



STAFF DISCIPLINARY POLICY

Responsible member of SLT: **Susie Brooks**

The policy applies to: **all teaching staff**

Review date: **2020**

Next review: **October 2021**

The Staff Disciplinary Policy

The Staff Disciplinary Procedure, with which all employees have a responsibility to familiarise themselves, is designed to promote fairness and consistency in the treatment of all employees and to assist the School to function effectively.

This procedure will apply to any disciplinary situation which includes misconduct and also cases of poor performance that result from misconduct. It is not contractual but applies to all employees (save for those in their first two years of service) who should familiarise themselves with its provisions. Performance issues that do not relate to misconduct will be dealt with in accordance with the Capability Procedure. However, the two procedures may be run in parallel at first in order to investigate the underlying cause of the concern.

The Behaviour Policy and Code of Conduct for staff sets standards of required conduct at work.

This Disciplinary Procedure is designed to ensure that these standards are adhered to and provides a fair method of dealing with any alleged failures to observe them. The procedure does not preclude minor disciplinary situations from being dealt with informally.

In cases other than gross misconduct or in the first two years of employment (as noted above), an employee whose conduct does not meet the standards will normally first be counselled in an attempt to achieve the required improvement. However, the School reserves the right to commence the procedure at any stage if the circumstances warrant such action.

No disciplinary action will be taken until the case has been investigated and the employee has had the opportunity to respond to the allegations in accordance with the procedure set out below. All disciplinary situations will be dealt with without unreasonable delay.

In the event of absence of any of those involved, except for the employee who is the subject of the procedure, a deputy may take their place provided that this will not jeopardise the likelihood of a fair outcome.

Confidentiality

Our 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.

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

Employees will normally be told the names of any witnesses whose evidence is relevant to disciplinary proceedings against them, unless the witnesses have not consented to the disclosure of their identity or evidence, or we believe that a witness' identity should remain confidential.

Criminal Allegations

Where an employee's conduct is the subject of a criminal investigation, charge or conviction we will investigate the facts before deciding whether to take formal disciplinary action.

Subject to the receipt of external advice, we will not normally wait for the outcome of any criminal 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, we 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 we consider that it is relevant to your employment.

Suspension

Where an employee is accused of an act of serious or gross misconduct, or where the circumstance otherwise warrants it, after careful consideration he/she may be suspended from work on full pay pending the outcome of the disciplinary procedure. Such suspension is not a form of disciplinary action and does not imply that any decision has already been made about the allegations.

Where appropriate, during any disciplinary investigation or suspension, the Headmaster or Bursar will appoint a senior member of staff, who is not involved in the disciplinary procedure, to provide guidance and support to the member of staff under investigation or suspension.

Formal Disciplinary Procedure

Investigation

When a disciplinary situation arises a senior member of staff will, as soon as reasonably practicable, carry out an investigation into the matter. The investigation will be confined to establishing the facts and gathering any relevant documentation. Where necessary, the investigating officer will obtain statements from any relevant individuals. An investigatory meeting with the employee may take place if considered appropriate by the investigating officer.

Notification

If, as a result of the investigation, it is decided that there is a disciplinary case to answer, the employee will be invited to attend a disciplinary meeting.

The employee will be informed in writing of the nature of the complaint and where appropriate, will be provided with copies of any written evidence gathered during the investigation.

Where either party intends to call any relevant witnesses at the disciplinary meeting, advance notice of their intention to do so must be given.

Disciplinary Meeting

A disciplinary meeting will be conducted by the Headmaster or Bursar (or an appropriate senior member of staff appointed by them, who has had no prior involvement). The employee may be accompanied by a trade union representative or colleague if desired. The employee and their companion should make every effort to attend the disciplinary meeting. In the event that the employee fails to attend the disciplinary meeting this will usually be rearranged once, but should they fail to attend the rearranged meeting then a decision may be reached in their absence.

The employee will be given the full opportunity at the disciplinary meeting to explain the matter and respond to the allegations.

A note taker will usually be present but will not be involved in the decision-making process.

If, following the disciplinary meeting, it is decided that disciplinary action is warranted, the employee will be advised of the decision in writing and will specify the details of:

- the failure to meet the required standard;
- any action required by the employee to remedy the situation;
- any relevant review period /duration of warning and the consequences of continued or subsequent failure to reach and sustain the required standard of performance or conduct; and
- the right of appeal.

In the event that disciplinary action is warranted one of the sanctions below may be issued. A sanction may be imposed at any level including summary dismissal depending on the circumstances.

- **Written Warning**

In the case of a first act of misconduct, or a repetition of earlier minor offences or a failure to improve, the employee will be given a written warning, setting out the precise nature of the offence, the likely consequences of further offences and specifying, if appropriate, the improvement required and over what period.

