



# All School Disciplinary Policy

## **Disciplinary Policy**

### Introduction

- 101 This policy statement and accompanying procedure have been developed for employees of the school who, in accordance with the Employment Rights Act 1996 and the Employment Act 2002, work under a contract of employment with Marden Bridge Middle School/North Tyneside Learning Trust/North Tyneside Council.
- 102 This Policy has been compiled in accordance with the requirements of appropriate statutory legislation as well as the ACAS Code of Practice and should be read in conjunction with the accompanying disciplinary procedure.

### Purpose & Scope

- 201 The purpose of this Disciplinary Policy is to ensure a change in an employee's conduct/behaviour to a level acceptable to the Governing Body. In this respect employees are reminded of the need to maintain agreed standards of conduct and behaviour and adhere to agreed policies and procedures within the establishment.
- To achieve these aims it is expected that concerns relating to conduct/behaviour can be resolved as quickly as possible in a fair and transparent manner and at an appropriate level within School.

### Principles of the Disciplinary Process

- 301 The Governing Body strongly support the view that this policy is not in itself a means for simply imposing sanctions against employees, rather it is a tool to ensure a fair and transparent method of investigating concerns and correcting unsatisfactory behaviour where this has been identified. Where possible, identified concerns will be managed through encouraging improvements in employees conduct/behaviour. In recognising this, the Governing Body wishes to encourage a working environment where minor concerns can be resolved informally, together with implementing more formal procedures when they become necessary in an objective manner, without undue delay.
- 302 To assist in this respect, a set of principles has been incorporated into this policy that will be followed when concerns relating to conduct/behaviour arise.
- Minor cases of misconduct will be dealt with on an informal basis, without reference to the formal Disciplinary Procedure. Where consideration is being given to invoking the formal procedure, no decision should be taken until advice has been obtained from the school Link HR Advisor.
  - Where concerns are made that conduct/behaviour appears unsatisfactory, no formal sanctions will be imposed under this policy until the case has been carefully investigated.
  - Where the outcome of an investigation identifies improvements required by the employee they will be informed of these in writing (e.g. an Action

Plan), together with the support to be provided, relevant timescales and the consequences of failing to improve.

- The level of formal sanction will be proportionate to the seriousness of the offence, having regard to the need for fairness, transparency and consistency of approach.
- Except for gross misconduct, dismissal will not be an option for consideration when dealing with a first breach of the formal Disciplinary Procedure.
- Where an individual has had involvement at a previous stage of an ongoing disciplinary case it will not be appropriate for them to be a member of the Hearing or Appeal Panel considering the case.
- Where the formal procedure has been invoked the Hearing/Appeal Panels, together with the appointed Investigating Officer will seek appropriate support from the HR Unit (schools).
- In addition to an employee having the right at every stage to be accompanied by a work colleague or trade union/professional association representative, they will have the right to be represented by a work colleague or trade union/professional association representative at any subsequent Hearing or Appeal.
- Any information obtained by the investigating officer, as part of the investigation, will be provided to the employee prior to any Disciplinary Hearing and/or Appeal, as appropriate.
- There will be a right of Appeal against any sanctions under the formal Disciplinary Procedure to a Panel of Governors.
- An appeal should not be used as an opportunity to punish the employee for appealing the original decision. To ensure this, the options for any Appeals Panel will not include an increase in the sanction as this may deter individuals from appealing.
- Where it becomes apparent that the matter is not one of discipline, but one of capability, then the Disciplinary process will stop at this point and the matter referred to the School Capability Policy & Procedure.
- That any decision reached will be based on evidence presented and is in line with good practice, particularly that advocated by the Advisory, Conciliation and Arbitration Service (ACAS) and taken without regard to a person's race, age, disability, gender, sexual orientation, gender identity, religion, marital status, belief or position within the school.

#### Application of this Policy

### *Employees*

- 401 This Policy applies to all employees of the Governing Body working at the School under the delegation arrangements contained within the Local Management of Schools Scheme under a contract of service or apprenticeship whether full-time, part-time, permanent or temporary. This policy does not apply to individuals based at the School under a contract for service/third party arrangements or individuals employed by the Council whose employment relationship is not directly managed by the School.

Where an individual is on a secondment/temporary assignment to another school, Local Authority or organisation, that organisation's Policies & Procedures will govern the employee's employment relationship.

Separate procedures may be referred to in cases where the employee is subject to a probationary period. Advice should be sought from the Schools' Link HR Advisor before proceeding in such cases.

### *Headteacher*

- 402 Where the Headteacher is the subject of concerns of a disciplinary nature, the implementation of this Policy & Procedure becomes the responsibility of the Chair of the Governing Body (or their designate); taking the role that otherwise would have been performed by the Headteacher. The Manager (or their designate) of the HR Unit (schools) will provide advice as appropriate.

### *Investigating Officer*

- 403 The Governing Body has delegated the responsibility for the appointment of an Investigating Officer<sup>1</sup> to the Headteacher (Chair of Governors where the concerns relate to the Headteacher). The Investigating Officer appointed may have prior knowledge of the allegation(s) to be investigated, for example those relating to performance, but will not be permitted to sit as a member of any Hearing/Appeal Panel appointed to consider the outcomes of the investigation. The investigating officer will receive advice and support via the School's Link HR Advisor.

### Suspension

- 501 Suspension is not disciplinary action and will be without prejudice and on full pay. The school recognises that though there is no assumption of guilt, this suspension from duty will be a traumatic experience for any employee and family and that other people may draw unwarranted inferences from the suspension.

