
STANGROUND COLLEGE DISCIPLINARY PROCEDURES RELATING TO MISCONDUCT OF ALL EMPLOYEES OTHER THAN THE LEADERSHIP GROUP



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[To be read in conjunction with the School Staffing (England) Regulations 2003 and the Secretary of State's Guidance] this can be found at:

www.opsi.gov.uk/si/si2003/20031963.htm

1. DEFINITIONS

1.1. The term "Principal" also refers to any other title used to identify the Principal where appropriate.

- 1.2. The term “employee” refers to any member of the staff, whether teaching or not (with the exception of the members of the Leadership Group as defined by the STPC Document 2003), employed to work solely at the school.
- 1.3. The term “senior manager” refers to any member of the Leadership Group, as defined by the School Teachers’ Pay and Conditions Document, or a senior support member of staff in cases involving support staff, delegated by the Principal to deal with a disciplinary matter under these procedures. A senior manager may only make a decision to issue up to and including a final written warning.
- 1.4. If the Principal, following consultation with the Chair of Governors, considers that there is no senior manager to whom s/he can reasonably delegate a specific disciplinary matter then the Principal will take the role of the senior manager for that specific case and the role of the “Principal” under this procedure will be performed by a “Staff Dismissal Committee” of the Governing Body consisting of not less than 3 governors, (except in circumstances provided for in the Secretary of State’s guidance on the Staffing Regulations), none of whom will have had previous involvement in the case.
- 1.5. References to advice by the LA will only apply where the Governing Body has granted advisory rights to the Director of Education.
- 1.6. In the case of an Aided school references to advice by the LA also include advice by the Diocesan Director where the Governing Body has granted advisory rights to the Director of Education and/or Diocesan Director
- 1.7. “Misconduct” is defined in the Disciplinary Rules which accompany the Misconduct Procedure.

2. ORAL WARNING

- 2.1. Misconduct is defined in the Disciplinary Rules, to which reference should be made. The following procedure does not relate to informal oral warnings, which might be given to the employee by a member of the senior leadership team, by their curriculum leader, or by their student progress leader. However, repeated misconduct after an oral warning would normally lead to more serious disciplinary action in accordance with the procedure.
- 2.2. There is no appeal against an oral warning, which will not be recorded on the employee’s personal record but should be confirmed in a written memorandum. The employee may make written comment on the memorandum if s/he has any objection to the issuing of an oral warning.

3. FIRST WRITTEN WARNING

- 3.1. If the senior manager, having carried out appropriate investigation, considers on the facts that formal disciplinary action for misconduct is necessary, s/he will write to the employee to inform him/her, at least five working days in advance, setting out:
 - 3.1.1. The date, time and place of the disciplinary hearing.
 - 3.1.2. The nature of the complaint.
 - 3.1.3. The employee’s right to be accompanied by a representative of his/her trade union or a workplace colleague.

3.1.4. The titles of enclosed copies of any documents to be used as evidence.

3.1.5. The names of any witnesses to be called by the senior manager.

3.1.6. His/her right to call witnesses on his/her behalf.

3.1.7. The name and office of any adviser who will accompany the senior manager at the hearing.

(At the employee's request, an extra copy of this notice, together with any enclosures, should be provided for his/her representative).

3.2. If, following the investigations and professional advice, the senior manager considers that the facts of the case amount to a prima facie case of gross misconduct the matter will be referred to the Principal.

3.3. At the disciplinary hearing before the senior manager and his/her adviser, the employee (and his/her representative) will be given a reasonable opportunity to state his/her case and to question the senior manager and any witnesses. At the conclusion, following an adjournment for consideration of the facts, the senior manager will state his/her decision and his/her reasons and will soon afterwards confirm them in writing to the employee and his/her representative.

3.4. If the senior manager decides the complaint was justified, s/he may give the employee a first written warning which will include a statement that any further complaint of misconduct occurring within the next twelve months and found justified after a disciplinary hearing, will lead to a final warning, unless there are mitigating circumstances.

3.5. If the employee is given no further written warning of misconduct within twelve months of the date of the first written warning, then this warning is disregarded and the warning letter will make this clear.

4. FINAL WRITTEN WARNING

4.1. If a further complaint is made about the employee's conduct within twelve months of the date of the first written warning, the same procedure (as in section 3 above) will be followed.

4.2. If the senior manager decides at the conclusion of the disciplinary hearing that this further complaint is justified, s/he may give the employee a final written warning, which will include a statement that any further complaint of misconduct occurring within the next twelve months and found justified after a disciplinary hearing, will lead to dismissal, unless there are mitigating circumstances.

4.3. Again this final warning, together with any previous warning, will be disregarded if there is no further complaint about misconduct within twelve months of the date of the final warning, and the warning letter will make this clear.

