

# Lingfield Primary School

A Personal Best School



## Disciplinary Procedures

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|--------------------------|-------------|
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## **1. Disciplinary Procedure**

### **Note on delegation of power to dismiss**

This procedure assumes that the power to dismiss staff remains with the governing body and has not been delegated to the Headteacher. Schools with different models of delegated power will need to amend references to roles and responsibilities accordingly. For further advice or assistance with this, please contact your HR Provider.

### **2. Purpose**

The formal disciplinary procedure provides detailed guidance to support employees and schools in dealing with disciplinary situations.

This procedure should be used when preliminary enquiries indicate that there is enough evidence to suggest that some misconduct has taken place that cannot be handled through everyday management processes.

### **3. Informal stage**

Cases of minor misconduct are usually best dealt with informally. A quiet word is often all that is required to improve an employee's conduct.

Managers should consider the following when informally managing minor breaches of discipline:

1. You should meet the employee, in the same way you would during performance conversations/supervision and make them aware of their inappropriate conduct and the expected improvement. You do not need to wait for your next performance conversations/supervision session as early intervention can help resolve matters before they escalate.
2. Depending on the nature of the misconduct, you may wish to capture your discussion in writing to set out the agreed performance standards and support to help the employee to improve.
3. You should only keep a copy of the letter/e-mail on the employee's performance conversations/supervision file. As it is not part of the formal procedure, you should not file a copy on the employee's personnel file.<sup>1</sup>

Dealing with minor misconduct informally does not form part of the formal disciplinary procedure; this should form part of the normal management process.

### **4. Formal Stage – Preliminary enquiries**

If informal action does not bring about an improvement, or the misconduct is considered too serious to be classed as minor, managers should inform employees that the formal disciplinary procedure will be invoked.

Managers need to establish, before starting the formal procedure, whether there is enough evidence to indicate that misconduct has taken place and that the formal procedure should be applied.

At this stage, Managers should not unreasonably refuse a request from the employee to be accompanied by a trade union representative or work colleague at an investigation meeting. If the decision is taken to progress to the formal procedure, the employee will have the right to be accompanied at a disciplinary interview and meeting.

## 5. Formal procedures

There are two types of formal disciplinary procedures. Deciding which procedure to follow will depend on the general circumstances of the issue in question. There is no obligation to follow the stages sequentially.

### 1. Short disciplinary procedure (SDP)

- This is used to resolve relatively straightforward cases where there is clear evidence at an early stage that the issues need to be dealt with more formally than through normal performance conversations/supervision. For example, where an employee has admitted the misdemeanour but the issue is not serious enough to be considered gross misconduct.
- Sanction - Brief letter of written warning
- Timescale – 3 months

### 2. Full length disciplinary procedure

- This is used if the offence is serious, or if a further offence occurs.
- Sanction –written warning/final written warning/ dismissal
- Timescale – 12 months

## 6. Formal Stage – Investigation

The employee's manager (or the Headteacher, as appropriate) will normally undertake the formal disciplinary investigation and report on their findings

- All investigatory/fact finding meetings will be fair and reasonable
- The nature and extent of the investigations will depend on the seriousness of the matter and the more serious it is then the more thorough the investigation should be.
- If a meeting is held, give the employee advance warning and time to prepare.
- Employees will have the right to be accompanied at these meetings however if this causes an unreasonable delay e.g. more than 5 days, then the investigating manager may choose to go ahead with the meeting.
- If it becomes apparent that formal disciplinary action may be needed, then this should be dealt with at a formal hearing at which the employee will have the statutory right to be accompanied.
- Some allegations will require referral to other agencies for advice before an internal investigation can be authorised: for example, those involving safeguarding, financial irregularities or other potentially criminal activities. The guidance of the Local Authority Designated Officer (LADO) will be sought at the earliest opportunity in any case involving allegations of a child protection nature against a member of staff, and the school's procedure for investigating and managing such allegations will be followed.
- Except where the police or LADO have advised otherwise, the employee will be informed of the nature of the allegations against him/her and provided with full details of these as well as confirmation that an investigation is underway and by whom.

## 7. Formal Stage – Suspension

Any suspension must be brief and is never used as a sanction against the employee prior to a disciplinary hearing and decision. Always keep the employee informed of progress.