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<sup>1</sup> The investigating officer will be at an appropriate level in relation to the employee under investigation. Where the Headteacher is the subject of investigation the investigating officer will be a member of the Governing Body with knowledge of staffing matters (e.g. member of the staffing committee) or an external investigator appointed by them. Advice should be sought from the school link HR Advisor as to who is deemed "appropriate" on a case-by-case basis.

- 502 It may be appropriate to suspend an employee pending investigation if:
- the alleged concerns appear to constitute gross misconduct; **or**
  - there are sufficient grounds for doubt as to the suitability of the employee to continue at work , for example (this is not an exhaustive list):
    - concern that the employee could interfere with the fact finding investigation; **or**
    - that other employees or service users could be at risk; **or**
    - there are pending criminal investigations, or proceedings

The decision to suspend will only be reached after consideration of alternatives such as working from a different workplace or undertaking alternative duties. Any proposal to suspend an employee will be discussed with the school Link HR Advisor, outlining reasons why alternatives to suspension are not feasible, prior to any implementation. In such circumstances, the Governing Body and Headteacher both have power to suspend.

- 503 When exercising this power the Headteacher will, where feasible, meet with the employee concerned<sup>2</sup>. The employee will also be reminded not to make contact with any other colleague or work-related individuals to discuss the matter to be investigated and not to visit school until the investigating officer has completed their own investigations. Where requested by the employee or their representative, the timing and arrangements for access to witnesses will be confirmed with the investigating officer.
- 504 The action of suspension will be followed up in writing within a maximum of two (2) standard working days of the suspension outlining the alternatives to suspension that were considered and confirming the reasons for the decision to suspend. Reference will be made of the option to contact their trade union/professional association representative for advice and support.
- 505 Any suspension of an employee of the School can only be lifted with agreement of the Chair of Governors (acting on behalf of the Governing Body) following discussion with the school Link HR Advisor. Where the Chair of Governors is unavailable this responsibility will fall upon the Vice Chair of Governors for action.

#### Confidentiality

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<sup>2</sup> Where there is a need to suspend the Headteacher, this will be undertaken by the Chair of Governors following discussion with the Head of the HR Unit (Schools) or their designate.

601 Any employee who is subject to this Disciplinary Policy & Procedure or those taking part in the proceedings will maintain confidentiality in accordance with this document. Any breach of confidentiality may be deemed a potential disciplinary act within the terms of this policy.

#### Support for Employees

701 An employee will be informed at every stage of the procedure, of their right to be accompanied by a work colleague or trade union/professional association representative. In addition, they will have the right to be represented by a work colleague or trade union/professional association representative at any subsequent Hearing or Appeal.

702 In cases of conduct/behaviour it is important that consideration be given to appropriate additional support – for example through a supportive interview action plan. Should the School feel that they do not have such resources available or require further information on how this role should operate they should contact their school Link HR Advisor who will be able to provide advice and guidance on how this support may be provided.

703 It is the responsibility of the Investigating Officer, where formal procedures have been invoked, to ensure that regular updates are provided to the employee on progress of the investigation where appropriate.

#### Meetings, Hearings & Appeals

801 Such persons or panel members as designated by the Governing Body's Standing Orders will carry out their official duties at all Hearings and Appeals under this Policy & Procedure and in accordance with relevant statutory requirements. Advice will be sought from the appropriate service provider, such as Governor Services or the HR Unit (schools) as necessary, to ensure compliance with these requirements.

802 It is acknowledged that a Disciplinary process is a difficult time for all parties. Hearings and Appeals must be conducted in a manner that enables all parties to explain their views.

803 All parties being involved in a Disciplinary Process at any stage are required to act in accordance with the principles outlined within this document.

804 The investigating officer will have the right to be supported, for example, by a link school HR Advisor or another management colleague.

#### Imposition of Sanctions

901 The following sanctions are available to the panel for consideration, having taken into account the severity of the matter in question and relevant mitigation.

- Verbal warning – where there is a failure to improve or change conduct/behaviour in the timescale set or where the matter is sufficiently serious, the employee may be given a formal verbal warning. A formal verbal warning will be removed for disciplinary purposes after a period of 6 months.
- Written warning - where there is a failure to improve or change conduct/behaviour in the timescale set or where the matter is sufficiently serious, the employee may be given a formal written warning. A formal written warning will be removed for disciplinary purposes after a period of 12 months.
- Final written warning - where there is a failure to improve or change conduct/behaviour in the timescale set or where the matter is sufficiently serious, the employee may be given a formal final written warning. A formal final written warning will be removed for disciplinary purposes after a period of 18 months.
- Dismissal - where there is a failure to improve or change conduct/behaviour in the timescale set or where the matter is sufficiently serious, the employee may be dismissed<sup>3</sup> with appropriate notice.
- Gross Misconduct Dismissal – where a decision is reached to dismiss this will always be with immediate effect and without notice.

902 Where the time limits of a sanction have expired arrangements will be made for its removal from the personnel file.

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<sup>3</sup> Panels are reminded that after advice from the supporting HR Advisor and in exceptional circumstances they may also wish to consider alternatives to dismissal, this could include disciplinary transfer, disciplinary suspension without pay, demotion, loss of seniority or loss of increment. In the event that this did occur the Panels decision will be confirmed in writing to the employee and will remain on their personal file.