

West Park

'A caring school where we put pupils and their achievement first'



Staff Disciplinary Policy

Reviewed November 2022

1. Introduction

As a public sector employer, the school must maintain, and is entitled to expect, the highest standards of conduct from employees.

Whilst concerns regarding misconduct may be addressed informally by managers, there are occasions when an individual's conduct may warrant formal action. This policy recognises the principles of natural justice and fair process and is committed to ensuring that confidentiality is maintained for all parties.

An Employee will not usually be dismissed for the first incident of misconduct other than in the case of gross misconduct where an Employee may be dismissed without notice. An Employee is entitled to appeal against any formal sanction.

2. Personal conduct and responsibility

All employees must carry out their duties on the basis of mutual trust, honesty, respect and show courtesy and consideration to everyone they come into contact within the course of their work. The school takes an extremely serious view of behaviour at work which compromises an employee or undermines their ability to carry out their duties. In particular, the school will treat violent, discriminatory, offensive, abusive or indecent behaviour in any form very seriously.

3. Safety

Employers and employees are under a legal obligation not to endanger themselves or other people. This is particularly important in a school which, by its nature, provides a service to many people. The school regards breaches of safety regulations seriously and employees must be constantly aware of the need to make sure they observe safe working practices. Any deliberate act or omission which endangers the health or safety of themselves, other people or members of the public will be grounds for disciplinary action and potentially could mean legal action against individuals.

When the school issues safety and protective clothing, employees must wear it except when otherwise agreed by management. Refusing to wear protective clothing will result in disciplinary action.

4. Falsification of records

Deliberately falsifying personal and employment records, qualifications, expense claims or similar document, will result in disciplinary action.

5. Damage to property, plant and equipment

Employees are trusted to take care of the school's property, plant and equipment. Deliberate and malicious damage or misuse of school property or other property will lead to disciplinary action.

6. Discrimination

All employees must carry out their duties and responsibilities in accordance with the school's Equality and Diversity Policy. Any discrimination against members of the school community, members of the public or colleagues on the grounds of sex, sexual orientation, gender reassignment, marital status, age, race, creed, colour, ethnic or national origin or disability, will be considered a disciplinary offence.

7. Abuse of authority

Employees must not use their position for private advantage or for the private advantage of someone else. In a school 'abuse of authority' can arise from an employee misusing their position to manipulate children (see Code of Conduct).

8. Time Keeping and Attendance

All employees must attend work regularly and punctually during their normal working hours. When an employee is unable to attend through illness, or for any other reason, this must be reported promptly with a medical certificate if necessary. Employees off ill must not prolong their absence by failing to seek or neglecting medical advice. All employees will be subject to absence control. Any requests for leave of absence should be made through FireFly. Unauthorised absence is a breach of contract and could lead to disciplinary action.

9. Co-operation

All employees must comply with the reasonable and lawful instructions of their managers.

10. Communication with the Media

Employees have a position of trust and responsibility and must not communicate information acquired at work to the press, TV or radio without specific authority. Refer request for information to the Head.

If you communicate with the media as a private individual you must be absolutely clear you are not speaking on behalf of the school. It is your responsibility to make this clear.

11. Victimisation/harassment

Victimising or harassing of one employee by another is a serious act of misconduct and will be grounds for disciplinary action.

12. Examples of misconduct which could lead to warnings and dismissal

So that all employees are clear about the disciplinary rules, the governors have listed examples of the sort of action which will be regarded as misconduct and dealt with under the school's formal disciplinary procedure. The list is not exhaustive. Each case will depend on the seriousness of the offence, the individual circumstances and the employee's current disciplinary record. The difference between the disciplinary actions will often be in relation to the degree of the offence.

Examples of offences which may result in warnings or, if the employee is currently under a final warning, dismissal:

- poor timekeeping
- unauthorised use of work time for non-school business
- absence without permission or valid reason
- negligence
- abusive or offensive behaviour
- harassment
- smoking within the perimeter fence of the school
- being inappropriately dressed or failing to meet a professional standard of personal appearance
- misuse of school ICT system or equipment
- falsifying data or in any other way misrepresenting pupils' examination work

Examples of offences which may be treated as gross misconduct and may result in dismissal for the first offence:

- criminal offences related to an employee's work or affecting an employee's ability to perform duties satisfactorily
- malicious damage to, or serious neglect of, the school's property or other property which causes unacceptable loss
- breaches of health and safety regulations involving serious risk to employees, other people, or to property.
- theft or misappropriation of school or other property
- sexual misconduct or harassment
- serious racial harassment
- inciting racial hatred
- being under the influence of alcohol or illegal drugs at work so that the ability to perform duties properly is impaired
- discrimination against an employee, pupil or member of the public on the grounds of gender, race, colour, ethnic or national origin, disability, marital status, age or sexuality
- assault on another person
- fighting
- deliberately falsifying expense claims, travel claims
- breach of any other West Park policy or policies

- disclosing information confidential to the school, not revealing a conflict of interest, soliciting or accepting favours or financial gain
- deliberately not disclosing on a job application or materially falsifying or omitting information such as health, qualifications, experience, unspent criminal convictions
- fraud
- bullying or intimidation
- misuse of school's ICT system or equipment
- falsifying data or in any other way misrepresenting pupils' examination work
- behaviour which compromises another employee or undermines their ability to carry out their duties

Operation of the Disciplinary Procedure

1. INTRODUCTION

- 1.1** This procedure is to ensure that disciplinary issues are dealt with thoroughly, promptly, fairly and consistently.
- 1.2** All employees involved in investigatory and disciplinary processes must not reveal details to any other organisation, including the press.
- 1.3** The level of disciplinary action will depend on the circumstances of the offence. Managers must always try to resolve disciplinary issues informally in discussion with employees. If this is not possible, or if an issue is so serious that it would not be appropriate to deal with it informally, managers must use the formal disciplinary procedures. The manager must tell the employee which course of action is being pursued.

2. INFORMAL ACTION

Sometimes it may be necessary for managers to reprimand employees for their general behaviour. This reprimand is not considered to be disciplinary action within this procedure, but is part of the normal routine of managing the school's activities.

3. FORMAL ACTION – GENERAL PRINCIPLES

3.1 Scope

This procedure applies to all school employees.

3.2 Application

This Disciplinary Procedure applies to misconduct. There is a separate Capability Procedure for cases of unsatisfactory work, performance or ill-health. There is also a separate Grievance Procedure.

3.3 Stages

The formal warnings are intended to be progressively more severe. The usual sequence would be oral, first written, final written and dismissal. However, this depends on how serious the offence is, the circumstances, and the employee's current disciplinary record. Except for gross misconduct, no employee is dismissed for a first breach of discipline.

3.4 Suspension – See Appendix One

3.5 Managers authorised to take disciplinary action

The Head designates managers authorised to take disciplinary action at different stages of the formal procedure.

3.6 Investigation

An Employee will be notified of all allegation(s) or complaint(s) made against them at the earliest practical opportunity and advised of the procedure that will be followed. Prior to investigating an allegation it may not be possible or appropriate to be specific about the precise nature of the allegation at the outset – however the Employee will be given a broad indication of the nature of the complaint. Should the matter be addressed through a formal investigation or formal disciplinary action – then the Employee will be advised of the nature of the allegation in writing. They will also be advised that, should the allegation be upheld, formal disciplinary action may be taken. Should further allegations come to light during the course of the investigation which are also to be investigated – the Employee will be advised of these in writing.

Immediately a decision is made to investigate, the investigating manager must inform the employee about the allegations. The investigating manager must provide sufficient information to enable the employee to respond to the allegations. They must tell the employee of their right to be accompanied by a trade union representative, or any other nominated person, at any meeting. The investigation must include the opportunity for the employee to comment on the allegations.

The investigating manager will usually be a senior manager appointed by the Head.

If any misconduct appears to involve a criminal liability, the Head must be informed immediately. The Chair of governors will decide, after consultation with the Head, if the matter should be referred to the Police, except in cases where ensuring Children's Safety Procedures apply.

When suspected irregularities affect cash, stores or other school property, the School

Business Manager must also be informed and will be involved in deciding whether to involve the Police or take other action in accordance with Financial Regulations.

Witnesses providing evidence to an investigation will be advised that their statement may be shared with the Employee and they may be called to present this and may be questioned regarding their evidence at a disciplinary hearing. All witnesses should be aware of the confidential nature of investigations and should not discuss any aspect of the meeting or matters under consideration with anyone outside of the investigation meeting. Interviews with pupils will only be conducted with the parent or guardian's consent and they should be given the opportunity to accompany the pupil to the meeting. The investigating officer may also review documents and other evidence relevant to the allegation.

