# DISCIPLINARY PROCEDURE

## Date Adopted: November 2010

**History of most recent Policy changes**

| Review Date (every 5 years) | Review | Responsible |
|---|---|---|
| **June 2016** | **Originated Bristol City Council (Model Policy) Reviewed June 2016.** | **Finance Committee** |
| **November 2022** | | **Education Committee** |
| **September 2024** | **4.2 and 4.3** Clarification of Commissioning and Investigating Officers. | |
| | | |

**Review Date: September 2026**

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## DISCIPLINARY PROCEDURE

### 1. PRINCIPLES

1.1 The Disciplinary Procedure supports the Governing Body's standards and rules (including the Code of Conduct) and aims to ensure consistent and fair treatment for all. It is not there to deal with problems associated with unsatisfactory work performance arising from an employee's lack of capability.

1.2 The procedure applies to all employees except:

- support staff in their probationary period and
- newly qualified teachers or early career teachers

Disciplinary issues relating to such employees must be handled in a fair and equitable manner.

1.3 The Headteacher (or governors when appropriate) are responsible for operating this procedure and are able to issue disciplinary warnings. In any case where an outcome may be dismissal the dismissing officer will be the Headteacher or a panel of Governors. (See para 10 also)

1.4 The Governing Body is responsible for specifying the standards of behaviour required, enforcing the rules and ensuring that breaches are tackled promptly. They should give the implementation of the disciplinary procedure a high priority when they need to use it.

1.5 When this procedure applies to the Headteacher a nominated governor will be required to investigate any allegations. Where there is a case to answer a Panel of Governors shall be convened to consider the allegations and take disciplinary action.

1.6 Any case of potential misconduct should be treated on its merits.

1.7 Employees who abuse this, or any other procedure, by making malicious or frivolous allegations may face disciplinary action.

1.8 All parties involved in a disciplinary matter should treat the information which is the subject of the disciplinary investigation in strict confidence.

1 The law delegates dismissal decisions to one or more governors, the headteacher, or one or more governors and the headteacher. Governors should confirm in this policy, from their scheme of delegation, who has the authority to dismiss. Advice can be sought from STS – HR.

Information should not be shared with anyone who is not directly involved in these procedures. However those involved can discuss these matters with their representatives or advisers i.e. trade union officers, HR Advisers etc.

## 2. PROCEDURE

2.1 An employee who is subject to this procedure has the right to be:

- accompanied by a trade union representative or work colleague at the investigation stage; and
- represented by a trade union representative or work colleague at a disciplinary / appeal hearing.

The employee is responsible for arranging to be accompanied or represented.

2.2 An employee can be offered transfer to alternative employment in the school (including relegation to a post with less responsibility on a lower grade) as an alternative to dismissal, either as a result of a disciplinary hearing or on appeal, if this is considered appropriate.

2.3 If the employee concerned is a trade union steward or officer, the headteacher should inform the full-time trade union officer prior to commencement of this procedure.

2.4 No employee will be dismissed for their first breach of discipline, unless it is a case of gross misconduct.

## 3. SUSPENSION

3.1 The Headteacher or a nominated governor[2] should only suspend an employee if there is enough evidence to suggest that s/he may be guilty of gross misconduct or if the employee's presence at work could hinder the investigation. It must be made clear that suspension is not a disciplinary penalty and that it will not prejudice any future disciplinary hearing. The employee must be given the name of a person to contact while s/he is suspended.

[2] the law delegates suspension to the headteacher or the (any) governors. It is recommended that one or two governors are nominated to be the first point of contact to suspend should it be necessary, normally this will be the Chair of Governors and Chair of the Personnel Committee. Should for any reason another governor suspend a member of the school's staff then s/he should inform the nominated governor as soon as possible.

3.2 Gross misconduct is generally defined as misconduct serious enough to destroy the employment contract between the employer and the employee and to make any further working relationship and trust impossible. (See appendix to this procedure).

3.3 During the suspension, an employee will be paid the same as if s/ he were on authorised absence.

3.4 At frequent intervals, the heateacher and / or nominated governor should review whether an employee should stay suspended. Any suspension which extends beyond four working weeks must be reported to the Chair of Governors with details of how the investigation is progressing and when it is likely to end. Where any suspension continues for three months, the employee must be notified of the reasons for the suspension continuing and when it is likely to come to an end.

## 4. INVESTIGATION

4.1 Disciplinary action must not be taken before there has been an investigation into the circumstances.

4.2 Once the initial information has been received, the headteacher will act as the Commissioning Officer and will allocate an appropriate Investigating Officer (typically a senior leader with no connection to the allegation) to carry out a full investigation in order to conclude whether there is a case to answer for.

4.3 If there is evidence of misconduct – including gross misconduct - the Commissioning Officer will arrange a Disciplinary Hearing to determine what appropriate disciplinary action is to be taken. Only those with delegated responsibility for dismissal will consider any allegations of gross misconduct at a Disciplinary Hearing.

4.4 An employee must receive at least five working days' notice, in writing, of the requirement for him/her to attend any investigative meeting. The letter should also give him/her information about the allegations and his/her right to be accompanied by a trade union representative or work colleague.