- **Final Written Warning**

In the case of a sufficiently serious offence, or a repetition of earlier offences the employee will be given a final written warning, setting out the precise nature of the offence, the likely consequences of further offences and specifying, if appropriate, the improvement required and over what period. This may include a statement that any recurrence or no improvement may lead to a dismissal or to some other action short of dismissal.

- **Dismissal**

This stage will normally result from continued failure by the employee to act on previous warnings or an act of gross misconduct. In the case of gross misconduct, the employee will normally be dismissed without notice or payment in lieu of notice. If the decision to dismiss is

made the employee will be informed in writing of the reason for dismissal, the date on which the contract between the parties will terminate and the appropriate period of notice.

Alternatives to Dismissal

In exceptional circumstances, the following actions short of dismissal may be considered as an alternative to dismissal:

- suspension without pay;
- demotion; or
- transfer.

Gross Misconduct

In exceptional circumstances, employees may be dismissed without notice if it has been established, after investigation and after hearing the employee's explanation at a disciplinary meeting, that there has been an act which constitutes gross misconduct.

Examples of actions which constitute gross misconduct include (but are not limited to):

- gross insubordination;
- serious breach of health and safety rules;
- serious breach of the School email and internet use policy;
- theft or fraud from either the School or co-workers or deliberate damage to School property or that of co-workers;
- being under the influence of drink or illegal drugs at work;
- disorderly or threatening conduct on school premises;
- contravention of the equal opportunities and discrimination policy;
- negligence resulting in serious loss, damage, or injury;
- assault or attempted assault;
- falsification of records;
- conviction on a criminal charge;
- acceptance of a police caution;
- breach of School policies or procedures;
- bullying or harassment of colleagues, pupils or parents;
- abuse or suspected abuse of your position of trust in relation to pupils at the School; or
- bringing the School into disrepute.

Appeals

If an employee feels that the disciplinary action taken against them is wrong or unjust, they may appeal against the decision within five working days of receipt of the written decision. Such appeals are to be made in writing to the Bursar.

The appeal hearing will be convened as soon as is reasonably practicable and will give an employee written notice of the date, time and place of the appeal hearing. The appeal hearing will be held by the Headmaster or Bursar, or a Governor or panel of up to three Governors (who have had no prior involvement). The Headmaster or Bursar will not hear the appeal if they held the disciplinary meeting.

The appeal hearing may be a complete re-hearing of the matter or it may be a review of the fairness of the original decision in the light of the procedure that was followed and any new information that may have come to light. This decision will be at our discretion depending on the circumstances of the case. In any event, the appeal will be dealt with as impartially as possible.

Where new evidence arises prior to or during the appeal, we may need to carry out further investigation. The employee will be given access to any relevant new information or evidence and will have the opportunity to consider this before the hearing and make representations.

The employee will have the right to be accompanied at any appeal hearing by a colleague or trade union representative.

The employee will be informed in writing of the decision of the appeal hearing as soon as is reasonably practicable following the conclusion of the hearing. The outcome may be that:

- the original decision is confirmed;
- the original decision is revoked; or
- a lesser penalty is issued.

Such decision will be final and there will be no further right of appeal.

In the event of an unsuccessful appeal against a decision to dismiss the original dismissal date shall stand. However, if an employee's appeal is successful, they will be reinstated with no loss of continuity or pay.

Record Keeping

A copy of all formal warnings will be retained on an employee's personnel file and in accordance with the School's Staff Privacy Notice and Data Retention Policy but will be considered spent after a period of twelve months.

1. CAPABILITY PROCEDURE

This procedure applies where a member of staff is failing to carry out their responsibilities or duties in a satisfactory manner, due to a lack of ability, experience or qualifications or on health grounds.

This procedure aims to ensure fairness and consistency throughout the School and provides for warnings to be given for failure to meet our standards of job performance. The procedure is non-contractual in nature, but applies to all members of staff except that this procedure will not apply

during the first two years of employment. All members of staff should familiarise themselves with its provisions.

Most performance improvement procedures will follow the course set out below. However, we may vary the process to suit individual circumstances; such a variation will not amount to a breach of this procedure. The procedure will be invoked when performance issues arise or are identified either following an appraisal process or otherwise.

The School will normally address performance informally, and offer appropriate training and support to an employee before progressing under this procedure.

The procedures set out in this document aim to ensure that there is:

- Openness and awareness for staff when they are not meeting the required levels of performance.
- A means of monitoring performance and establishing performance criteria.
- A degree of consistency in how staff are given opportunities to attain satisfactory levels of performance.
- Assistance in identifying the most appropriate form(s) of support and providing that support

The School will consider what training and support it can give the employee to help them meet the performance requirements.

