



**Our moral obligation is to help our children become successful learners, confident individuals and responsible citizens, and we believe that this policy overview for Staff Discipline will help us achieve this goal.**

**Section 1: Context**

This policy has been adopted from a model policy created by West Sussex County Council. We believe that at this point in time, adopting the model policy is the most effective and appropriate way of ensuring compliance both locally and nationally.





## DISCIPLINARY PROCEDURE STAFF POLICY

Section A: Disciplinary Policy

Section B: Procedures for the Governing Body

### Section A – the Disciplinary Policy

#### Aim of the Policy

The aim of this policy is to provide a clear procedure for managing issues of misconduct. This policy should be read in conjunction with the Guidance notes on the Disciplinary Policy.

#### Introduction to the Policy

##### Headteacher's Role

The Headteacher is responsible for the management and discipline of the school and for ensuring that all employees are aware of the standards expected of them and any rules applying to them.

The responsibility for initiating the procedure rests with the Headteacher of the school. It is expected that the Headteacher will take the lead in making disciplinary decisions for staff.

In the case of dismissal it is expected that in most situations it will be for Headteachers to take the lead in making initial dismissal decisions for staff, although in some circumstances, (e.g. a very small school) the governing body may choose not to delegate this authority.

##### Representatives from the Local Authority

The HR Management Advice Team can provide advice to Headteachers or Governing Bodies on any disciplinary matter. The School Governing Body may invite them to attend meetings at any point in the procedure.

Additionally, the Director of Operations, Learning, or his representative (usually an Advisor from HR Management Advice Team) has the right to attend all Dismissal and Dismissal Appeal meetings, in Community, Community Special, Voluntary Controlled and Maintained Nursery Schools, where they may ask questions during the meeting, and provide advice to the panel.

##### Headteacher Disciplinary Matters

The term employee includes the Headteacher. Specific details relating to Headteacher disciplinary procedure are given in *Italics*.

Disciplinary panels for Headteachers will be made up of representatives from the Governing Body. The procedure will be initiated by a representative from the Governing Body, (usually the Chair of Governors), following consultation with a representative from the Director of Operations, Learning, usually a Senior Officer from the Service.





The Director of Operations, Learning may send a representative to all disciplinary and appeal meetings involving Headteachers in Community, Community Special, Voluntary Controlled and Maintained Nursery Schools.

For Schools where the Governing Body is the direct employer (Voluntary Aided, Foundation and Foundation Special Schools), the Governing Body will nominate a suitable person to initiate Headteacher disciplinary matters, and they may invite a member from the HR Management Advice Team to attend any subsequent disciplinary and appeal meetings as an Adviser to the Panel.

### External Processes

Where at any stage in the procedure it has become necessary to refer matters to external parties (e.g. The Police) further proceedings at school level will be held in abeyance until the conclusion of these processes including any court/criminal proceedings.

### Guiding Principles Which Govern the Discipline Policy

- The school is committed to a consistent approach to disciplinary matters.
- The school is committed to a fair and transparent process.
- All disciplinary matters will be dealt with as promptly as possible to achieve a balance between timeliness and the need to ensure fair processes.
- Usually, the Informal Stage would be completed before proceeding to the Formal stage; and two written warnings would have been given before dismissal is contemplated.

### Right to Be Accompanied

Employees have the right to be accompanied at all formal stages of the procedure, including to Investigation meetings. This does not include a right to be accompanied to meetings in the Informal stage.

A Trade Union Representative can accompany employees to Suspension meetings, providing this can be arranged quickly.

The employee's companion can be:

- a work colleague,
- a full time Trade Union Official or
- an accredited Trade Union Representative.

In addition, if the employee is attending a Final Stage Disciplinary meeting, at which the employee might be dismissed, or at a Dismissal Appeal Meeting, the employee may bring a legal representative as their companion, for example, a solicitor.

In order to exercise their right to be accompanied, the employee must notify the Headteacher (*Clerk to the Governing Body*) the name of their companion before the meeting.

### The Informal Stage of the Procedure

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Cases of minor misconduct, for example, poor time keeping, are often best dealt with informally through supervision or through a “quiet word”. This approach can be effective in dealing with problems quickly and confidentially.

Where a Headteacher (*Chair of Governors*) has minor conduct concerns, they should speak to the employee informally about the issue. This is normally carried out as a meeting between the employee and the Headteacher, although it is possible to delegate this to the employee’s Line Manager or a member of the School’s Leadership team.