4.5 Any investigation should be completed within four working weeks (unless there are exceptional circumstances).

## 5. CASES INVOLVING CHILD PROTECTION ISSUES, VULNERABLE ADULTS OR FINANCIAL IRREGULARITIES

5.1 Any complaint involving allegations relating to child protection issues must be referred to then Local Authority Designated Officer (LADO) and then

his/her advice must be considered before any investigation takes place under this procedure.

5.2 Any complaint involving vulnerable adults must be referred to the designated officer in the Health and Adult Social Care Directorate before any investigation takes place under this procedure.

5.3 The Local Authority's Chief Internal Auditor must be notified of any allegations or indications of any financial irregularities immediately. The results of the Audit investigations will form part of the conclusion and recommendation of the Investigatory report.

## 6. DISCIPLINARY HEARING

6.1 If the Investigating Officer concludes, following an investigation, that there is a case to answer, the Commissioning Officer will determine the most appropriate way to proceed. If necessary, the Commissioning Officer will convene a disciplinary hearing andthe employee will be notified in writing that a hearing will take place. The employee should be given at least five working days' notice of the hearing. The following information should also be included in the letter:

- a copy of the disciplinary procedure;
- the date and time of the hearing;
- details of the allegations;
- the fact that the employee will have the opportunity to state his/her case and question any witnesses;
- the right to invite a trade union representative or work colleague to represent them;
- any previous warnings that could be taken into account when deciding the level of any disciplinary action;
- the fact that, depending on its findings, the hearing could result in disciplinary action and (adding where appropriate) that this could include dismissal.

6.2 At a disciplinary hearing which may result in dismissal, a representative of the Local Authority (an HR Adviser) must be present to advise the Headteacher/Governor Panel.

6,3 Disciplinary action can be taken at any level from a recorded warning to dismissal, depending on the nature of the misconduct.

6.4 Where any issues to be considered fall under the Disciplinary Policy and another policy (e.g. Improving Performance Policy), one hearing

can be convened to hear all issues where appropriate. However, any sanction(s) should be in line with the appropriate policy(s).

## 7. RESULT OF HEARING - DISCIPLINARY ACTION

7.1 If, following an investigation and disciplinary hearing, the headteacher governor/s concludes that disciplinary action is required, the following options are available:

**Level 1: Recorded warning**

7.2 If the conduct concerned is unacceptable but not serious in nature, a recorded warning will normally be appropriate. (See paragraph 7.5 about written confirmation.)

**Level 2: Written warning**

7.3 If the offence is too serious for a recorded warning, or if there is further misconduct while a recorded warning remains in force, the headteacher/governors may determine to give the employee a written warning. (See paragraph 7.5 about written confirmation).

**Level 3: Final written warning**

7.4 If the misconduct is too serious for a written warning but not serious enough to warrant dismissal, or if there is further misconduct while a previous written warning remains in force, the headteacher /governors may determine to give the employee a final written warning. (See paragraph 7.5 about written confirmation).

**Written confirmation of warnings**

7.5 The headteacher/governors must give the employee written confirmation of any warning, within five working days together with an explanation of:

- the reason for the warning;
- whether it is a recorded, written or final warning;
- the employee's right of appeal (see paragraph 9);
- the fact that a note will be kept on their personal file indicating that a warning has been given, the reasons for it and any required improvements in conduct which have been specified;
- the fact that further misconduct may lead to further disciplinary action which could, where appropriate, include dismissal;
- the fact that the warning will be disregarded for further disciplinary purposes after the expiry of the time period.

**Level 4: Dismissal, and dismissal with offer of re-engagement**

7.6 If, following an investigation and disciplinary hearing, the Headteacher / Governor Panel is satisfied that an employee is guilty of gross misconduct, the determination can be made to dismiss the employee. The headteacher/Chair of the Governor Panel will confirm the determination to dismiss in writing, within five working days explaining the reasons for the dismissal and the employee's right of appeal. (See paragraph 9 and the appendix to this procedure concerning gross misconduct). Community schools must inform the Local Authority of the panel's decision and recommend to the Local Authority that the employee is dismissed[3]

OR

7.7 If, while a final written warning is still in force, the employee's conduct is still unsatisfactory, as determined by a subsequent investigation and disciplinary hearing, the headteacher/Governor Panel will determine to dismiss with contractual notice. The headteacher/Chair of the Disciplinary Panel will confirm the dismissal recommendation in writing within five working days, explaining the reasons for the dismissal and the employee's right of appeal. (See paragraph 9). The employee will receive full pay during the notice period. Community Schools must inform the LA of the panel's determination and recommend to the Authority that the employee is dismissed[3].

OR

7.8 If appropriate, the Headteahcer / Governor Panel may dismiss an employee on either of the above grounds and offer to re-employ them in a different job in the school. The alternative post should be identified when the employee is told the outcome of the disciplinary hearing and this may require the proceedings to be adjourned. The alternative post may mean relegation to a lower grade. No pay protection will apply. A final written warning will form part of such a disciplinary decision. If the employee refuses the offer of transfer / relegation, his/her dismissal will take place.

