

MILTON PARK PRIMARY SCHOOL



DISCIPLINARY POLICY AND PROCEDURE

Approved: March 2016
Review Date: September 2017

Aims and Objectives

The purpose of this Disciplinary Procedure is to assist the school in dealing fairly and consistently with disciplinary issues, and to ensure that staff are aware of the process for handling such matters.

This procedure does not apply to support staff during probationary periods, nor does it apply to sickness absence (which is covered in the Policy and Procedure for Managing Attendance) or performance matters (which are covered in the Appraisal and Capability Policy for both teaching and support staff).

General Principles

At our discretion, we may choose to deal with minor instances of misconduct informally by way of counselling, guidance or instruction or informal cautioning. If a problem continues, or we judge it to be sufficiently serious, the following procedure will apply.

Before making any formal disciplinary decision under this procedure we will carry out the following steps:

- We will carry out a prompt investigation. We will inform you whether any meeting you are asked to attend is investigatory or disciplinary. In serious cases, where practicable, different people should carry out the investigation and the disciplinary hearing.
- We will give you or send you a letter setting out the complaint made against you and inform you of the possible outcomes of the disciplinary hearing. Also included will be relevant evidence which may, where appropriate, include witness statements. The letter will inform you that you must attend a disciplinary hearing to discuss the matter and will confirm the time, date and location of that meeting. The letter will also tell you that you have the right to be accompanied at the disciplinary hearing (see section entitled Conduct of Meetings under the Procedure Including Appeals below). If you do not understand the letter, you should ask the School Business Manager for an explanation.
- We will give you, together with any permitted person that you may choose as a companion, reasonable time to prepare your response.
- With the exception of allegations relating to the safeguarding of children and vulnerable adults, allegations that are made anonymously may not be investigated.

- In the event that either an overt or anonymous allegation is received that relates to the safeguarding of children and vulnerable adults, the Local Authority Designated Officer (LADO) for Child Protection will be contacted immediately for advice.
- At the hearing we will explain the school's case and give you the opportunity to put your case in respect of the allegations made against you.

You have the right to appeal against any formal action taken against you under the procedure. See Appeals below.

Depending on the seriousness of the misconduct, or your disciplinary record as a whole, Level 1 or Level 2 of the procedure may be omitted.

Depending on the circumstances, it may be appropriate to suspend you from work on full pay in order that the investigation can take place. Suspension on full pay does not amount to a disciplinary sanction.

We have other policies relevant to disciplinary matters, including but not limited to:

- Anti Bullying Policy
- Health and Safety Policy
- Whistleblowing Policy
- Confidentiality Policy
- Data Protection Policy
- Social Networking Policy
- Staff Code of Conduct

This Disciplinary Procedure should be understood as incorporating provisions relating to discipline in any other school policies.

Each stage of this procedure will be carried out without unreasonable delay.

We will keep records of any action taken under these disciplinary procedures. Wherever possible, these records will be treated as confidential.

Gross Misconduct

The following are examples of behaviour which fall within the definition of 'gross misconduct':

- refusal to accept and act on reasonable instructions from your line manager or Headteacher
- serious negligence that could or does result in unacceptable loss, damage or injury to school or customer property
- fighting, assault or threatening or bullying behaviour

- theft, fraud, accepting or offering a bribe, falsification of school records or any dishonesty involving the school, its employees, students or authorised visitors, or attempts to commit such offences
- deliberate and serious breach of any of our school policies
- deliberate or reckless damage to property belonging to the school, its employees, students, or authorised visitors
- being unfit to work due to misuse of alcohol or illegal drugs
- unauthorised disclosure of confidential information
- any action likely to endanger seriously the health and safety of any employee (including yourself), student or any other person
- any action or behaviour which could seriously damage the school's reputation
- deliberately accessing Internet sites containing pornographic, offensive or obscene material

The above list is not exhaustive. It illustrates the type of conduct that will normally merit dismissal for a first offence. Other types of offence, such as harassment, deliberate unlawful discrimination or computer misuse, may also be treated as gross misconduct, depending on the seriousness of the particular facts.

Following investigation and a disciplinary hearing, if we are satisfied that you have committed gross misconduct we will be entitled to dismiss you without notice or payment in lieu of notice.

Conduct of Meetings Under the Procedure Including Appeals

All disciplinary meetings, including appeals, will be held at a reasonable time and place. If you are invited to attend a disciplinary meeting you must take all reasonable steps to attend. If, without good cause, you are persistently unable or unwilling to attend, we will hear the matter in your absence and make a decision based on the evidence available to us.