Investigation Outcome

Based on the findings of the investigation, the Headteacher will determine which course of action is most appropriate:

- That there is no case to answer and no further action is taken
- That a minor concern is identified which is to be addressed through informal action
- That there is a case to answer on a matter of misconduct which warrants consideration of formal disciplinary action.

The investigation outcome will be communicated to the Employee in writing without undue delay and usually within 5 working days of the decision being made regarding the appropriate course of action. Where informal action is proposed a follow up meeting will be arranged without undue delay to discuss any appropriate management action. The outcome of this discussion may be confirmed in writing and a record placed on the Employee's file – although such a discussion and letter does not constitute a formal disciplinary record. The investigation report will only be shared with the Employee should formal action be instigated.

When the investigation has been completed, the investigating manager will tell the employee the results of the investigation and whether or not any further action will be taken. The 'further action' decision is taken by the Head or the Chair of Governors in the case of Head being the subject of investigation. Child witnesses will always be accompanied by a parent. Child witnesses will not be called except in cases of gross misconduct.

3.7 Trade Union Officials

No action under this procedure will be taken against a trade union official until the Chair has been informed. The Head will discuss the circumstances with a full-time trade union official before any action is decided upon.

By trade union officials, we mean all officially elected and recognised lay officials and safety representatives.

3.8 Appeal rights

Every employee has the right to appeal against dismissal arising from misconduct. The appeal process is set out in a later section.

3.9 Management and Trade Union advisers

Both sides have the right to call in advisers of their choice at any Disciplinary Hearing.

4.1 Disciplinary Action

(a) Formal oral warnings

For a minor disciplinary offence the Head or nominated senior manager will normally issue a formal oral warning of which a record will be kept. The employee must sign confirmation of the oral warning to acknowledge receipt and it will be placed on their personal file. The Head will tell the employee this warning constitutes the first formal stage of the disciplinary procedure.

(b) First written warning

A written warning will normally be issued for more serious offences, either similar or different, or when there has been a less serious offence, but the individual has already received an oral warning. This will be conducted by the Head.

(c) Final written warning

A final written warning will normally be issued when there has been a written warning issued for a previous offence, or the employee commits a very serious offence. Certain types of conduct, though not quite gross misconduct, may be so serious that, a final warning may be given for a first offence. A first and final warning is appropriate if the misconduct is serious enough to warrant more than a lesser warning, but not quite serious enough to justify dismissal. This will be conducted by the Head.

(d) Downgrading

The misconduct may be such that the employee is no longer deemed responsible enough to hold a management position and is downgraded. This will be conducted by the Head. The extent and nature of the downgrade will be decided by the Head.

(e) Dismissal

This is appropriate when an employee has committed gross misconduct or when the employee has already received a final written warning in which it was made clear that dismissal could result if further misconduct occurred.

Dismissal for gross misconduct will be regarded as summary dismissal and there will be no entitlement to pay instead of notice. This will be conducted by the Head.

In exceptional circumstances, where the offence warrants dismissal but there are mitigating circumstances, the Head may consider action short of dismissal such as:

- accept the employee's resignation
- reduce their seniority or level of responsibility.

Notice pay will be given for other cases of misconduct.

(f)

After an investigation, the Head may decide to refer the allegations to a Disciplinary Hearing. The Disciplinary Hearing will be held as soon as possible in a mutually agreed date and, where possible, within five working days of the employee being informed that the investigation has been concluded. This can be extended or shortened by agreement of both parties. The Hearing will be conducted by the Head with at least one other senior member of staff or governor in attendance.

4.2 Notification of disciplinary action

Wherever possible the School will provide the Employee with copies of all relevant documents which will be referred to during the hearing with the notification of the disciplinary hearing. This will include a copy of the investigation report and any statement of case where appropriate. Should this not be possible the School will provide the employee with this information no later than 10 working days before the hearing. The Employee is required to provide no later than 5 working days before the hearing:

- The name of their trade union representative or workplace colleague
- The name(s) of any witnesses they are calling
- Any relevant documentation they wish to be considered. If a late submission is received, discretion may be used as to whether to accept this and make provision for an adjournment during the hearing to consider this. However, the right to disregard this information is reserved

Should the Head decide that a Disciplinary Hearing is appropriate (see (f) above) the Head (or Chair of the Governors' when the Head is the subject of the disciplinary action) will confirm the disciplinary action in writing and notify the employee shortly after the hearing. The letter to the employee confirming the disciplinary action will contain this information:

- those present at the Hearing
- details of the misconduct
- details of the disciplinary action being taken
- how long the action will remain recorded on the employee's personal file (if appropriate)
- what improvement in conduct is required
- the likely consequences of further misconduct. It is vital in the case of a final written warning that the employee is told that further misconduct could lead to dismissal.
- In the case of dismissal, information about the right of appeal, how it should be made and to whom.

