

Staff Discipline, Conduct and Grievance

Introduction

The Academy Council of this school is committed to ensuring that all staff at the school should be treated in a consistent, fair and sensitive manner. This approach requires that it should specify those aspects of misconduct which may warrant consideration under the terms of the School's disciplinary procedure.

This policy reflects the need for all staff to uphold and promote the school's ethos and aims. Where the conduct of a member of staff is perceived to be inconsistent with these, this could lead to disciplinary action. Equally the school provides opportunities for staff to improve and to raise their concerns if they feel they have been treated unfairly.

The Academy Council has a duty to establish disciplinary rules and procedures and to take such steps as are appropriate for making them known to staff. It is important that staff know the rules within which they are working and are provided with necessary training and support.

(Under the employment rights act 1996, all employers must provide employees with a note of the disciplinary rules applicable to them, and the person to whom they can apply if dissatisfied with a disciplinary decision.)

In addition, members of staff have the right to raise a grievance relating to their employment at the school. Effective support and supervision of staff should mean that the use of the disciplinary and grievance procedures is rare.

Where disciplinary action is used it must be applied fairly. If the circumstances merit it, the Principal or their representative must suspend the employee pending an investigation. Such circumstances could arise when:

- Pupils are at risk
- The employee needs protection
- There is a possibility of gross misconduct
- The reputation of the school may suffer

The disciplinary policy is quite distinct from capability procedures and from the performance management process.

In matters of capability or discipline the Academy Council should always seek professional advice

However reference should be made to the school's capability procedures and the school's policies on the curriculum, health and safety, performance management and equal opportunities.

Ultimately, both disciplinary action and capability proceedings can lead to dismissal. The Academy Council has to establish a Staff Dismissal Committee and a Dismissal Appeal Committee to handle this.

It is expected that, wherever possible, problems of indiscipline will initially be dealt with through informal counselling. Where such counselling has not led to the desired improvement or the matter is sufficiently serious to warrant immediate formal action, the disciplinary procedure will be operated.

DISCIPLINARY ISSUES

The lists below are those considered the focus of this policy. They are not exclusive or exhaustive and there may be other matters which are sufficiently serious to warrant categorisation and consideration as either 'misconduct' or 'gross misconduct'.

'Gross misconduct' occurs when the actions complained of are such that it is not feasible to tolerate the continued employment of the employee at the place of work whilst the matter is being investigated.

For the purpose of the disciplinary procedure, the terms 'misconduct' and 'gross misconduct' are also taken to include 'negligence' and 'gross negligence' where the occurrence amounts to a breach of contract.

Definitions

Misconduct which may warrant action under the appropriate stage of the disciplinary procedure includes;

- i. poor timekeeping or persistent lateness
- ii. unauthorized absence from work
- iii. unauthorized use of the school facilities including the internet
- iv. wilful failure to comply with a reasonable instruction from a member of senior management
- v. persistent minor breaches of health and safety requirements
- vi. foul or abusive language
- vii. sexual or racial harassment which is not sufficiently serious to fall into the category of 'gross misconduct'.

Gross misconduct which due to its nature may lead to suspension from post prior to consideration of dismissal includes;

- i. unauthorized removal of school property
- ii. serious sexual or racial harassment
- iii. offences of dishonesty
- iv. serious breaches of health and safety requirements
- v. sexual offences
- vi. serious criminal offences which undermine the employee's ability to perform his/her job
- vii. sexual misconduct at work
- viii. persistent wilful failure to comply with a reasonable instruction from a member of senior management
- ix. fighting
- x. physical assault
- xi. actions which bring the school into serious disrepute
- xii. drunkenness
- xiii. falsification of time sheets, subsistence and expenses claims etc.
- xiv. theft
- xv. malicious damage to the school's property

Issues relating to the use of the Staff Discipline Policy and the terms 'misconduct', 'gross misconduct', 'negligence' and 'gross negligence' may sometimes relate to complaints against staff and the separate Complaints procedure document may need to be read in conjunction with this policy

Procedure

Informal Warning

The Principal has a responsibility to give an informal warning at an early stage to a teacher who is giving cause for concern, with regard to conduct or capability and at the same time to provide such help and advice as may help the teacher to put things right.

Formal Oral Warning

Where the shortcoming persists, or possibly where a more serious issue arises, the Principal will issue a formal oral warning. This should be done in the presence of a senior member of staff. It must be made known that a record of the warning will be placed in their file and that a continued failure to improve may lead to the next phase of the disciplinary procedure.

Formal Written Warning

Where the shortcoming persists, or the issue warrants action at this disciplinary level, a further, similar interview will take place, conducted by a committee of the Academy Council or by the Principal, according to the nature of the shortcoming. This meeting will normally result in a formal written warning which will specify that, unless a satisfactory improvement takes place within a specified period, a final written warning will be issued or - again, depending on the procedure – dismissal procedures may be set up.

Dismissal Procedures

If a dismissal procedure is set up it will involve the appearance of the teacher concerned before the disciplinary committee. This will operate in accordance with agreed procedures, which must comply with the rules of natural justice and which will often be similar to those applicable in industrial tribunals.

GROSS MISCONDUCT

In the case of gross misconduct, it will be appropriate to bypass some of the above stages and move directly to the dismissal procedure. This may also be done in the case of gross incompetence.

SUSPENSION

In the event of emergency or allegation of misconduct, or for any other urgent cause, a member of staff may be suspended from duty. This is likely to be because of the following:

- 1) there is a criminal charge pending. The test of whether or not the member of staff should be suspended is: does the nature of the charge make it difficult for the teacher to carry out his or her duties pending the trial, or does his or her presence prejudice the necessary investigation?
- 2) there is no criminal charge, but the nature of the alleged offence suggests that pupils may be at risk or there is a real possibility of major disruption of staff relationships occurring.

The reason for the suspension and, if possible, its length should be clearly defined. The suspension, which should be on full pay, can be carried out by the Principal or the chair of the disciplinary committee.

Capability

The school has a separate policy and procedure for dealing with capability issues.

INVOLVEMENT OF THE PRINCIPAL

The Principal must withdraw from the meeting of the discipline committee and not vote on the matter:

- if, he or she has made allegations, or has been a witness of an alleged incident which causes the disciplinary committee to consider disciplinary action against an employee at the school
- where disciplinary action against him or herself is under consideration

The Principal need not necessarily withdraw while the dismissal of a member of staff is being considered. Natural justice requires, however, that if it is the Principal who has been involved previously in disciplinary action (e.g. suspension) against the employee he or she should withdraw while the disciplinary committee makes its decision.

The Principal will also withdraw from the meeting when his or her own conduct or continued employment at the school or appointment of a successor are discussed, except that he or she has the right, as others, to be heard when disciplinary action is being considered.

Where the disciplinary committee is considering a disciplinary charge against a member of staff or a pupil the Principal is entitled to be accompanied by a "friend" to advise on technical, legal or other matters relevant to the case but the "friend" may not address the governors direct.