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Disciplinary Policy and Procedure

1. **SCOPE**

Due to the nature of the work undertaken at the School, it is imperative that our pupils see all School employees acting in an exemplary manner at all times. Our role is to promote and encourage good behaviour and hard work. Therefore, all employees need to appreciate that, where School pupils witness or perceive misconduct and poor performance to have been undertaken by School employees, this can have a direct and damaging effect on the pupils and their development. To this end, the School expects its employees to lead by example.

This policy sets out how the School will deal with performance or conduct issues. It also sets out examples of behaviour or standards it expects all employees to comply with.

This policy does not apply to employees in the first 24 months of service, save that all employees are expected to maintain the standards of conduct, behaviour and performance set out in the Staff and Behaviour Policy and sections “Misconduct” and “Gross Misconduct” below.

This policy does not form part of your contract of employment and it may be amended at any time. The School may also vary this procedure, including any time limits, as appropriate in any case.

1. **THE INFORMAL DISCIPLINARY PROCESS**

Wherever possible, the School will approach you, on an informal basis, if you have failed to comply with this disciplinary procedure and will encourage you to improve. Where appropriate, a note of any such informal discussions may be placed on your personnel file but will be ignored for the purposes of any future disciplinary hearings. In some cases an informal verbal warning may be given, which will not form part of your disciplinary records. However, this will not be appropriate in all cases and the School may, at its discretion, progress straight to the Formal Disciplinary Process without prior informal warning.

If you have difficulty at any stage of the procedure because of a disability, you should discuss the situation with an appropriate representative as soon as possible.

1. **CONFIDENTIALITY**

The School's aim is to deal with disciplinary matters sensitively and with due respect for the privacy of any individuals involved. All employees must treat as confidential any information communicated to them in connection with an investigation or disciplinary matter.

You, and anyone accompanying you (including witnesses), must not make electronic recordings of any meetings or hearings conducted under this procedure.

You will normally be told the names of any witnesses whose evidence is relevant to disciplinary proceedings against you, unless the School believes that a witness' identity should remain confidential.

1. **SUSPENSION**

In some circumstances the School may need to suspend you from work. The suspension will be for no longer than is necessary to investigate any allegations of misconduct against you or so long as is otherwise reasonable while any disciplinary procedure against you is outstanding. The School will confirm the arrangements to you in writing. While suspended you should not visit our premises or contact any pupils or employees unless you have been authorised to do so by a member of the Senior Management Team.

Suspension of this kind is not a disciplinary penalty and does not imply that any decision has already been made about the allegations. You will continue to receive your full salary and benefits during the period of suspension

1. **THE FORMAL DISCIPLINARY PROCESS**

Where the Formal Disciplinary Process has been invoked, the School will usually undertake an investigation first to establish the facts. The amount of investigation required will depend on the nature of the allegations and will vary from case to case. It may involve interviewing and taking statements from you and any witnesses, and/or reviewing relevant documents.

You do not normally have the right to bring a representative to an investigative interview. However, the School may allow you to bring a representative in exceptional circumstances.

You must co-operate fully and promptly in any investigation. This will include informing the School of the names of any relevant witnesses, disclosing any relevant documents to the School and attending investigative interviews if required.

Following the investigation meeting (where applicable), if the School wishes to progress with the disciplinary process, you will be invited to a disciplinary hearing to discuss the allegations against you.

The School will inform you in writing of the allegations against you, the basis for those allegations, and what the likely range of consequences will be if the School decides after the hearing that the allegations are true. The School will also include the following where appropriate:

* a summary of relevant information gathered during the investigation;
* a copy of any relevant documents which will be used at the disciplinary hearing; and
* a copy of any relevant witness statements, except where a witness' identity is to be kept confidential, in which case the School will give you as much information as possible while maintaining confidentiality.

The School will give you written notice of the date, time and place of the disciplinary hearing. The hearing will be held as soon as reasonably practicable, but you will be given a reasonable amount of time to prepare your case based on the information we have given you.

During the disciplinary hearing, you may ask questions, call relevant witnesses and be accompanied by a representative (please refer to “Employee Representatives” paragraph below).

The School will inform you in writing of the decision and the reasons for it as soon as reasonably practicable of the disciplinary hearing. Where possible the School will also explain this information to you in person.

1. **APPEALS PROCESS**

You have the right to appeal against any disciplinary decision. Appeals must be made in writing, within 5 working days of receipt of written confirmation of the disciplinary action. Your appeal should be addressed to the person stated as due to hear the appeal in the disciplinary decision letter.

In your appeal letter, you must set out what aspect(s) of the disciplinary decision you disagree with. Please note that the appeal is not intended to be a full rehearing of all the evidence considered in the disciplinary hearing. The appeal manager will usually focus only on those aspects of the decision you are unhappy with, as stated in your appeal letter. This will be at the School’s discretion depending on the circumstances of your case. In any event the appeal will be dealt with as impartially as possible.