If proven and depending on the circumstances of the case, the Manager/Headteacher/Panel may impose a range of sanctions, including dismissal, as follows:

Level of Sanction	Normal Expiry Period
First Level Written Warning	After 6 months
Second Level Written Warning	After 12 months
Final Written Warning	After 18 months
Dismissal with contractual notice	
Summary Dismissal without notice	

An Employee will not usually be dismissed for the first incident of misconduct other than in the case of gross misconduct. Where an Employee's first incident of misconduct is sufficiently serious it may be appropriate to issue a final written warning. The duration of other sanctions will be determined by the circumstances of the case. Should gross misconduct be found, and dismissal is determined, this is usually without notice (Summary Dismissal). In cases of dismissal arising from misconduct, notice would normally be given. Where notice is given this is the greater of the Employee's statutory or contractual notice entitlement.

4.3 Issuing letters confirming written warnings and dismissal

No letters confirming written warnings or dismissal should be issued until the content has been approved by the Head.

The Head will give written warnings to the employee by hand and send letters confirming dismissal by recorded delivery usually within 5 working days of the decision being made. A copy must include a signature block indicating that the employee has read and understood the letter. A stamped addressed envelope should be included for return of the copy.

4.4 Recording of disciplinary action

Formal warnings will be recorded on an employee's personal file for 12 months and will then be disregarded for the purpose of further disciplinary action, subject to satisfactory conduct. For other managerial purposes, the warning will remain on the person's file and will be considered in relation to an appointment or promotion. The Chair of Governors must be consulted for advice on the degree of relevance a previous warning should have for an appointment or promotion.

The employee will be advised if the 'spent' warning is to be considered for other managerial purposes.

4.5 Withdrawing action

If a warning or dismissal is reconsidered and withdrawn at any stage, the authorised manager must make sure all written references are removed from the personal file and notify the employee. The exception to this is in cases involving the protection of children (see Derby and Derbyshire Safeguarding Children Procedures).

5. APPEALS AGAINST DISMISSAL

5.1 The Hearing

The Hearing must be run in accordance with the procedure described in this document.

To appeal against dismissal, an employee or their representative must write to the Chair of Governors within 15 working days of receiving confirmation of the dismissal. They must state the grounds for the appeal and request an Appeals Hearing.

5.2 The Disciplinary Panel of the governing body (at least three governors) will hold an Appeals Hearing as soon as possible. This will take place normally within ten working days of receiving the request, unless mutually agreed otherwise.

5.3 In the case of appeals the role of the panel is to review the original decision on the basis of the grounds presented for appeal by the Employee.

5.4 The outcome may be:

- To uphold the previous decision in full
- To uphold the previous decision in part – but to reduce the level of the sanction or amend other elements of the decision
- To uphold the Employee's appeal in full and withdraw the sanction in its entirety. The panel may not impose a higher level of sanction than reached previously. The appeal panel decision is final

5.5 Powers on appeal

Governors who hear appeals will decide upon one of these courses of action:

- that the appeal be allowed and disciplinary action withdrawn as detailed in 4.5, or
- that the appeal be rejected and that the dismissal be confirmed, or
- that the severity of the disciplinary action taken be reduced in accordance with the options detailed in paragraph 4.1.

The Formal Disciplinary Hearing

The Head may decide to refer an investigation, as a result of an allegation, to be a subject of a Hearing.

The Hearing considering formal oral warnings and first and final written warnings and dismissal will be chaired by the Head. Formal oral warnings and first and final written warnings and dismissal will be conducted by the Head.

The Hearing will be conducted according to the procedure set out below. In the event of the Head being the investigating manager or the subject of the Hearing this procedure will be adapted accordingly and chaired by the Chair of Governors, who would issue any disciplinary action.

1. The Investigating Manager puts the case to the employee and their representative and may call witnesses.
2. The employee or their representative must have the opportunity to question the Investigating Manager or any witnesses.