The Headteacher, or their representative, (*Chair of Governors*) should advise the employee of the following:

- Where the employee is falling short of expectations,
- How the employee’s conduct is expected to improve, and
- Timescale for improvement.
- Additionally, the Headteacher (*Chair of Governors*) can advise the employee that they are issuing them with a verbal or informal warning.

A written note of the meeting should be made and kept by the Headteacher (*Chair of Governors*), and a copy must be given to the employee. This should include the areas of discussion, the agreed action plan, and a timescale for improvement. The employee should be offered the opportunity to add their comments to the meeting note. An example proforma is available in the Guidance Notes.

There is no specific procedure for the employee to appeal or dispute the informal stage, although the employee does have recourse to the Grievance Procedure.  
For further details: please see the Guidance notes.

## The Formal Procedure

The formal discipline procedure should be invoked if there is:

- A recurrence of the behaviour, or an escalation to a more serious breach of conduct, OR
- A suspected serious breach of conduct.

### Investigation

Before carrying out any disciplinary action, it is necessary to undertake an investigation.

There are two types of investigation:

- A short, fact-finding investigation, which is carried out by the Headteacher, or another senior Manager from the school, which can serve as a preliminary to a full investigation.
- A full and formal Investigation, which is carried out by an Investigating Officer, appointed by the Headteacher. Their findings will be presented in a written report and given to the Headteacher, who will decide if there is a disciplinary case to answer.





- *In cases involving the Headteacher, the Representative from the Governing Body and the Director of Operations Learning will appoint an investigating officer. The Investigation Report will be given to them, and it is their role to decide if there is a disciplinary case to answer.*

The Guidance notes provide further information on the investigation procedure.

### **Outcome of the Investigation**

Following the conclusion of the Investigation, the employee will be notified of the next steps, in writing. The employee will be told either that:

- They are going to be invited to a formal disciplinary meeting (or some other formal procedure, eg Capability), and at what stage, or that:
- They are not subject to any further action under the Formal Stage of the procedure. In these circumstances, the Headteacher (*representative from the Governing Body*) should arrange to meet with the employee to enable the employee to understand the reasons why the matter is not being pursued. The Headteacher (*representative from the Governing Body*) may also like to consider if there is a need for any further, informal action, for example, a 'lessons learned' meeting.

### **Suspension**

In exceptional cases, where a serious breach of conduct is suspected, suspension may be appropriate.

- Suspension will always be on full pay and is a "neutral act" – ie an employee being suspended does not presume, or have an impact on, the outcome of an investigation or a disciplinary meeting.
- The period of suspension will vary, depending on the particular circumstances, from either two or three days while an investigation is carried out, to longer periods of time to enable a more lengthy investigative/disciplinary process.

In other cases, it may be possible for the employee to be granted paid leave ('garden leave') or to be given alternative duties, to enable them to remain in work, but to be removed from the duties or place of work, which is the subject of the investigation/disciplinary.

Suspension should be considered before an investigation begins, and it may be considered subsequently, during the investigation and/or disciplinary process. Periods of suspension should be reviewed in order to ensure that no employee is suspended for periods longer than necessary.

### **Prior To the Employee Being Suspended**

- Suspension from work can only be authorised by a Headteacher, who must inform the Chair of Governors. The Local Authority should also be informed immediately of any suspension.
- In cases where the Headteacher is to be suspended, *a representative from the Governing Body (usually the Chair of Governors) and a Senior Officer, on behalf of the Director of Operations, Learning*, will authorise the decision.
- Advice is available from the HR Management Advice Team.





## Meeting with the Employee

The Headteacher (*representative from the Governing Body (usually the Chair of Governors) and a Senior Officer, on behalf of the Director of Operations, Learning*) should meet with the employee in person to explain, in broad terms, the matters of concern. The employee may choose to respond at this time, and a Trade Union representative or some other Companion may accompany them, if one can be arranged quickly. Suspension will not be delayed because the Companion cannot attend.

The Headteacher (*representative from the Governing Body (usually the Chair of Governors) and a Senior Officer, on behalf of the Director of Operations, Learning*) will confirm the details of the suspension at the meeting, including providing the employee with the name and contact details of a Colleague to act as a point of contact between the employee and the school. Where appropriate the employee will also be provided with the name of a contact within the County Council

This information will be confirmed in writing, within 2 working days.