You will be given an opportunity to attend an appeal meeting in order to put forward your case. The School will give you written notice of the date, time and place of the appeal hearing. You have the right to be accompanied by a trade union representative or a School employee of your own choice (please refer to the “Employee Representatives” paragraph below).

If you raise any new matters in your appeal, the School may need to carry out further investigation. If any new information comes to light the School will provide you with a summary including, where appropriate, copies of additional relevant documents and witness statements. You will have a reasonable opportunity to consider this information before the hearing, and you or your representative may comment on any new evidence arising during the appeal before any decision is taken.

Where possible, the appeal hearing will be conducted impartially by a manager who has not been previously involved in the case.

The School may adjourn the appeal hearing if the School needs to carry out any further investigations in the light of any new points you have raised at the hearing. You will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.

Following the appeal hearing the School may:

* confirm the original decision;
* revoke the original decision; or
* substitute a different penalty.

The School will inform you in writing of the final decision as soon as possible. Where possible the School will also explain this to you in person. There will be no further right of appeal.

1. **EMPLOYEE REPRESENTATIVES**

You have the right to be accompanied by a trade union representative or another School employee of your own choice at the disciplinary/appeal hearing under the formal process, (although not during any investigation meetings). You must tell the School who your chosen representative is, in good time before the hearing. No other person (including family members, solicitors etc) will be able to accompany you, save in exceptional circumstances and, in any event, only with prior agreement from the School.

An employee representative is allowed reasonable time off from duties without loss of pay but no-one is obliged to act as an employee representative if they do not wish to do so.

Any trade union official representing you at a disciplinary hearing must be employed by a trade union or be an elected union official who has been certified by the union as having undergone suitable training or having the necessary experience to act as your representative. The School may check that the trade union representative meets these requirements and refuse them as your companion if they fail to meet such requirements.

The role of your representative is to:

* Witness the hearing;
* Take notes on your behalf;
* Confer with and advise you;
* Add any additional information;
* Address the hearing, when appropriate,
* Sum up the hearing.

However, the Employee Representative **cannot** answer questions on your behalf or address the hearing if you do not wish them to do so.

1. **WITNESSES**

Both the School and you can call witnesses provided they are relevant to the case. If a witness does not wish to appear on your behalf, they can refuse to do so.

Should you wish to call any relevant witness, it will be your responsibility to arrange for such witnesses to attend any disciplinary hearing, including gaining permission from the witness’ line manager to attend the hearing. You must give the School reasonable advance notice if you intend to call any witnesses confirming who they are and what evidence they intend to bring.

The School may adjourn the disciplinary hearing if the School needs to carry out any further investigations such as re-interviewing witnesses in the light of any new points you have raised at the hearing. You will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.

1. **FAILURE TO ATTEND DISCIPLINARY OR APPEAL MEETINGS**

You and your representative should make every effort to attend any disciplinary or appeal hearing. If, without good reason, either you or your representative are unable to attend the hearing you should inform the School immediately (giving the reason for the non-attendance) and offer the School alternative times for the hearing which should be within 5 working days after the hearing you wish to postpone. However, if you fail to attend, without good cause, the School may take a decision in your absence based on the available evidence.

1. **DISCIPLINARY SANCTIONS**

Following a disciplinary hearing, one of the following disciplinary sanctions could be applied:

* 1. **No Disciplinary Action**

It is important to be aware that just because a disciplinary hearing has been held, it will not always follow that disciplinary action will be taken. There will be some situations following a disciplinary hearing where it is believed that there is no case to be answered and the proper outcome of the disciplinary process is that no disciplinary action will be taken.

* 1. First Written Warning

A first written warning will be given where you have failed to maintain adequate performance or behaviour.

This first written warning will be retained within the Personnel records permanently but will usually be disregarded for disciplinary purposes after 6 months although this is subject to achieving and sustaining satisfactory conduct or performance.

* 1. **Final Written Warning**

Should you fail to achieve a sufficient performance level or commit a further act of misconduct following a first written warning, or if the offence is considered too serious for a first written warning only to be issued , a final written warning will be invoked.

This final written warning will be retained within the Personnel records permanently but will usually be disregarded for disciplinary purposes after 12 months although this is subject to achieving and sustaining satisfactory conduct or performance.

* 1. **Dismissal**

Should you fail to achieve a sufficient performance level or commit a further act of misconduct following the issue of a final written warning, you are likely to be dismissed.

* 1. **Other Disciplinary Actions**

If following a final written warning, a further act of misconduct or poor performance is found against you, The School may decide to impose one of the following as an alternative to dismissal:

* Demotion
* Transfer to another department or job
* Loss of seniority
* Reduction in pay
* Loss of future pay increment or bonus
* Loss of overtime

Note: if the warning has been given in relation to abusing the School Absence policy, future sickness absence may be paid at SSP only.

