

## Keeping Children Safe:

## Staff Disciplinary Policy and Procedure



**Normand Croft** Community School

**An International Family of Learners**

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**Policy revisions :**

## **Staff Disciplinary Policy & Procedure**

The Hammersmith & Fulham Local Authority [LA] model document for school-based staff

### **1. Introduction**

- a. This procedure is applicable to all Normand Croft employees based in the school, who are responsible to the governing body. If a governing body considers that some disciplinary action is required against the Head Teacher, the Director of Education should be consulted and will advise on the appropriate procedure to be followed.
- b. The Governing Body, whilst acknowledging that the staff are both responsible and co-operative, recognises that there is a need for rules of conduct in any place of work and that proper procedures are an aid to good management and to ensuring that employees are treated fairly and consistently.
- c. The procedure is designed to help and encourage all employees to achieve and maintain standards of conduct. It should therefore not just be viewed as a means of imposing sanctions or as necessarily leading to dismissal. This procedure only covers conduct.
- d. The procedure takes full account of the ACAS Code of Practice on "Disciplinary Practice and Procedures in Employment": and the ACAS advisory handbook "Discipline at Work".
- e. Appropriate training, where necessary, shall be provided for those involved in applying the procedure.
- f. It is important that the procedures in this document are closely adhered to as failure to do so may be prejudicial to the outcome of any such disciplinary case, for example, at an Appeal hearing or Employment Tribunal. Advice may be sought from Education Human Resources (Employee Relations) prior to and at all stages of the procedure. It is clearly necessary to maintain confidentiality in relation to all aspects of the disciplinary process.
- g. A representative from the LA is entitled to attend any disciplinary hearing, which may result in dismissal, or subsequent appeal hearing, in an advisory capacity. The advice of the LA is not binding. However, the LA has the power to charge the school budget for any costs of compensation that result from unfair dismissal

where it has "good reason", e.g., where it is felt the Governing Body has unreasonably rejected advice from the LA representative.

- h. The disciplinary procedure and rules will be reviewed periodically. Any amendments and additional rules imposing new obligations shall be introduced after consultation with the recognised Trade Unions.
- i. The procedure should be read in conjunction with the Articles of Government for the School.
- j. The term "trade union" is intended to cover recognised teachers' association and support staff trades unions.

## **2. Notes supporting this Guidance**

### **a. Counselling**

- i.* The day-to-day supervision of employees is outside the scope of this procedure. It is the responsibility of all staff in a supervisory position to monitor their staff and ensure that employees understand what is expected of them with regard to both work standards and conduct.
- ii.* Counselling may often be a more appropriate method of resolving problems than a disciplinary interview. It should take the form of a discussion with the objective of encouraging and helping the employee to improve.
- iii.* In cases of minor infringements, the employee should be counselled with the intention of effecting an improvement/resolution at an early stage before the disciplinary procedure is invoked.

### **b. General Principles**

- i.* Misconduct
  - 1. Gross Misconduct is generally seen as misconduct serious enough to destroy the employment contract and make any further working relationship and trust impossible. It is normally restricted to very serious offences, for example, physical violence, theft or fraud or certain sexual offences.
  - 2. Misconduct is seen as those behaviours that are not defined under Gross Misconduct
- ii.* At all stages in the procedure, the employee will be advised (in writing) of the nature of the complaint against her/him and will be given the opportunity to state her/his case before any decision is made.

- iii.* At all stages in the procedure, the employee will have the right to be represented by an accredited and recognised Trade Union representative or by a friend of their choice.
- iv.* No employee will be dismissed for a first breach of discipline except in the case of gross misconduct when the penalty may be dismissal without notice or payment in lieu of notice. The LA must be consulted in all cases of alleged gross misconduct and wherever dismissal may be contemplated.
- v.* An employee will have the right to appeal against any disciplinary penalty imposed and should have the right of appearing personally at an appeal hearing either alone or represented by a Trade Union representative or a friend of their choice.
- vi.* For matters related to safeguarding see the relevant section in the Safeguarding and Child Protection Policy.

### **c. Investigation**

- i.* It is essential that all allegations of misconduct be investigated promptly to establish whether or not there is a case to answer. The investigation should be undertaken by the Head Teacher.
- ii.* The employee against whom the allegation is made must be informed as soon as practicable that an investigation into her/his conduct is being made and the reason for it. If the employee is interviewed during the course of the investigation, s/he prior to the interview, must be informed of their right to be accompanied by a trade union representative, or friend of their choice.
- iii.* The investigation of alleged misconduct shall be primarily concerned with establishing the facts of the case and defining the complaint, the persons affected by the problem and obtaining relevant facts and information. Any witnesses to alleged offences shall be asked to make written statements and to sign and date their statements. *iv.* Only after such an investigation shall the Head Teacher decide whether or not there is a disciplinary case to answer.