3. The Chair has the opportunity to question the Investigating Manager and witnesses.
4. The employee, or their representative will put their case to the Chair, in the presence of the Investigating Manager and may call witnesses.
5. The Investigating Manager has the opportunity to question the employee and their witnesses.
6. The Chair has the opportunity to question the employee and their witnesses.
7. Witnesses for both sides should withdraw after they have given their evidence and been questioned by both sides, the Chair and the Investigating Manager. They may be recalled by either side.
8. The Investigating Manager and then the employee or their representative will sum up their case. The employee and their representative and the Investigating Manager then withdraw.
9. In the case of dismissal, any advisors to the Head should remain.
10. In the case of dismissal, the Chair will decide whether the disciplinary action should be taken and will recall the parties to inform them of the decision.
11. In the case of anything less than dismissal the Chair will decide whether any disciplinary action should be taken and will recall the employee to inform them of the decision and what any action will be.

Dismissal Appeal Hearing – Disciplinary Appeals Panel of the Governing Body

1. The employee, or their representative, will put their case in the presence of the Head and may call witnesses.
2. The Head may question the employee and their witnesses.
3. The Appeals Panel members may question the employee and their witnesses.
4. Each witness should withdraw after they have given their evidence and been questioned by both sides and the Chair. They may be recalled by either side.
5. The Head will then sum up the school's case.
6. The employee, or their representative, will then sum up their case.
7. Both sides will retire and wait for the Panel to deliberate.

8. The Governors will deliberate in private, only recalling the Head (or Chair of Governors of chaired the hearing) and the employee to clarify evidence already given. If recall is necessary, both parties must return even though only one is concerned with the point giving rise to doubt.
9. Nominated representatives will advise Governors in private.
10. All the information to be considered by the Appeals Panel is to be submitted in the presence of all parties.
11. The Appeals Panel has the power to:
 - uphold the appeal
 - substitute a lesser penalty
 - dismiss the appeal
12. At the end of the proceedings, the Chair of the Appeals Panel will inform the employee and their representative of the decision. This will be confirmed in writing, where possible within seven days.

Appendix 1 – Suspension

- (a) In cases of potential gross misconduct, we always consider suspending the employee. The Head has the right to suspend the employee from duty pending the investigation of allegations of gross misconduct.

However, suspension is neutral, does not imply guilt and must not be regarded as formal disciplinary action.

Whenever possible, the appropriate trade union representative should be present when an employee is suspended. If this is not possible then the trade union should be informed immediately afterwards. Where possible, within four calendar days a letter from the Head should be sent to the employee stating when the suspension took affect, the reasons for its duration and any other conditions attaching to it.

- (b) Before suspension, the employee's line manager must discuss the case with the Head, or nominated representative, to decide whether suspension is necessary.

- (c) The employee may be suspended in these circumstances:

- when their continued presence at work may impede any investigation
- when their presence at work may seem to condone the allegation, if proved
- if the manager suspects the employee may seriously damage documents, property, systems or present a risk to service users or colleagues
- when their continued presence at work might be detrimental to the school or themselves

- (d) When an employee is suspended, they must be initially informed orally:

- of the reason for the suspension emphasising that suspension is a neutral act and not disciplinary action
- of the misconduct allegation
- that an investigation will follow
- of the date and time from which the suspension applies
- that the suspension period will be as short as possible and will be reviewed at least monthly
- about pay during the suspension period
- that they must be available during normal working hours for the investigation
- that they must not return to work without the consent of the Head
- the name of a nominated workplace contact for support.

Suspension Conditions

- (e) During suspension, the employee:
- will receive normal earnings
 - if they fall sick must notify the school on the first day of sickness and submit relevant medical certificates. Normal sickness payments apply
 - must not take up alternative replacement employment with another employer
 - must not enter the workplace, contact service users or discuss the suspension issue with any school employee
- (f) There may be occasions when the employee, or their nominated representative, may need to approach the workplace. This should only be done by contacting the Head. Visits by trade union representatives will not be restricted.
- (g) Failing to keep to these conditions may result in disciplinary action.
- (h) Contact**
- The employee should contact the Head if they need clarification about anything related to the suspension.
- (i) Support**
- Where appropriate, the school will arrange for a nominated governor to support the employee during the suspension period and when they return to work if necessary.
- (j) Written Confirmation**
- Ideally, the Head will give the employee written confirmation of suspension before they leave the workplace. If this isn't possible, it must be delivered by hand, or recorded delivery, as soon as possible.

3.10 Representation

Employees have the right to be accompanied by a trade union representative, or anyone else of their choice, at all stages of this procedure. They will be informed about this when suspended or before any interview or hearing.