In exceptional circumstances, it is possible to suspend an employee in writing only, without holding a meeting. This would only be if there were compelling reasons, which meant that the employee was unable to attend the meeting (e.g. the employee being absent from school, in hospital or in police custody).

Further information is given in the Guidance notes.

## Roles and Responsibilities

At all stages in the policy, and as far as possible given the size of the establishment, different people will:

- Lead the investigation;
- Chair the disciplinary meeting, and
- Chair the appeal meeting.

The approach is set out below, and should only be deviated from where there are serious impracticalities (for example, someone being absent for a prolonged time) or because they are already involved in the case in some way.

In these situations, practical and sensible alternatives should be sought, in a timely way, which in no way offer less than the minimum levels of management set out below:

Stage	Investigation	Disciplinary chaired by:	Appeal heard by:
Stage 1	Short investigation – carried out by Headteacher / their representative <i>(representative from the Governing Body (usually the Chair of Governors) and a Senior Officer, on behalf of the Director of Operations, Learning)</i>	The Headteacher <i>(representative (s) from the Governing Body)</i>	A Panel of 3 Governors

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Stage 2	Short or Full investigation by appointed Investigator	The Headteacher (possibly with 1 Governor) ( <i>representative (s) from the Governing Body</i> )	A Panel of 3 Governors
Stage 3 / dismissal	Full investigation by appointed Investigator	The Headteacher plus at least 1 Governor ( <i>representative (s) from the Governing Body</i> )	A Panel of 3 Governors

In addition, the Headteacher (*representative from the Governing Body (usually the Chair of Governors) and a Senior Officer, on behalf of the Director of Operations, Learning*) will:

- Receive the Investigation Report, and decide if there is sufficient cause to bring forward a disciplinary meeting.
- Appoint a Contact Officer if the employee is suspended (see Suspension)

If it is not appropriate for the Headteacher to be involved in the Disciplinary – for example – if they have been previously involved in related discussions – they can appoint a representative to attend in their place.

### Disciplinary Stages and Potential Outcomes

It would be normal to work through the stages of this policy in sequence. However, in case of more serious misconduct, it may be appropriate to initiate the Policy at Stage Two, and in cases of suspected Gross Misconduct, at the Dismissal Stage.

The HR Management Advice Team will be able to provide advice on the appropriate stage to initiate the Policy.

Stage	Applies to	Outcomes
First Stage	Allegations of misconduct	Written warning – remaining on file for 6 months
Second Stage	More serious breaches of conduct/ or repetition of first stage misconduct	Final written warning – remaining on file for up to 2 academic years. Employee is warned that the next stage of procedure if invoked could lead to their dismissal.
Dismissal	Repetition of misconduct previously warned about or Gross misconduct	Possible sanctions: - Dismissal with notice - Dismissal without notice (in cases of gross misconduct) - A final written warning, remaining on file for up to 2 academic years.

Additionally, at all stages:

- The allegations may be rejected if it is considered that there is no case to answer.
- A lower level of warning (than the stage the procedure was entered at) may be issued, or

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- The matter may be referred to another procedure, if appropriate. (eg Capability)

## **First Formal Stage**

### **Notification of the Meeting**

The employee will be asked to attend a Disciplinary meeting. The employee will be given at least 5 working days notice of the disciplinary meeting. The letter will set out:

- The allegations of misconduct.
- The right to be accompanied by a companion.
- The time, date and venue for the meeting, including the process to request a change if the time is significantly impractical for the employee or their Companion to attend.
- The names of the people who will be present at the Disciplinary meeting, including those who will be called by management as a witness, and
- The stage in the procedure, and the potential sanction.

In addition, copies of the Investigation report, and any statements or documents about which the employee will be asked, should be included with the letter to the employee.

In order to exercise their right to be accompanied, the employee should notify the name and position of their companion. The employee should also provide copies of additional documentation that they wish to be considered and the names and job titles (where school employees) of any witnesses they are calling, no later than 3 working days before the meeting.

The employee may request a change of the date or time of the meeting if they, or their Companion, are unable to attend at the invited time. The employee may offer an alternative date and time, providing that it is within 5 days of the original meeting time.

### **Failure to Attend**

All parties should make every effort to attend the disciplinary meeting.