### **3. Minor Matters of Misconduct**

- a.* Where the Head Teacher believes that the misconduct was of a minor nature, i.e., would not warrant a penalty more severe than a first written warning (or a second written warning where there has been a repetition of minor misconduct for which a first warning is still current) a meeting will be convened with the employee and their representative.

- b. At the meeting the Head Teacher will state the conclusions they have drawn from the information gathered during the investigation. The employee/ representative will formally respond (offering further information, alternative explanation of events, mitigation etc).
- c. At the end of the meeting the Head Teacher will consider all the information before them and decide what action to take.
- d. The decision will be sent in writing to the employee within 3 working days of the meeting. If a first or 2nd written warning is issued there will be a right of appeal to the Disciplinary Committee of the governing body.

#### **4. Serious Matters of Misconduct**

- a. Where the Head Teacher believes that the misconduct was of a serious nature (potential gross misconduct) and that the penalty could be a final warning/dismissal the case will be referred for a hearing before governors (Disciplinary Committee).
- b. The Head Teacher will present the case and the process for the hearing will be as set out in Section 3.

#### **5. Discipline of a Trade Union official**

- a. No formal disciplinary action should be taken against a Trade Union Official until the circumstances of the case have been discussed with a more senior representative or full time official of the union concerned.

#### **6. Suspension from Duty**

- a. The Head Teacher has the authority to suspend staff. It is advisable to consult the LA in advance but where this cannot be done the LA must be informed as soon as possible. The Chair of Governors must also be informed immediately a suspension occurs.
- b. The employee should be offered the opportunity to be represented. However, suspension should not be delayed because of unavailability of a trade union representative. Suspension is not a form of disciplinary action and will be on full pay. Nor is it a judgement on the merits of the case. It is a reflection of the seriousness of the incident. Suspension should be for a brief period and will normally take place pending investigation and only where there are reasonable grounds to believe that:
  - i.* an employee has committed gross misconduct;



- iv. This Hearing shall be private and no persons shall be present except the Members of the Committee, their Secretary and LA advisers (who shall advise on procedural aspects only), the school's representative(s), the employee and her/his representative and, whilst giving evidence only, the witnesses.
- v. The management case will be presented first (i.e., the Head Teacher) and then the employee (or representative) will present their case in response.
- vi. The Head Teacher shall put the case in the presence of the employee and her/his representative and may call witnesses. vii. The employee or representative will be entitled to ask questions of the Head Teacher and any management witnesses.
- viii. The employee or their representative shall then put their case, referring to relevant documents and calling any witnesses. The Head Teacher will be entitled to ask questions of the employee and any witnesses.
- ix. Where the Disciplinary Committee considers that further information or discussion is required the Hearing will be adjourned until a mutually agreed date. The Disciplinary Committee is entitled to ask questions of each side at the end of their presentation and before they sum up.
- x. Both parties shall have the opportunity to sum up their case if they so wish, the employee going last. New evidence must not be included in the summing up.
- xi. At the conclusion of the Hearing the Disciplinary Committee will adjourn to consider its decision. The employee will be informed of the decision orally in the presence of her/ his representative if it is practicable to do so.

(The decision will be confirmed in writing within five working days). xii.

Where the Disciplinary Committee consider that the case against the employee has been proved they will seek the following information before deciding on the level of punishment:

1. Whether there are current warnings on file for similar offences.
2. Give the employee an opportunity to present mitigation. xiii.

The Disciplinary Committee will then adjourn to consider the level of disciplinary action to be applied in the circumstances of the case. xiv. This decision will be given orally at the time (if practicable). The decision will in any case be confirmed in writing within 5 working days.

### **c. After the Hearing**

- i. CASE NOT SUBSTANTIATED - where the Disciplinary Committee decides no penalty should be applied this will be communicated in writing by the Disciplinary Committee to the employee.

- ii. WARNING - where the decision of the Disciplinary Committee is that a written warning would be appropriate, the warning shall be issued by the Disciplinary Committee and shall include:
  - 1. The reasons for the warning, i.e., brief details of the circumstances which resulted in the warning being given.
  - 2. Brief details of any relevant previous warnings issued which are not time expired.
  - 3. A formal warning relating to the offence(s) and any management action which has been decided e.g., counselling, attendance at Inset, other forms of support.
  - 4. A statement that further disciplinary action may be taken if a further offence occurs.
  - 5. The employee's right of appeal against the warning.
  - 6. Expiry date of warning.
- iii. DISMISSAL - where the Disciplinary Committee makes a determination to dismiss the Chair of the Disciplinary Committee must notify the employee in writing within 5 days of the Committee's decision, the reasons for this determination, the date from which it is effective and the right of appeal.