An appropriate level of management and/or governors (or sub committees of governors) together with a representative of HR, if needed, will conduct hearings. At the meeting, the manager or member of the governors' panel will explain the role of all those in attendance. That person will then explain the case against you and go through the evidence that has been gathered. You will be given the opportunity to respond in full. This will include time to ask questions and present evidence. If you intend to call any witnesses, you must give us advance written notice that you intend to do this.

The Governing Body agrees to notify the school's professional advisers and the relevant Trade Union Regional Officer before any formal disciplinary action is taken

in respect of a Trade Union Representative and agrees to notify the school's professional advisers where suspension is being considered.

If any matters come to light during a disciplinary meeting which require further investigation, we may, at our discretion, adjourn a disciplinary meeting to enable us to investigate them.

Right to be Accompanied at Formal Hearings

In any formal disciplinary hearings under the procedure, including appeals, you have a statutory right to make a reasonable request to be accompanied by a fellow worker or trade union official of your choice. Your companion may address the hearing to put your case, sum up your case or respond on your behalf to any view expressed at the hearing. He or she may confer with you during the hearing but does not have the right to answer questions on your behalf or address the hearing if you do not want him or her to do so, or prevent anyone, including you, from making his or her contribution to the hearing.

Warnings and Dismissal

Level 1: First written warning

We may issue a first written warning if your conduct does not meet the school's standards.

A first written warning will normally be issued by your immediate manager or a nominated deputy. Where, at the conclusion of the disciplinary hearing, we decide to issue such a warning, you will be informed of the following:

- The nature of the misconduct that has led to the warning.
- That it is the first stage of the school's disciplinary procedure.
- The action or improvement (if any) which is required of you.
- If appropriate, the timescale for taking any such action.
- The consequences if there is further misconduct.
- When the warning will cease to have effect, subject to satisfactory conduct. This will normally be after six months but a longer period may be stated in exceptional cases.
- The right of appeal.

All these matters will be confirmed to you in writing.

Level 2: Second written warning

We may issue a second written warning if:

- The required improvement is not achieved within the timescale stated in the first warning.
- Further misconduct occurs while a first written warning is still in effect, whether or not involving a repetition of the conduct which was the subject of the first warning.
- The seriousness of the misconduct merits it, regardless of whether or not a first written warning has already been issued.

A second written warning will normally be issued by your immediate manager or a nominated deputy. Where, at the conclusion of the disciplinary meeting, we decide to issue a second written warning, you will be informed of the following:

- The nature of the misconduct that has led to the warning, including any prior warning(s) which have been taken into account.
- That it is the second stage of the school's disciplinary procedure.
- The action or improvement (if any) which is required of you.
- If appropriate, the timescale for taking any such action.
- The consequences of further misconduct, which could be a final written warning.
- When the warning will cease to have effect, subject to satisfactory conduct. This will normally be after twelve months but a longer period may be stated in exceptional cases.
- The right of appeal.

All these matters will be confirmed to you in writing.

Level 3: Final written warning

We may issue a final written warning if:

- The required improvement is not achieved within the timescale stated in the second written warning.
- Further misconduct occurs while a Level 2 warning is still in effect, whether or not involving a repetition of the conduct which was the subject of a previous warning.
- The seriousness of the misconduct merits it, regardless of whether we have issued any previous warnings.

A final warning will normally be issued by a Line Manager or other senior manager or a nominated deputy. As with Level 1 and Level 2 warnings, where, at the conclusion of the disciplinary meeting, we decide to issue a final written warning, you will be informed of the following:

- The nature of the misconduct that has led to the final warning, including any prior warning(s) which have been taken into account.
- The action or improvement (if any) which is required of you.
- If appropriate, the timescale for implementing any such action.
- The fact that this is a final warning and that the next stage of the procedure will be dismissal.
- When the warning will cease to have effect, subject to satisfactory conduct. This will normally be after twelve months but a longer period may be stated in exceptional cases.
- The right of appeal.

All these matters will be confirmed to you in writing.

In cases involving a breach of discipline or management concern relating to any of the circumstances outlined within Section 17 of the Policy – Protection of Vulnerable Groups, the disciplinary sanction, whilst becoming spent following a period of 6 months, 12 months or 2 years should not be removed from your file but rather should be retained on your file until you retire or for 10 years if that is longer, in case it may need to be accessed in the event of any future acts of related misconduct or in providing a reference.

