Disciplinary procedures Teaching and Support Staff

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Contents

		Page
1.	Introduction	3
2.	Key policy principles	3
3.	Support available during the disciplinary procedure	4
4.	Informal resolution of disciplinary issues	4
5.	Formal investigation	5
6.	Formal disciplinary hearing	6
7.	Potential outcomes	7
8.	Dismissal	7
9.	Alternatives in substitution of dismissal	7
10.	Appeal	8
11.	Precautionary suspension	8
12.	Sickness absence during disciplinary investigation/hearing	8
13.	Notice periods	9
14.	Criminal offences	9

1. Introduction

The Kirklees Professional Services Model Disciplinary Policy provides a framework for Schools* to adopt, setting out the principles for handling disciplinary situations in the workplace.

Schools are obliged by law to adopt a disciplinary policy and it is recognised that discipline is necessary for the conduct of School affairs and for the safety and well-being of our employees and pupils.

The disciplinary process should consider all professional standards in relation to any decision and future referrals to the relevant body. The primary aim of the disciplinary policy is to address issues of conduct/behaviour, protect children and the reputation of the School.

*The reference to Schools throughout this document covers Academies and other Organisations.

2. Key policy principles

- These procedures apply to all school based employees who are directly managed by the school.
- Where appropriate, disciplinary matters will be managed without instigating the formal procedure.
- If information is provided, or allegations are made, which relate to possible Safeguarding concerns it is essential that this information is notified to, and shared with, the Local Area Designated Officer, Head Teacher and/or Designated Senior Person in accordance with the relevant statutory legislation.
- The formal disciplinary procedures will be used where informal attempts to improve conduct are either not appropriate or have failed, or the misconduct is of a serious nature and must be managed formally.
- Misconduct will be dealt with promptly (thus avoiding any potential for escalation) Disciplinary matters will be handled professionally, objectively, fairly and equitably. Where a complaint concerns an employee's professional competence the matter is dealt with under the competence/capability procedure.
- Where the Head Teacher is alleged to have committed an act of misconduct the Chair of Governors (Acting on behalf of the Governing Body) will take the place of the Head Teacher in dealing with the process. Advice must be sought in these circumstances.
- No disciplinary action should be taken against trade union representatives until the circumstances of the case have been discussed with a full time officer of the appropriate trade union.

- All employees are required to, and have a responsibility to, co-operate with any investigation into conduct and attend any disciplinary hearings they are required to attend. If they refuse they could be subject to disciplinary action.
- All employees have the right to appeal any formal disciplinary sanction given against them.
- If disciplinary concerns are raised in relation to Trades Union representatives it is good practice to inform the appropriate Trade Union regional representative.

3. Support available during the disciplinary procedure

- Any person who may be the subject of a disciplinary process can seek support from one of the following sources;
- Professional Associations Trade Union
- Employee Healthcare / Care First Support Network Officer
- Head Teacher Services (Wellbeing)

4. Informal resolution of disciplinary issues

In most circumstances the Head Teacher or nominated representative (e.g. Deputy/Assistant Headteacher or supervisor) would carry out a brief preliminary investigation. This could simply be a private conversation with the employee, a two way conversation enabling both parties to discuss the allegation(s). Sometimes other relevant witnesses may also be approached for further information. The purpose of this investigation is to gain information to evaluate how serious the allegation(s) are and to determine whether further action needs to be taken.

Because this is an informal meeting employees do not have a 'right' to representation from their trade union or to be accompanied by a work colleague. However it is recognised that there can be benefit in contacting the Trade Union at an early stage on an informal basis to discuss any issues. This can in some cases help prevent cases from escalating to the formal stage unnecessarily; early resolution of issues can underpin good employee relations in your organisation.

If an employee wishes to take advice or the nature of the meeting changes it may be good practice to adjourn and seek advice.

Cases of minor misconduct or unsatisfactory behaviour can usually be dealt with informally. In some cases additional training, coaching or advice on future conduct/behaviour may be enough to resolve problems. Brief notes should be

kept of informal action for reference purposes.

If informal action does not bring about a change in conduct/behaviour or the issue is considered too serious to resolve in this way, then formal action must be taken.