The LA will not act on the determination of the Disciplinary Committee until either there has been an appeal hearing, or no appeal was lodged by the employee in the time period allowed (10 working days after receipt of the letter from the Disciplinary Committee) The LA will then take action as described in Paragraph 5, page 10)

#### **d. Appeals**

- i. Appeals must be communicated in writing to the Head Teacher by the employee or her/his representative not later than 10 working days after receipt of the letter from the Disciplinary Committee stating the grounds on which they are appealing.
- ii. All appeals from the Disciplinary Committee should be heard by the Appeals Panel of the Governing Body at the earliest practical date and wherever possible before the last day of the employee's notice period where this is applicable. *iii.* At the appeal, any disciplinary penalty imposed will be reviewed but it cannot be increased.
- iv. Employees who wish to appeal against the Disciplinary Committee's determination to dismiss or issue a warning shall have the right of appeal to the Appeals Panel of the Governing Body. The employee or/ her/his representative must state the grounds on which they are appealing.
- v. The employee shall be given notice in writing at least 14 working days in advance of the time and place of the Hearing and that s/he shall be able to call witnesses at the Hearing.

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- vi. This notice shall be extended if necessary to allow an employee to be adequately represented. An appellant who does not attend her/his appeal hearing (either in person or by a representative) shall have her/his appeal dismissed unless the absence is for good cause.
- vii. Seven working days before the Appeal Hearing the school's representative and the aggrieved employee shall submit a written summary of their respective cases to the Chair of the Appeals Panel and exchange cases at the same time.
- viii. This Hearing shall be private and no persons shall be present except the Members of the Committee, their Secretary and LA advisers (who shall advise on procedural aspects only), the school's representative(s), the employee and her/his representative and, whilst giving evidence only, the witnesses.
- ix. The Employee (or her/his representative) shall present the grounds for the appeal in the presence of the school's representative and shall call such witnesses as s/he wishes.
- x. The School's representative shall have the opportunity to ask questions of the appellant and her/his witnesses.
- xi. The Panel may ask questions of the employee and his/her representative and witnesses.
- xii. The School's representative shall put the case in the presence of the employee and her/his representative and may call witnesses.
- xiii. The Employee (or her/his representative) shall have the opportunity to ask questions of any witnesses called.
- xiv. The Panel may ask questions of the school's representative and witnesses. xv. The School's representative and then the employee (or her/his representative) shall have the opportunity to sum up their case if they so wish.
- xvi. The School's representative and the employee and her/his representative shall withdraw.
- xvii. The Panel shall, with the LA rep, deliberate in private only recalling the school's representative and the employee and their representative to clear up points of uncertainty on evidence already given or where any matter that is relevant is in doubt. If recall is necessary both parties are to return notwithstanding only one is concerned with the point giving rise to doubt.
- xviii. The Panel shall announce the decision to the parties personally or in writing as may be determined (within 5 working days).

**e. Dismissal: action by LA**

- i. Following receipt of a letter from the Chair of the Disciplinary Committee, or Appeals Committee the LA will issue a letter of dismissal to the employee. The letter shall include:

1. The decision reached and the date from which the decision is effective.
2. The reason(s) for dismissal as specified in Section 57 (2) of the EP(C) A 1978. There may, of course, be more than one ground in support of that reason.
3. Brief details of any relevant previous warnings issued which are not time expired.
4. The employee's right of appeal to the Industrial Tribunal (where the employee has sufficient service).
5. Details of any notice to be given and holiday entitlement.

#### **8. Monitoring arrangements**

This policy will be reviewed every three years by the full governing body, but can be revised as needed.

#### **9. Links with other policies and documents**

This policy links with our policies on:

- Staff code of conduct
  - Capability of staff policy
  - Staff grievance procedures
  - Equality
  - Safeguarding
  - E-safety
  - Privacy notice for the school workforce
  - Whistle blowing policy
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- DfE Keeping Children Safe in Education

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/741314/Keeping\\_Children\\_Safe\\_in\\_Education\\_3\\_September\\_2018\\_14.09.18.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/741314/Keeping_Children_Safe_in_Education_3_September_2018_14.09.18.pdf)