to raise their grievance in writing with the Governing Body. Employees will be able to present their case at a hearing and should be informed of their statutory right to accompaniment. The Governing Body will give a decision on the grievance within ten working days. If it is not possible to respond within the specified time period, the employee will be given an explanation and informed of when a response can be expected.

Records

Records will be kept detailing the nature of the grievance raised, the employer's response, any action taken and the reasons for taking action. These records will be confidential. Copies of any meeting records will be given to the individual concerned although in certain circumstances some information may be withheld, eg to protect a witness.

THE STATUTORY RIGHT TO BE ACCCOMPANIED AT DISCIPLINARY AND GRIEVANCE HEARINGS

Employees have the statutory right to be accompanied by a fellow worker or trade union official where they are required or invited by their employer to attend certain disciplinary or grievance hearings and when they make a reasonable request to be so accompanied.

Whether an employee has a statutory right to be accompanied at a disciplinary hearing will depend on the nature of the hearing. Employers often choose to deal with disciplinary problems in the first instance by means of an informal interview or coaching session. As long as the informal interview or coaching session does not result in a formal warning, it is not good practice for the employee to be accompanied, since matters at this stage are best resolved directly by the employee and manager concerned.

Equally, an investigation into the facts surrounding a disciplinary case must not extend into a disciplinary hearing. If it becomes clear during the course of the informal or investigative interview that formal disciplinary action may be needed, then the interview will be terminated and a formal hearing convened at which the employee will have the statutory right of accompaniment.

The statutory right of accompaniment applies specifically to hearings that could result in:

1. The administration of a formal warning to an employee by his employer.
2. The taking of some other action in respect of a worker by his employer eg. suspension, demotion or dismissal.
3. The confirmation of a warning issued or some other action taken.

The statutory right to accompaniment applies only to grievance hearings that concern the performance of a duty by an employer in relation to a worker. This means a legal duty arising from statute or common law (eg contractual commitments). In order for employees to exercise their statutory right to be accompanied, they must make a reasonable request to their employer.

An employee has a statutory right to be accompanied at a disciplinary or grievance hearing by a single companion. Usually this will be either:-

1. A fellow worker, ie another of the employer's employees.
2. An official employed by a trade union, or a lay trade union official, so long as they have been reasonably certified in writing by their union as having experience of, or as having received training in, acting as a worker's companion at disciplinary or grievance hearings.

Contractual rights to be accompanied by persons other than those listed eg legal representative will be considered.

There is no duty on a fellow worker or trade union representative to accept a request to accompany a worker and no pressure will be brought to bear on a person if they do not wish to act as a companion. Where the chosen companion cannot attend on the date proposed, the employee can offer an alternative time and date so long as it is reasonable and falls before the end of the period of five working days beginning with the first working day after the day proposed by the employer.

The chosen companion has the statutory right to address the hearing but no statutory right to answer questions on the worker's behalf.