



POLICY FOR DISCIPLINARY PROCEDURES RELATING TO MISCONDUCT

THE HEADTEACHER

**Presented to
Trustees
4 April 2017**

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| Date approved: ¹ | 4 April 2017 |
| Date reviewed: ² | 10 November 2015 Personnel Committee |
| Date of next review: ³ | November 2018 |

¹ This is the date the policy was approved by the meeting

² This is the date the policy was reviewed prior to its approval above

³ This is the date as set by the policy review clause or the date approved plus two years

Footnote:

- Headteacher also means Head of College and Principal
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DISCIPLINARY PROCEDURE RELATING TO MISCONDUCT OF HEADTEACHER ONLY

1.0 DEFINITIONS

- 1.1. The term “Headteacher” also refers to any other title used to identify the Headteacher where appropriate.
- 1.2. The term “Line Manager” refers to the Chair of Trust Board or other Senior Trustees delegated by the Trust Board.
- 1.3. The “Staff Dismissal Committee” of the Trust Board shall consist of 3 Trustees, (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.
- 1.4 “Misconduct” is defined in the Disciplinary Rules for all employees which accompany this Misconduct Procedure.

2.0 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 Headteacher by the Line Manager. 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 Headteacher’s personal record but should be confirmed in a written memorandum. The Headteacher may make written comment on the memorandum if s/he has any objection to the issuing of an oral warning.

3.0 FIRST WRITTEN WARNING

- 3.1 If the Line Manager, having carried out appropriate investigation, considers on the facts that formal disciplinary action for misconduct is necessary, s/he will write to the Headteacher to inform him/her, at least five working days in advance, setting out:
 - a) the date, time and place of the disciplinary hearing.
 - b) the nature of the complaint.
 - c) the Headteacher’s right to be accompanied by his/her representative of an independent trade union or a work place colleague.
 - d) the titles of enclosed copies of any documents to be used as evidence.
 - e) the names of any witnesses to be called by the Line Manager.
 - f) his/her right to call witnesses on his/her behalf.
 - g) the name and office of any adviser who will accompany the Line Manager at the hearing.(At the Headteacher’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 Line Manager considers that the facts of the case amount to a prima facie case of gross misconduct the matter will be referred to the Staff Dismissal Committee.
- 3.3 At the disciplinary hearing before the Line Manager and his/her adviser, the Headteacher (and his/her representative) will be given a reasonable opportunity to state his/her case and to question the Line Manager and any witnesses. At the conclusion, following an adjournment for consideration of the facts, the Line

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Manager will state his/her decision and his/her reasons and will soon afterwards confirm them in writing to the Headteacher and his/her representative.

- 3.4 If the Line Manager decides the complaint was justified, s/he may give the Headteacher 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 Headteacher 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.

4.0 FINAL WRITTEN WARNING

- 4.1 If a further complaint is made about the Headteacher's conduct within twelve months of the date of the first written warning, the same procedure (as in 3 above) will be followed.
- 4.2 If the Line Manager decides at the conclusion of the disciplinary hearing that this further complaint is justified, s/he may give the Headteacher 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.

5.0 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 Staff Dismissal Committee, following a similar procedure to that in paragraph 3 above. The Staff Dismissal Committee shall have an adviser appointed for that purpose by the Trust Board.
- 5.2 If the Staff Dismissal Committee decides the complaint is justified, it may decide to dismiss the Headteacher. The Staff Dismissal Committee will state its decision and its reasons and inform the Headteacher of his/her right to appeal to the Appeals Committee of the Trust Board. The Staff Dismissal Committee will soon afterwards confirm the decision and right of appeal in writing to the Headteacher (and his/her representative). The Staff Dismissal Committee will record the outcome of its considerations and the names of persons present at the hearing.
- 5.3 The Trust Board will notify the Headteacher in writing of the decision to dismiss, whether the decision was with notice, or with pay in lieu of notice. The written notice of dismissal to the Headteacher shall include notifying him/her of the right of appeal.

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6.0 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 Headteacher will be informed by the Line Manager that s/he is suspended on full pay pending further investigation of the complaint before the Staff Dismissal Committee which, if it 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 Trust Board acting on behalf of the Trust Board, or by the Staff Dismissal Committee or the Appeals Committee referred to in 7.3.

7.0 RIGHT OF APPEAL

- 7.1 The Headteacher has a right of appeal against a written warning issued by a Line Manager (see paragraphs 3 and 4). The appeal will be heard by the Disciplinary Panel of Trustees. The number of Trustees on the Disciplinary Panel of Trustees will not be less than two. The panel shall be advised by a person engaged for the purpose by the Trust Board. 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 Line Manager should be made in writing to the Clerk to the Trustees within 5 working days of the receipt of the written decision.
- 7.3 The Headteacher has a right of appeal against a decision to issue a warning or to dismiss by Staff Dismissal Committee (see paragraph 5). An appeal against a warning by the Staff Dismissal Committee will be to the Disciplinary Panel of Trustees referred to in paragraph 7.1 above.
- 7.4 An appeal against dismissal will be to the Appeal Committee of the Trustees, which shall have a membership of not less than 3 Trustees, none of whom shall have any previous involvement in the case. The Appeal Committee shall be advised in its deliberations by an adviser appointed for that purpose by the Trust Board.
- 7.5 Appeals against decisions by the Staff Dismissal Committee should be made in writing to the Clerk to the Trustees 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.

8.0 VARIATION IN PENALTIES

- 8.1 The Line Manager or the Disciplinary Panel of Trustees 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 Line Manager may decide that the misconduct is so serious that it justifies a first and final written warning.
- 8.3 The Line Manager may decide to issue a further final warning rather than refer the complaint to the Staff Dismissal Committee.

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- 8.4 The Staff Dismissal Committee 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 Trustees.
- 8.6 In the event that the Appeal Committee of the Trustees decides not to uphold the Staff Dismissal Committee's decision to dismiss, the notice of dismissal shall be immediately withdrawn.

9.0 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.

10.0 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.

11.0 REVIEW

- 11.0 The Trust Board (or responsible committee) will review this policy in line with the procedure for policy review.
- 11.1 Date for Review
If no other reason for review (see policy review procedure) this policy will be reviewed in November 2018.

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