## 8. TIME LIMITS FOR WARNINGS

8.1 Unless there are exceptional circumstances, disciplinary warnings will be disregarded for disciplinary purposes once the following periods of time have elapsed since the warning was given:

- recorded warnings - 6 months

- written warnings - 1 year
- final written warnings - normally 1 year, such other time as is considered appropriate - see paragraph 8.2 below

8.2 Depending upon the nature of the misconduct, the headteacher or GovernorPanel may impose a final written warning that will remain in force for a period of greater than 1 year. In this event the employee must be told at the outset and in writing how long the warning will remain in force and the reason for the longer time period.

In exceptional circumstances (e.g. abuse against children and vulnerable adults), the written warning may be extended for as long as the employee concerned is employed in his/her current job or a similar job. If an employee considers that the extended time period is unreasonable, he or she may appeal to the Clerk to the Governors who will convene an Appeal Hearing.

8.3 Where disciplinary action relates to abuse against children, vulnerable adults, breaches of financial regulations or issues which relate to racial, sexual or disability discrimination, the relevant documentation should be retained on the employee's personal file until the employee reaches 65 years or 10 years which ever is the longer, but will not form part of any subsequent disciplinary action if it is time-expired.

8.4 In all other disciplinary actions the relevant documentation will be removed from the file and will be destroyed, with the exception of the letter to the employee which confirms the outcome of the disciplinary hearing. This letter will not, however, form part of any subsequent disciplinary action if it is time-expired.

## 9. APPEALS

9.1 An employee who wants to appeal against a disciplinary decision should inform the Clerk to the Governors within five working days of receiving the decision in writing. The employee must explain the grounds for the appeal, specifying whether it relates to:

- the facts of the matter,
- the level of sanction imposed or
- the way the procedure was followed.

9.2 The purpose of an appeal is:

- to review the decision taken by the disciplining manager/Governors' Disciplinary Panel;

- to consider whether the procedure has been followed correctly.

9.3 An appeal is a review of the decision of the headteacher/disciplinary panel. It is not a re-hearing. The outcomes open to the Appeal Panel are to:

- uphold the appeal;
- reject the appeal in full;
- reject the appeal in part and impose a lower level of warning;
- (exceptionally) reject the appeal and impose a higher level of warning up to and including a final written warning.

9.4 The headteacher/ Chair of Governors' Disciplinary Panel will present the case at any appeal against a disciplinary decision.

9.5 An appeal against any warning or dismissal will be heard by a Panel of three Governors who have not previously been involved in the case. The appeal will normally take place within six working weeks of the appeal request being received by the Clerk to the Governors.

9.6 At an Appeal Hearing against dismissal, a representative of the Local Authority will be present to advise the Governors who are hearing the appeal.

9.7 Where a decision has been taken to dismiss the employee the LA will be instructed to effect that dismissal on the terms issued (see paras 7.6, 7.7, 7.8).

## 10 WITHDRAWAL OF DELEGATION

In the event that the school's delegated authority is withdrawn, although this procedure will remain in place, the decision making authority for dismissal will return to the Local Authority in the place of the headteacher and governors. Appeals against dismissal will be heard by elected members

## APPENDIX - HANDLING GROSS MISCONDUCT

Some of the offences which may be regarded as gross misconduct include but are not limited to :

1. Theft: Stealing from the school, colleagues, pupils, Local Authority or any other party.
2. Fraud: Engaging in dishonest behaviour for personal gain, such as falsifying records or misusing school funds.
3. Violence: Physical assault or threatening behaviour towards colleagues, pupils, or others on school premises.
4. Serious Bullying or Harassment: Engaging in persistent bullying or harassment that violates the school's policies and creates a hostile environment.
5. Harassment or discrimination on the grounds of race, gender, sexuality, disability or any other protected characteristic.
6. Deliberate damage to school or fellow employee's property.
7. Substance Abuse: Being under the influence of drugs or alcohol while at work or using such substances on school premises.
8. Gross Negligence: Serious failure to perform duties that endangers the safety and wellbeing of pupils or staff.
9. Serious Breach of Confidentiality: Disclosing sensitive information about pupils, staff, or the school without proper authorisation.
10. Insubordination: Refusal to follow reasonable instructions from a superior or failure to comply with school policies.
11. Serious breach of the school's code of conduct.
12. Criminal Offences: Any criminal activity that impacts the employee's ability to perform their job or the reputation of the school.
13. Misuse of School Resources: Inappropriate use of school property, equipment, or technology for personal gain or non-school-related activities.

**The following definitions will be used when determining the outcome of an allegation of abuse by a member of staff:**

- **Substantiated:** There is sufficient evidence to prove the allegation
- **Malicious:** There is sufficient evidence to disprove the allegation and there has been a deliberate act to deceive or cause harm to the person subject of the allegation
- **False:** There is sufficient evidence to disprove the allegation
- **Unsubstantiated:** There is insufficient evidence to either prove or disprove the allegation
- **Unfounded**: There is no evidence or proper basis which supports the allegation being made