Dismissal

Ordinarily a panel of Governors (wholly, or in equal partnership with school staff), will consider matters with the potential for dismissal.

We may dismiss you if:

- The required improvement is not achieved within the timescale stated in the final written warning.
- Further misconduct occurs while a final written warning is still in effect, whether or not involving a repetition of the conduct which was the subject of a previous warning.
- It is reasonably believed that you have committed an act of gross misconduct.

Unless dismissal is for gross misconduct, you will be dismissed with notice.

You will be dismissed only after you have received a written invitation to a disciplinary hearing and the hearing has been held. If the manager decides to dismiss you, as soon as is reasonably practicable after the end of the disciplinary meeting, he or she will:

- state the reason for your dismissal
- state, where applicable, the length of notice you are being given
- state the date on which your employment will terminate
- inform you of your right to appeal

These matters will be confirmed in writing.

In exceptional circumstances, we may seek your agreement to a transfer, demotion or suspension without pay instead of dismissal. If you are transferred, demoted or suspended without pay, we may also give you a final warning.

Appeals

If you are dissatisfied with a disciplinary decision that has been taken about you, you can appeal against that decision.

Appeals should be in writing, setting out the reasons for the appeal, and should be delivered to the Headteacher or School Business Manager within five working days of the disciplinary decision. We will then invite you to an appeal meeting which will normally take place within five working days of receipt of your appeal. The appeal meeting may take place after the disciplinary decision has taken effect. If you are appealing against dismissal and your appeal is upheld, you will normally be treated as having continued in employment pending the hearing of the appeal and will be reinstated with back pay. However, if your appeal is not successful, the original date of your dismissal will stand.

You have the right to be accompanied to an appeal.

Wherever possible, your appeal will be heard by someone more senior or a differently constituted panel of governors than the person/panel who took the decision to take disciplinary action against you. We will tell you promptly of the outcome of the appeal, wherever possible within three working days of the hearing and confirm it in writing. The decision is final.

MISCELLANEOUS PROVISIONS

Records

Records of Disciplinary Hearings and Disciplinary Appeal Hearings will be kept detailing:

- the nature of any allegations

- the employee's defence or mitigation
- the action taken and the reasons for it
- whether an appeal was lodged, and its outcome
- any subsequent developments.

These records will be kept confidential and retained in accordance with the Data Protection Act and Freedom of Information Act, which require the release of certain data to individuals on their request.

Disciplinary sanctions will remain active on an employee's personal file for the period outlined in the written confirmation of the sanction. If the school receives a reference request during the period when a disciplinary sanction is still active this will be disclosed. If the applicant has been subject to disciplinary procedures involving issues related to the safety and welfare of children or young people, including any in which the disciplinary sanction has expired, this will be disclosed together with the outcome of the procedure.

Details of any allegations or concerns that have been raised about the applicant that relate to the safety and welfare of children or young people or behaviour towards children or young people, and the outcome of those concerns, eg whether the allegations or concerns were investigated, the conclusion reached, and how the matter was resolved will also be disclosed.

Confidentiality should be maintained during all stages and throughout the Disciplinary Procedure. This is to be done by ensuring that only those people who need to know through the course of their duties have access to the details of the case. Failure to comply with this requirement may lead to disciplinary action being taken through this Procedure.

Access to Information by Employees

Employees who are absent from the workplace and who are the subject of disciplinary proceedings may themselves want to access information to form their defence against the allegations against them. Such requests will need to be put in writing to the Headteacher or representative, who will then arrange a convenient time and place for the employee to access the information required, providing that the request is reasonable.

Files/computers/laptops/mobile phones cannot be removed from school, however copies of documents and printouts of emails, for example, may be provided if appropriate.

Criminal Conduct

Employees are required to inform their Headteacher or representative in the event of being cautioned or arrested on suspicion of a criminal offence, whether the offence is committed during the course of employment or outside employment. Failure to comply with this requirement may be regarded as gross misconduct and may lead to summary dismissal.

Financial Irregularities

The Council's Internal Audit Service must be notified at the earliest opportunity where allegations of misconduct or criminal act concern financial irregularities. The Anti-Fraud and Corruption Policy may apply. Whether or not it does, the Disciplinary Procedure will be followed if the employee's conduct is found, upon investigation, to be unsatisfactory. In these circumstances, an internal audit may be carried out. The information gathered as part of an internal audit investigation may be used as evidence within the disciplinary proceedings.