- The school has the right to suspend with pay where there are reasonable grounds to believe that evidence may be tampered with, destroyed or witnesses pressurised before the disciplinary hearing, or if there is a potential risk to the school, pupils, employees or third parties, in allowing the employee to remain at work.
- In accordance with current school staffing regulations, either the Headteacher or Governing Body may impose a suspension but only the Governing Body may lift it. The Governing Body may delegate its functions in this regard to the chair of governors.

- The school's HR consultant should be contacted for advice when the school is considering complex suspension decisions. A decision to suspend must be risk-assessed.
- Consideration should be given to alternatives to suspension, such as the employee working in a different role whilst the investigation takes place.
- The school considers suspension to be a neutral act which in no way implies that the allegations are proven.

## **8. Formal Stage – Hearing and potential outcomes**

Following the investigation, if there are reasonable grounds to believe that an employee has committed an act of misconduct, a formal disciplinary hearing will be arranged.

Formal meetings held as part of this procedure which could result in the issuing of a formal warning will be conducted by either the Headteacher or, where the Headteacher has chosen to delegate this responsibility, by another appropriate senior manager. The employee's performance manager, if different, will continue to be central to ongoing monitoring and support.

An invitation letter is required to be sent to the employee detailing the circumstances of the hearing and advising them of their right to be accompanied.

Formal meetings which may result in a decision to dismiss will be heard by the Governing Body, as delegated to one or more of its members.

### **Potential outcomes:**

- Written Warning – 12 months - This would be applied as a potential outcome for relatively serious offences or if a further offence occurs following a short disciplinary hearing that requires a full-length disciplinary procedure.
- Final Written Warning – 12 months - This would be applied for persistent failure to improve, or if the misconduct is sufficiently serious to warrant only one written warning, but insufficiently serious to justify dismissal
- Action short of dismissal - Where the offence is such that dismissal would normally be the outcome, but there is mitigation to warrant taking action short of dismissal, an alternative, with conditions, may be used. This may include:
  - Final written warning with a recommendation of a transfer to a post at a similar grade in the same or in another area where available
  - Final written warning with an offer of continuing employment conditional on the employee accepting an offer of a post at a lower grade without salary protection.

Where these conditions cannot be met, for example following an unsuccessful redeployment attempt, then dismissal may still proceed.

## **9. Formal Stage – Hearing and potential outcomes**

### **Dismissal**

- If conduct is still unsatisfactory and the employee fails to reach the prescribed standards, dismissal will normally result. The employee will be provided, as soon as reasonably practicable, with written reasons for dismissal, the date on which employment will terminate and the right of appeal.
- If an employee is dismissed for an act of gross misconduct the result will normally be summary dismissal without notice or payment in lieu of notice.
- A hearing at which dismissal is a possible outcome will be heard by a panel of one or more governors.
- Before the decision to dismiss a teacher is made, the school will discuss the matter with the local authority. In Community and Voluntary Controlled schools, or in Foundation or Voluntary Aided schools where the local authority has been given Local Authority Advisor Rights, the local authority has the right

to attend any meetings where dismissal is a possible outcome. The school's HR Consultant will be contacted to provide advice about these matters.

#### **10. Formal Stage – Hearing and other considerations**

- If an employee commits a similar offence for which a warning has already been issued, the earlier issue will be considered for the new disciplinary matter if the previous warning is still live.
- Where a serious safeguarding concern has been raised it may be that the relevant warning or the existence of a previous investigation should never be disregarded for disciplinary purposes.
- Other sanctions that may be imposed include financial reimbursement where there has been a financial loss e.g. fraud or theft to the council.

#### **11. Appeal**

Employees have the right of appeal following the outcome of a disciplinary hearing.

- If an employee wishes to exercise their right of appeal, they must do so by lodging their appeal with the appropriate manager stating the grounds for the appeal within 10 working days of being notified of a decision.
- The appeal will be heard by a Senior Manager or the Headteacher or, in the case of an appeal against dismissal, a panel of one or more Governors who have not previously been involved in the proceedings. The outcome at this stage will be final.
- A decision will normally be given verbally and confirmed in writing within five working days of the appeal hearing.