You should understand that the consideration of alternative actions is at the absolute discretion of the School and you have no right to demand that the School considers or implements any such alternative actions as stated above. For the avoidance of doubt, this will never be considered in cases of Gross Misconduct or Gross Negligence.

**10.6 Gross Misconduct**

This is defined below. Where you are found guilty of gross misconduct or gross negligence, the School is entitled to disregard the usual stages of disciplinary sanction (first written warning/ final written warning) and instead move to dismissal. If you are dismissed for gross misconduct, you will be dismissed without notice or pay in lieu of notice.

1. **MISCONDUCT**

The following is a non-exhaustive list of examples of behaviour or conduct which amount to misconduct falling short of gross misconduct:-

1. Unauthorised absence from work;
2. Poor timekeeping;
3. Time wasting;
4. Minor breaches of the School’s rules, policies, procedures or regulations;
5. Disruptive behaviour;
6. Unauthorised use of School property;
7. Minor disobedience;
8. Failure to maintain appropriate standards;
9. Poor preparation of material for classes and other activities;
10. Failure to maintain clean, clear and adequately prepared areas for pupils (including classrooms, dining rooms, workshops, residential accommodation etc);
11. Failure to undertake adequate safeguarding of pupils when they are in your care, and in particular when they are outside the School grounds;
12. Failure to comply with reasonable management instructions;
13. Failure to meet the expectations stated in the School’s Staff Behaviour Policy;
14. Failure to apply due safeguards in the use of the School’s IT Networks;
15. Engaging in an activity which places or has the potential to place an unfair burden on other employees or the School.
16. **GROSS MISCONDUCT**

This is defined as behaviour, which would warrant summary dismissal even at a first offence and could include offences under the headings listed below or similar. The list is, however, not exhaustive.

1. Dishonesty (including theft, fraud, obtaining an unfair advantage or deliberately misleading the School or another).
2. Falsification of records, such as timesheets or expenses.
3. Knowingly giving false information or deliberately omitting relevant information on the job application form or curriculum vitae.
4. Offering, promising, giving, soliciting or accepting any bribe to or from any third party (for further details please refer to the School’s Anti-Fraud and Corruption Policy).
5. Physical assault (including fighting on premises, or during school outings).
6. Gross indecency.
7. Serious negligence, which causes or could cause unacceptable loss, damage or injury, including reckless or dangerous driving.
8. Vandalism (malicious and deliberate damage to property/possessions belonging to the School, pupils, suppliers, visitors, other employees or the general public.).
9. Serious breach or wilful refusal to obey School rules, policies, procedures or health and safety rules including failure to adhere to the safeguarding and child protection policy, health and safety policy and the computer usage policy.
10. Any misconduct, which causes or could cause damage to the School’s property and/or endanger other School employees, e.g. smoking in a non-smoking area.
11. Actions which damage or could damage the reputation of the School.
12. Drinking alcohol during working hours, being under the influence of alcohol/ illegal drugs and/or substance abuse.
13. Unauthorised access to or disclosure of any confidential information from whatever source including any personal data under Data Protection legislation.
14. Conviction of criminal offence(s) outside the School’s employment which would result in the school having to make a referral to the Disclosure and Barring Service.
15. Imprisonment following conviction will be regarded as justifying dismissal.
16. Bullying, harassment or abuse (verbal or physical) on any grounds against any person working for or associated with the School (including pupils and parents), whether inside or outside work (including, for the avoidance of doubt, such misconduct via any social network site or similar media).
17. Misconduct serious enough to destroy the working relationship and trust between the School and the employee.
18. Making a false allegation/knowingly giving false evidence during any grievance or disciplinary hearing.
19. Serious disobedience and/or a failure to follow a reasonable management request.
20. Performing, arranging or carrying out any work or activity which could be considered to be in competition with, or which adversely affects in any way, the School’s interests.
21. Abandoning duty without notification.
22. **GRIEVANCE ISSUES**

Should a grievance be raised during the disciplinary process, the School will not normally suspend the disciplinary process pending the outcome of the grievance. However, it may do so if it considers it appropriate.

1. **CRIMINAL ALLEGATIONS**

Staff members must inform the headteacher if they are subject to a criminal conviction, caution, ban, police enquiry, investigation or pending prosecution.

Where your conduct is the subject of a criminal investigation, charge or conviction the School will investigate the facts before deciding whether to take formal disciplinary action.

Where a criminal offence is suspected of being committed the School may decide to involve the Police. This may be done during or after the internal investigation.

The School will not usually wait for the outcome of any prosecution before deciding what action, if any, to take. Where you are unable or have been advised not to attend a disciplinary hearing or say anything about a pending criminal matter, the School may have to take a decision based on the available evidence.

A criminal investigation, charge or conviction relating to conduct outside work may be treated as a disciplinary matter if the School considers that it is relevant to your employment.

This review: JF/PW/AH February 2019

Approved by Governors February 2019