CONFIDENTIALITY

Our aim is to deal with performance matters sensitively and with due respect for the privacy of the individuals involved. All employees must treat as confidential any information communicated to them in connection with a matter which is subject to this Capability Procedure.

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

SUSPENSION

Where you are accused of an act of serious or gross negligence, you may be suspended from work on full pay and benefits, pending the outcome of the capability or disciplinary procedure. Such suspension does not imply that any decision has already been made in relation to this procedure of the disciplinary procedure.

Where appropriate, during any investigation or suspension, the Headmaster or Bursar will appoint a senior member of staff, who is not involved in the capability or disciplinary procedure, to provide guidance and support to the member of staff under investigation or suspension.

FORMAL MEETING

If we consider that it is necessary to invoke the formal capability procedure we will inform you in writing. In so doing, we will give you reasonable notice of a capability meeting and set out details of the alleged shortfall or failure in performance, together with any evidence relied upon if practicable and available.

At all stages of the procedure, you will be allowed to attend a capability meeting with a colleague or a trade union official as a representative and you will be given an opportunity to state your case. You must take all reasonable steps to attend the hearing. In the event that you fail to attend the meeting this will usually be rearranged once, but should you fail to attend the rearranged meeting then a decision may be reached in your absence.

Following the meeting, we will write to you to confirm our decision. You will also be informed of your right to appeal the decision if you are not satisfied with it.

APPEAL

An employee may appeal against a decision within five working days of receipt of the written decision. Such appeals are to be made in writing to the Bursar.

The appeal meeting will be convened as soon as is reasonably practicable. The appeal meeting will be held by the Headmaster or Bursar, or a Governor or panel of up to three Governors (who have had no prior involvement). The Headmaster or Bursar will not hear the appeal if they held the capability meeting. Where new evidence arises prior to or during the appeal the employee will be given access to any relevant information or evidence and will have the opportunity to make representations. The employee will have the right to be accompanied at any appeal meeting by a colleague or trade union representative. The employee will be informed in writing of the decision of the appeal meeting following the conclusion of the meeting. Such decision will be final. In the event of an unsuccessful appeal against a decision to dismiss the original dismissal date shall stand.

If your performance shortfall or failure is dealt with under the formal capability procedure, a record will be kept of the shortfall or failure, your defence or mitigation, minutes of the capability meeting, the action taken and reasons for it, whether an appeal was lodged, its outcome and any subsequent developments. These records are confidential and will be retained on your personnel file in accordance with the prevailing data protection legislation.

PERFORMANCE WARNINGS

Written warning

In the case of serious shortfall, or failure or a repetition of earlier shortfall or failure, you will be given a written warning, setting out the precise nature of the shortfall or failure, the likely consequences of further shortfall or failure and specifying, if appropriate, the improvement required and over what period. Objectives, timescales and measures for the performance improvement should be set. Your Headmaster of Department should offer help with training and supervision as required. A written warning will be kept on your record in accordance with the School's Staff Privacy Notice and Data

Retention Policy but will be considered expired after 12 months. Your performance may be appraised, at intervals to be determined by your Head of Department, at any time during this period.

Final written warning

In the case of a further repetition of earlier shortfall or failure, if you still fail to improve or if the shortfall or failure, whilst falling short of gross negligence, is serious enough to warrant only one written warning, you will be given a final written warning setting out the precise nature of the shortfall or failure containing a statement that any recurrence or failure to improve will lead to dismissal or whatever other penalty is considered appropriate and specifying, if appropriate, the improvement required and over what period. A final written warning will be kept on your record in accordance with the School's Staff Privacy Notice and Data Retention Policy but will be considered expired after 12 months. Objectives, timescales and measures for the performance improvement should be set. Your Headmaster of Department should offer help with training and supervision as required. Your conduct and performance will be appraised, at intervals to be determined by your Head of Department, at any time during this period.

Depending upon the seriousness of the matter and all the circumstances, any of the above stages may be omitted.

Dismissal

In the case of gross negligence, or if all of the appropriate stages of the warning procedure have been exhausted, you will normally be dismissed.

We reserve the right to consider other possible formal action, including (but without limitation): demotion or transfer; loss of seniority or salary increment; suspension (without pay).

If you are dismissed, you will be provided with a written statement detailing the reasons for dismissal, the date on which employment will terminate and the right of appeal.

EXAMPLES

The following are non-exhaustive and non-exclusive examples of the sort of performance shortfalls or failures, which will normally lead to action being taken.

Minor offences (informal oral warning)

- Occasional poor job performance involving sub-standard work or application.