5. DISMISSAL

5.1. If a further complaint is received within twelve months from the date of the final warning, the complaint will be referred to a hearing before the Principal, following a similar procedure to that in paragraphs 3 above. The Principal, who shall be accompanied by an adviser(s), who will normally be representative(s) of the Director of Education/Diocesan Director, has a duty to consider any advice given by the LA/Diocese.

- 5.2. If the Principal decides the complaint is justified, s/he may decide to dismiss the employee. The Principal will state his/her decision and his/her reasons and inform the employee of his/her right to appeal to the Appeals Committee of the Governing Body. S/he will soon afterwards confirm the decision and right of appeal in writing to the employee (and his/her representative). The Principal will record the outcome of his/her considerations and the names of persons present at the hearing.
- 5.3. The Governing Body will give written notice of dismissal to the employee that s/he is dismissed, whether with or without notice, or with pay in lieu of notice, together with the right of appeal, as soon after the decision as possible.

6. GROSS MISCONDUCT

- 6.1. If the complaint is considered so serious that it may amount to gross misconduct, justifying dismissal without previous warning and without notice (see the Disciplinary Rules), the employee will be informed by the Principal that s/he is suspended on full pay pending further investigation of the complaint before the Principal, who, if s/he considers the complaint constitutes gross misconduct, may decide to dismiss the employee. The procedure to be followed will be as in paragraph 5 above.
- 6.2. Where a suspension has taken place that suspension may only be lifted by the Chair of Governors acting on behalf of the Governing Body, or by the Appeals Committee referred to in 7.3, or the Staff Dismissal Committee in the circumstances identified in 1.4 of these procedures.

7. RIGHT OF APPEAL

- 7.1. The employee has a right of appeal against a written warning issued by a senior manager (see paragraphs 3 and 4). The appeal will be heard by the Disciplinary Panel of Governors. The number of governors on the Disciplinary Panel of Governors will not be less than two. The panel shall be advised by a person engaged for the purpose by the Governing Body. The panel can either confirm the warning, reduce a final warning to a warning or cancel the warning.
- 7.2. Appeals against formal warnings by the senior manager should be made in writing to the Clerk to the Governors within 5 working days of the receipt of the written decision.
- 7.3. The employee has a right of appeal against a decision to issue a warning or to dismiss by Principal (see paragraph 5). An appeal against a warning by the Principal will be to the Disciplinary Panel of Governors referred to in paragraph 7.1 above.
- 7.4. An appeal against dismissal will be to the Appeal Committee of the Governors, which shall have a membership of not less than 3 governors, none of whom shall have any previous involvement in the case. The Appeal Committee shall be advised in its deliberations, normally by representative(s) of the Director of Education/Diocesan Director. The Appeals Committee has a duty to consider any advice given by the LA/Diocese.
- 7.5. Appeals against decisions by the Principal should be made in writing to the Clerk to the Governors within 5 working days of the receipt of the written decision.
- 7.6. All appeal hearings will be held as soon as possible after receipt of the appeal.

8. VARIATION IN PENALTIES

- 8.1. The senior manager or the Disciplinary Panel of Governors may decide to give an oral warning instead of a written warning, or a written warning instead of a final written warning.
- 8.2. The senior manager may decide that the misconduct is so serious that it justifies a first and final written warning.
- 8.3. The senior manager may decide to issue a further final warning rather than refer the complaint to the Principal.
- 8.4. The Principal may decide to issue a warning or final warning rather than dismiss.
- 8.5. The Appeal Committee may decide to issue a warning or a final warning rather than dismiss, and that any warning may last for a specified period longer than the original twelve months of any previous final warning, if appropriate. *There is no right of appeal against such a decision of the Appeal Committee of the Governors.*
- 8.6. In the event that the Appeal Committee decides not to uphold the Principal's decision to dismiss, the Governing Body shall withdraw the notice of dismissal in writing immediately.

9. TRADE UNION OFFICIALS

- 9.1. Although normal disciplinary standards must apply to the conduct of a trade union official as an employee, no disciplinary action beyond an oral warning should be taken until the circumstances of the case have been discussed with the relevant full time trade union officer.

10. CONFIDENTIALITY

- 10.1. The proceedings of this disciplinary procedure shall remain confidential to the parties concerned. Only the decision of a disciplinary hearing may be reported.

DISCIPLINARY RULES FOR ALL EMPLOYEES

1. GROSS MISCONDUCT

Gross misconduct is the committing of an act which renders it inadvisable for the employee to be allowed to remain at work. Any employee suspected of committing an act of gross misconduct, as indicated in the list below, will be suspended with full pay pending investigation. If after proper investigation it is decided that the employee has committed an act of gross misconduct or if the act is admitted by the employee, s/he will be dismissed without further warning, unless there are mitigating circumstances. The disciplinary procedure must be followed in all cases. The list of examples below is not intended to be exclusive or exhaustive and offences of a similar gravity will receive the same treatment.