The use of a mediator can be very effective when there has been a breakdown in relationships or conflict. In most cases the mediator will arrange one or possibly a couple of sessions for all parties involved to attend. The purpose being to 'air' any issues and agree a way forward. Kirklees Professional Services have accredited Mediators; for further information contact your HR representative.

5. Formal investigation

Before commissioning or conducting any investigation Head Teachers / Chairs of Governors and managers may wish to seek advice from HR.

Advice needs to consider the appropriate level for the investigation to be carried out; in most cases it would be expected that Deputy/Assistant Headteacher or another appropriate person would conduct the investigation. Where the case is more complex an independent investigating officer can be provided by Kirklees Professional Services. *(This may depend on the HR Service the school has chosen).*

It is important to carry out necessary investigations of potential disciplinary matters to establish the facts of the case. In some cases this will require the holding of an investigatory meeting with the employee before proceeding to any disciplinary hearing. In others, the investigatory stage will be the collation of evidence by the employer for use at any disciplinary hearing.

An initial assessment is made, putting together a provisional timescale including taking witness notes and potential dates for the hearing. (In order that all investigations are completed within an appropriate timescale without any unnecessary delays, investigations should continue during school holiday periods where reasonably possible, including obtaining witness statements from employees. Any refusal by an employee to participate in an investigation during school holiday periods should be noted).

Step 1: The interview

The interview order needs to be planned on a case by case basis.

- Witnesses are contacted and may be required to attend an interview or provide a written statement, which will be determined by the investigating officer.
- The employee subject to investigation will be offered the right to be accompanied/represented by a Trade Union or work colleague not involved in the process which is the responsibility of the employee to

arrange.

- The employee is invited to a meeting to discuss the issues and written notes of the hearing are kept and signed by the employee.
- The employee is advised of the allegation/s or areas of concern, the purpose of the meeting and the potential outcomes.
- At the interview, the objectives for the investigation are explained: Inquire into the circumstances of the suspected or alleged misconduct: Make the employee aware of the next steps of the investigation.
- If part of an interview, notes are typed up and the employee is given an opportunity to amend their account before signing.
- Witnesses are advised that their signed accounts may be used in a formal procedure and given to the employee concerned, and they may have to give evidence personally at a disciplinary hearing, subsequent appeal, or Employment Tribunal.

Additional note: Pupils must not be interviewed unaccompanied, under such circumstances take appropriate advice.

Step 2: Report

The person leading the investigation will collate and analyse the facts and documents and complete a report for the preliminary consideration by the Head Teacher / Governors who commissioned it.

During an investigation it is not unknown for a counter allegation to be made including a grievance or complaint relating to the issues or incidents being investigated. Should this be the case, consideration should be given to the appropriateness of continuing with the Investigation or dealing with the issue raised in the complaint before proceeding.

If a grievance is raised during the process it does not mean the investigation will automatically cease or be postponed.

NB. The report will draw conclusions, not make recommendations.

Step 3: Decision making

A decision is made by the commissioning Head teacher/Governors; consideration will be made at this stage as to whether a Disciplinary Hearing is required.

Step 4: Notification

Notify the employee in writing of the outcome of the disciplinary investigation.

If a Disciplinary Hearing is arranged they must be notified of this within 10 working days of the date of the hearing. The employee must be given copies of all documents to be used in the hearing and advised to their right to representation or work colleague present.

6. Formal disciplinary hearing

As a Head Teacher/ Chair of Governing Body making the decision at the disciplinary hearing, you have to act reasonably and objectively in the interests of fairness to the School and its employees. You will have to justify your decision later if the employee appeals against it.

The purpose of the disciplinary hearing is to enable the panel to decide whether it is more likely than less likely that the employee did what is alleged and if so what action to take. See section on sanctions. The objectives for the hearing are:

To provide the opportunity for the presentation and questioning of the evidence, statements and/or witnesses

Notes are taken and will be used if an appeal is made. Tape recording of hearings is not permitted by either party.

7. Potential outcomes

Any outcome under the disciplinary procedure will be recorded and the employee clearly informed that it is a formal warning under this procedure, the nature of the complaint, the implications of the warning, the length of time that the warning will be 'live', their rights of appeal, and that the verbal warning is to be recorded. The outcome letter should clearly outline the allegations and the decision made in relation to each point (if there is more than one issue) Employees must then be sent written confirmation of this within 10 days of the decision, along with their right of appeal.