- If the employee fails to attend the meeting for reasons outside of their control, the meeting may be postponed and re-arranged. Usually only one postponement and re-arrangement will be agreed.
- If the employee refuses to attend, the meeting can be held without the employee present. The employee should be allowed to submit documents for consideration at the meeting.
- If the employee insists on a Companion being present who continues to be unavailable, and a suitable alternative companion is available, then the Chair of the meeting may decide to proceed with the meeting.

### **The Disciplinary Meeting**

At the meeting, the Disciplinary Chairperson will outline the alleged misconduct.

The first witness will be the Investigation Officer. They will provide a brief summary of their findings, and then the employee, their companion and the Disciplinary Chairperson/panel can ask questions of them.

They will be followed by any additional witnesses called by the Employer.

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The employee should also be allowed to present evidence and call, and question, witnesses, if they choose.

Further information about the disciplinary meeting, including the procedures to be followed and the role of the Companion, is covered in the supplementary Guidance notes.

Following the meeting, the Disciplinary Chairperson/Panel will adjourn briefly to consider all the information that they have heard, and decide whether to give the employee a written warning. The normal expectation for a Stage One warning to remain current on the employee's file is 6 months.

### **Notification of the Outcome**

If at all possible, the Disciplinary Chairperson will inform the employee of the outcome in person, and this will be followed by a letter within 5 working days of the decision being taken.

The letter will include:

- The nature of the allegations
- The findings of the Disciplinary Chairperson/Panel
- Details of any improvement, which is required of the employee.
- The decision of the Disciplinary Chairperson/Panel including the nature of the sanction (ie a written warning) and the length of time it will be kept on their personal file.
- The likely outcome if there is no improvement by the employee.
- The date of any review of the warning (if appropriate).
- The right to appeal against the decision.

The Chair of Governors must be informed of all written warnings issued, and the outcome of any appeal meetings.

### **Follow Up At the End of the Review Period**

The Headteacher (*representative from the Governing Body (usually the Chair of Governors) and a Senior Officer, on behalf of the Director of Operations, Learning*) will review the employee's conduct at the end of the review period. If there has been limited or no improvement, the Headteacher (*representative from the Governing Body (usually the Chair of Governors) and a Senior Officer, on behalf of the Director of Operations, Learning*) may decide to proceed to Stage Two.

If there has been sufficient improvement, a letter should be sent to the employee confirming this fact at the end of the review period.

### **Appeal Against A Stage One Warning**

An employee who wishes to appeal against their warning must do so in writing within 5 working days of receiving written notification of the warning.

In their letter, the employee must set out the grounds for their appeal, and this must be sent to the Clerk to the Governing Body, who will arrange for an Appeal to be heard.

The Appeal will be heard by a panel of 3 Governors, one of which will act as Chairperson.





At the appeal meeting, the employee will be asked to give their reasons for appeal. The meeting will focus on these "grounds" for appeal and will not be a re-hearing of the disciplinary.

Following a short adjournment to consider the employee's arguments, the Panel will invite the employee back into the meeting to confirm the outcome. This will be confirmed in writing to the employee within 5 working days.

The outcome of the Appeal meeting can be one of the following:

- To uphold the employee's appeal in full and revoke the warning that was awarded.
- Not to uphold the Appeal, in which circumstances, the warning will remain on file.
- To partially uphold an Appeal – whereby the Appeal panel may find certain grounds to concur with the employee. In these circumstances, the Appeal Panel may decide to reduce the length of the employee's warning, or reduce the level of the warning (for example, reduce a Stage 2 to a Stage 1 warning)

The Appeal Panel cannot increase the level of Warning given to the employee.

If it is not possible to reach a decision immediately following the Appeal meeting, the employee will be notified in writing within 5 days of the decision being taken.

Further information about the structure and format of the appeal meeting is given in the Guidance notes.

### **Stage Two of the Disciplinary Process**

Stage two of the procedure mirrors stage one, except as detailed below:

- If a warning is given following the Disciplinary meeting, it will remain current for a maximum of two academic years .
- This is the final warning stage within the Disciplinary procedure, and employees, when notified of a Stage Two warning, should also be advised that the next stage of the procedure, if invoked, is the dismissal stage.

### **The Appeal Process for Stage Two**

The appeal mirrors the process at stage one.