- 1.1. Dishonesty associated with place of work or job being undertaken.
 - 1.1.1. Theft of property belonging to the School, Local Authority, contractor, an employee or pupil, or member of the public.
 - 1.1.2. Deliberate falsification of timesheets or expenses claims for pecuniary advantage.
 - 1.1.3. Demanding or accepting monies or other considerations as a bribe for the use of School or LA property, provision of School or LA service or the showing of favour on behalf of the School or LA.
 - 1.1.4. Falsification of any information given on an application form for a post to gain advantage whether pecuniary or otherwise.
 - 1.1.5. Failure to disclose criminal convictions not exempt under the terms of the Rehabilitation of Offenders Act, 1975.
 - 1.1.6. Falsification of registration of pupils or students for pecuniary gain.
- 1.2. Deliberate refusal to carry out a reasonable, lawful and safe instruction or the normal agreed defined duties of the post.
- 1.3. Gross negligence in failing to attend to or carry out the agreed duties of the post.
- 1.4. Wilfully ignoring responsibilities/instructions thus placing other employees/pupils in danger, e.g. ignoring handling instructions/safety regulations in respect of radioactive materials.
- 1.5. Being unfit to perform duties associated with the post as a result of taking drugs, other than in accordance with medical advice, or taking alcohol.
- 1.6. Wilful unauthorised disclosure of information (classified as confidential), by employees who, in the course of their duties, have access to such information which, by its release, could be harmful to the School, Authority, other employees or pupils.
- 1.7. Acts of violence or vandalism in the course of employment.
 - 1.7.1. Malicious damage to School/LA/Contractor/other employees/pupils' property.
 - 1.7.2. Actual physical violence towards members/officers of the LA, members of the school staff/Governors/parents/pupils/other members of the public.
- 1.8. Sexual misconduct at work.
 - 1.8.1. Sexual misconduct whether criminal or not.

- 1.8.2. Sexual relations with students.
- 1.9. Off-duty misconduct.
 - 1.9.1. An act of criminal sexual misconduct by an employee who, in the course of duty, has contact with young people.
 - 1.9.2. Drug offences committed by employees whose job bring them into contact with young people.
 - 1.9.3. Sexual relations with students, or young persons.
- 1.10. Misuse of the internet or email facilities of the school.
 - 1.10.1. Using the internet to access unseemly or sexually explicit material.
 - 1.10.2. Using email for communicating unseemly or sexually explicit material
 - 1.10.3.
 - 1.10.4.

2. MISCONDUCT

Misconduct is of a degree less serious than that which would warrant immediate suspension from duty for a first offence but which could nevertheless lead to dismissal if persistent. The disciplinary procedure must be followed when dealing with misconduct. Some more serious acts of misconduct might justify omitting the first stage of disciplinary procedures by issuing a final warning in the first instance, if there is no satisfactory explanation. Only when it can be shown that the warnings have not been heeded will misconduct lead to action being taken which will lead to an employee's dismissal.

The list of examples below is not intended to be exclusive or exhaustive and offences of a similar gravity will receive the same treatment.

- 2.1. Absenteeism and lateness, for example.
 - 2.1.1. Failure to remain at the place of work during normal working hours without permission or sufficient cause for absence.
 - 2.1.2. Frequent failure to attend work punctually
 - 2.1.3. Failure to notify the school immediately or as soon as reasonably practicable when absence is due to sickness.
 - 2.1.4. Failure to provide medical certificates in accordance with the Conditions of Service.
- 2.2. Dishonesty - petty wrongs, for example:
 - 2.2.1. Making unauthorised private telephone calls and/or sending personal mail at the establishment's expense.
 - 2.2.2. Failure to report any loss and/or damage to any property issued to or by the employee in connection with his/her employment.
 - 2.2.3. Using the school's telephone, fax, email or internet for unauthorised personal purposes.
- 2.3. Neglect of duty, for example:
 - 2.3.1. Failure to adopt safe working practices/use protective equipment where required by law or management
 - 2.3.2. Negligent use of LA property in such a way as is likely to cause serious damage or loss.

2.3.3. Failure to discharge without sufficient cause the obligations which statute or the contract of employment places on the employee, e.g. failure to act in accordance with the requirements placed on the school by the Special Education Needs Discrimination Act.

2.3.4. Insubordination

2.3.5. Failure to exercise proper control or supervision of pupils or students.

2.4. Abusive behaviour/offensive language which arises directly out of or in connection with work and which is directed at members, officers of the LA, colleagues, Governors, pupils or members of the public.

2.5. Victimization of other employees in the course of duty.

2.6. Unlawful discrimination against other employees, pupils or members of the public in the course of duty.

2.7. Discrimination, whether unlawful or not, in the course of duty against other employees, pupils or members of the public on the grounds of sex, marital status, ethnic origin, disability or sexual orientation.

2.8. Undertaking additional employment outside normal working hours which would be detrimental to the work to be performed as a full time employee of the LA.

DOCUMENT HISTORY

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