Formal Disciplinary Warnings	Periods these remain 'live'
Recorded Verbal	6 months
Written	12 months
Final Written	18 months

8. Dismissal

Employees should never be dismissed, with or without notice, without a formal hearing and the opportunity to state their case in accordance with the disciplinary procedure. If the decision of a hearing, of those with the Authority to dismiss, is to recommend dismissal on the grounds of Gross Misconduct, the persons employment would end immediately at that point. In the case of a dismissal on the grounds of Serious Misconduct the person's employment ends at expiry of the appropriate notice period. However, in cases of Serious Misconduct the dismissed employee would normally receive pay in lieu of notice meaning that their employment ends on the day the decision to dismiss is taken.

9. Alternatives in substitution of dismissal

If the decision is to recommend dismissal, depending on the circumstances of the case and the mitigation presented, one or more of the following alternatives may be given along with a Final Written Warning, in substitution of dismissal.

a. A period of suspension without pay
b. Demotion to a lower graded post
c. Transfer to a different location

There is no appeal right against the alternative as this would be an agreed variation to contract.

The only appeal is against the original decision to dismiss, therefore should the employee wish to appeal; the decision to dismiss will stand and take effect from the date of the hearing.

10. Appeal

Where an employee wishes to appeal against a disciplinary decision such an appeal is to be within fifteen working days of the date of the disciplinary outcome letter confirming the decision. The appeal shall be in writing to the Chair of the Governors and shall specify the grounds for the appeal. No person who heard an earlier disciplinary hearing may take part in the decision at a later disciplinary hearing or an appeal.

Notice for Appeal Hearing

To allow sufficient time for the preparation for an Appeal Hearing a minimum of twenty working days' notice should be given and relevant documentation should be exchanged ten working days prior to the hearing. Precautionary suspension

There may be instances where suspension from duty with pay is necessary while

investigations are carried out, for example;

- where relationships have broken down
- where there may be risks to an employee's or Schools/College's/Academies property where there may be responsibilities to other parties
- where you have reasonable grounds for concern that evidence has been (or may be) tampered with or destroyed
- witnesses may be pressurised potential gross misconduct cases

The list is not exhaustive; however the decision to suspend should only be taken after careful consideration and should be reviewed periodically to ensure it is not unnecessarily protracted. It is important that advice is taken as to how and who carries out the suspension of an employee. Please note that where there is Police involvement you must seek professional advice (E.g. HR and/or Legal) prior to taking action.

Suspension is not an assumption of guilt and is not considered a disciplinary sanction.

11. Sickness absence during disciplinary investigation / hearing

Where an employee reports sick and is in receipt of a GP's medical certificate there should be consideration to the context of appropriate standards of fairness and natural justice by the Head Teacher.

Reasonable opportunity must be given for employees to personally state their own case; obviously where the employee is on sickness absence the employee cannot comply with this. The reasonableness of this will be judged by the length of their absence (as known/expected) at the time of the hearing against all other considerations. If the employee's return is not expected in the short term, it may be fair to go ahead with the hearing once the employee and their Trade Union representative or professional association have been advised. The employee's Trade Union representative or professional association must be given the opportunity to present or provide the employee's written submission.

12. Notice periods

Meeting	Minimum Working Days Notice
Formal Management Meeting	5 Days
Disciplinary Hearing	10 Days
Appeal Hearing	20 Days
Appeal Hearing Paperwork Exchange	10 Days

Note - The notice periods can be changed through mutual agreement.

13. Criminal offences

All staff employed in a school environment are classed as in *'notifiable occupation'.* Therefore where an alleged criminal offence takes place while the person is on duty, or there might be a connection between an allegation of an employee's criminal offence committed while not on duty, and their ability or suitability for continued employment at the school, particularly if the allegation relates to abusive, inappropriate or unprofessional behaviour, then this must be dealt with under agreed procedures.

All staff have a responsibility to report any cautions, conviction or allegations immediately to the Head teacher and normally be considered within the framework of these procedures.