Serious offences (written or final written warning)

- Consistent poor performance or application.
- Failure to improve performance following an appraisal meeting or performance review, within the timescale specified within such a meeting or review.
- Failure to perform duties or roles to an acceptable standard for reasons which it is within your power to rectify.

You should be made aware that if there is no adequate improvement following the issue of warnings, such issues may result in dismissal.

Capability and consistent performance offences (dismissal with notice)

- Incapable and/or unsuitable of performing role or main job functions/duties as set out in job description and which could not be rectified by training or coaching.
- Consistent failure or unable to improve performance to required or reasonable standards or to the level of other members of staff carrying out the same, similar or equivalent work.
- You are unable satisfactorily to do or do not have the qualifications, aptitude and/or ability for the job.

Gross negligence (dismissal without notice)

- In the most serious cases of gross negligence, normally (but not necessarily) resulting in significant financial loss or loss of reputation to the School, where our continued trust and confidence in you has been destroyed as a result, dismissal may be without notice or payment in lieu of notice.

DISABILITIES

Consideration will be given to whether poor performance may be related to a disability and, if so, whether there are reasonable adjustments that could be made to an employee's working arrangements, including changing their duties or providing additional equipment or training. We may also consider making adjustments to this procedure in appropriate cases.

LONG-TERM SICKNESS ABSENCE

Where an employee's underperformance is as a result of long-term sickness absence then the School will always seek medical advice prior to deciding about an employee's ongoing employment. The School will also consider whether there are any reasonable adjustments which can be made to assist the employee to perform their role. In cases where the School has concerns about the employee's long-term ability to perform their job as a result of health grounds the School will normally move to dismissal stage without prior warnings.

RELATIONSHIP WITH DISCIPLINARY PROCEDURE

The Capability Procedure is not intended to apply to cases where poor performance results directly from misconduct, in which case the Disciplinary Procedure should normally apply. It may not, however, always be immediately clear whether poor performance results from misconduct or capability and the procedures may, initially, be run in parallel whilst the concerns are being investigated.

You may be dismissed following exhaustion of the formal capability procedure and have no separate right to have the disciplinary procedure followed prior to dismissal, and vice versa.

Live warnings issued under the disciplinary procedure may, if appropriate, be taken into consideration when considering the level of warning to be given under the capability procedure, and vice versa.

2. REFERENCES

It is the School's normal policy to provide references on request unless there is a good reason not to do so. All requests for references should be communicated to the Headmaster or the Bursar. No reference, whether verbal or written, should be given on behalf of the School by an employee other than name of members of staff authorised to give references.

All references are given in confidence. The School, or the recipient, may be required to disclose a reference under certain circumstances, as required or permitted by law.

If members of staff wish to provide character references for colleagues or former employees, they must make it clear that they are doing so purely as a personal acquaintance or friend and not in their capacity as an employee of the School. Under no circumstances must the School's Headed paper or a School telephone or email address be used.

Mortgage, rent or legal references will only be given in response to a specific written request and no information will be supplied without your permission.

3. TRAINING AND DEVELOPMENT

Structured training and development at all levels within the School is essential to the efficient and effective operation of the School's support services and the development of the individual.

The School aims to ensure that all employees have the knowledge, skills and experience to meet satisfactorily the required standards of job performance. In order to meet its requirements, the School will provide opportunities for personal development and advancement to those employees with the requisite ability, aspirations and characteristics. The objectives of the Training and Development Policy are as follows:

- To provide an effective induction programme for each individual ensuring an understanding of the School, department and the individual's duties and responsibilities and this will include training/instruction on health and safety and any legal requirements, such as may arise through the charitable status of the School, associated with his or her job.
- To provide introductory and 'on the job' training to enable new employees to reach the required performance standard.
- To identify the current and future training needs of the individuals and match these to cost effective training programmes.
- To provide training to ensure improvements in skills, knowledge and attitude.

- To encourage and support employees to undertake further studies in the areas which are of benefit to themselves and their role in the School.

The appraisal process involves departmental heads in reviewing the attributes of their staff with a view to matching them with the School's requirements. The development of individuals is a two-way process; departmental heads will discuss the performance of the individual and provide information on available opportunities, whilst employees will have the responsibility of informing their departmental head of their aspirations and co-operating with actions designed to maintain and improve their abilities. This process supplements the informal observation and contact between the departmental head and the employee.

From time to time the School may pay for you to attend training courses. In consideration of this, the School may ask that you enter into a separate agreement that if your employment terminates after the School has incurred liability for the cost of you doing so you will be liable to repay some or all of the fees, expenses and other costs. If this is case then you will be informed before you start the course of your liability and an agreement will be drawn up between you and the School.