### **Third and Final Stage – Dismissal/Final Warning**

Stage three of the procedure mirrors stages one and two, except that the possible sanctions following a Dismissal stage meeting are:

- Dismissal with notice
- Dismissal without notice (summary dismissal for Gross misconduct)
- A final, formal warning
- A level one warning
- No further action

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As with other stages in the procedure, the employee may bring a companion to the Stage 3 meeting, which, for employees facing a possible sanction of dismissal, may be a legal representative, such as a solicitor.

### **Requesting An Appeal Against A Stage 3 Warning/Dismissal**

#### **a) Appeal Against A Stage 3 Warning**

If the employee wishes to lodge an Appeal against a warning, the format will follow that at other levels of the procedure.

The employee may be accompanied, as at other stages in the formal procedure.

#### **b) Appeal Against Dismissal**

If the employee is appealing a dismissal, the format will be a re-hearing of the case, and may involve witnesses attending.

The employee may be accompanied, as at other stages in the procedure, who, in addition to the categories of Companion outlined above, may also be a legal representative, for example, a solicitor.

For both types of Appeal, the employee must write to the Clerk to the Governing Body within 5 working days of receiving written notification of the outcome.

In their letter requesting an Appeal, the employee should cite their reasons for Appeal.

This is the final stage in the Disciplinary Procedure.

### **General Points**

#### **Timescales**

As a general rule, it is in all parties' interest for disciplinary matters to be dealt with promptly, and all those involved with a disciplinary matter have a responsibility in this regard.

In the associated Guidance document there are expected timescales given, in which it would normally be reasonable for a disciplinary meeting or investigation, to be carried out in.

Any changes to the timescales set out in the Policy will need to be agreed by all parties.

#### **Record Keeping**

Records of disciplinary matters should be treated as confidential and kept securely.

Notes will be made of all formal meetings held under the Disciplinary policy, (including Investigation meetings) and copies will be given to the employee for information. It is the responsibility of the Headteacher / Chairperson/Clerk to the Governing Body to arrange for a note taker.

In some limited circumstances, information may be withheld to protect the identity of a witness, for example, whistle blowing, severe harassment, safeguarding or criminal matters.





If any Safeguarding issues have arisen during the disciplinary, the documentation will need to be kept securely in accordance with Safeguarding Procedures.

## **Overlapping Procedures**

Where an employee raises a Grievance during the disciplinary process, that is relevant to the matter concerned, the disciplinary process can be temporarily held in abeyance until the outcome of the grievance is known.

However, where the two procedures are about related issues, it may be possible to deal with the two concurrently.

Where another procedural policy applies, such as the Sickness or Capability procedure, it may be possible to cover the essential elements of the procedures at a single meeting, with a view to minimising the number of letters and meetings required.

## **Trade Union Officials**

No action will be taken against an accredited Trade Union representative without prior discussion with a full time official of the Trade Union concerned, except in cases of Gross Misconduct where immediate action is required. In these cases, discussion with a full time Trade Union Representative will be undertaken as soon as possible afterwards.

## **Employees with Disabilities**

If an employee requires any reasonable adjustments to be made to enable them to fully participate in the process, they should notify their Line Manager as soon as possible (and providing a minimum 4 working days notice).

See the Guidance for further information.

## **Legal Framework**

### **Dismissal: Community, Voluntary Controlled, Community Special & Maintained Nursery Schools**

The role of the Headteacher and governors in the dismissal of an employee at a school with a delegated budget is determined by the School Staffing (England) Regulations 2009 which provides as follows:

- i) Where a Headteacher or governing body is to consider dismissing an employee, it must give him/her an opportunity to make representations (including oral representations) to the person(s) taking the decision, and it must have regard to any representations made;
- ii) If a determination is made to dismiss the employee, the Local Authority must be notified within 14 days, and they must issue notice of dismissal or terminate the contract without notice if entitled to do so by reason of the employee's conduct;





iii) The employee must be given the opportunity to appeal against the decision to dismiss. If the subsequent appeal reverses the dismissal decision, notice (or the dismissal itself, in cases of dismissal without notice) may be rescinded.

**NB** the governing body is required to approve procedures to implement (i) and (ii). The Local Authority procedures have been subject to consultation and are recommended for adoption.

### **Dismissal: Foundation, Voluntary Aided & Foundation Special Schools**

The School Staffing (England) Regulations 2009 provides that, for aided schools with delegated budgets, the governing body (delegated as appropriate) shall have power to appoint, suspend and dismiss staff as it thinks fit (in accordance with their Articles of Government).

