




# NEWLAND SCHOOL FOR GIRLS

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## DISCIPLINARY POLICY

Approved by IEB	20.10.16
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# **DISCIPLINARY PROCEDURE FOR STAFF IN SCHOOLS WITH DELEGATED POWERS**

## **INTRODUCTION**

1. The Governing Body is obliged under the Education Act 1996 to establish disciplinary rules and procedures (including suspension and dismissal).  
  
This document sets out the disciplinary procedure to be followed by the Governing Body and the Headteacher in the maintenance of acceptable standards of conduct and behaviour of employees in the school.
2. Articles of Government and the Conditions of Service for Teachers and other staff should be considered in conjunction with this document.
3. This procedure will remain in force until amended or withdrawn by the Governing Body after reasonable notice and consultation with the relevant trade unions.
4. The Governing Body is responsible for the conduct and discipline of all staff in the school although most disciplinary matters will, in the first instance, be dealt with by the Headteacher. The employee should be informed of the details of any allegation.
5. The Governing Body will establish a Committee of not less than 3 and not more than half the full Governing Body to hear disciplinary cases and a separate Committee of at least equal number to hear appeals. This is a requirement of the Education Act 1996 and the Articles of Government.
6. The LEA is entitled to attend all the relevant proceedings in the disciplinary process where dismissal may be the outcome and the Governing Body is obliged to consider any advice given by or on behalf of the LEA.
7. Where the Governing Body so decides through due process, the LEA is obliged to give notice to or dismiss employees.

## **THE PROCEDURE**

### **Representation**

8. Employees have the right to be accompanied by a trade union official or friend who may make representations on their behalf at all stages of this procedure.

### **Precautionary Suspension**

9. Where appropriate the Headteacher or Governing Body or, as a matter of urgency the Chair of Governors may suspend any employee from work pending investigation of alleged misconduct which is sufficiently serious or the situation is such that harm to the employer, children, colleagues or property may result. The Chair of Governors or Headteacher should immediately inform the LEA of the suspension. The Governing Body should be informed of the suspension but not the details of the incident or allegation at the earliest opportunity.

Precautionary suspension is only appropriate where:-

- (i) The allegation if substantiated would amount to gross misconduct (ie. conduct which would go to the root of the contract).  
  
or
  - (ii) To not suspend would potentially interfere with the investigation.
10. Employees will be suspended on normal pay (i.e. without loss of earnings). Such precautionary suspension is not disciplinary action. The investigation will be undertaken as soon as possible after the suspension.

## **Investigation**

11. When a disciplinary matter arises, delegated Deputy Headteacher should first establish the facts promptly, before recollections fade or distort, and take written statements from all witnesses. The employee will be further informed that their conduct or behaviour is in question and of the allegations surrounding any incident. If the employee is to be interviewed during the investigation it should be made absolutely clear that the interview is for investigation purposes and is not the disciplinary hearing. The employee must be given the opportunity to seek union advice before making a statement and/or be accompanied by a representative or friend. The delegated Deputy Headteacher should take notes of all investigatory meetings.
- NB1** In cases of alleged abuse of children refer to the Child Protection Procedures.
- NB2** The Headteacher will hear the disciplinary case (see paragraph 13) should one prove necessary, and therefore will not undertake the investigation. There may be exceptional circumstances where it is necessary for the headteacher to undertake the investigation or to employ a third party to do so.
12. Witnesses should make written statements and will be advised that they may be required to attend the disciplinary hearing at the request of either party. They should be warned that the matter is confidential and must not be discussed with anyone and that statements will be made available to the employee involved.
13. The matter having been investigated, the delegated Deputy Headteacher will determine what course of action should be followed. This may be that:-
  - 13.1. There is no case to answer.
  - 13.2. Staff are to be given informal advice as to their future conduct.
  - 13.3. Staff are to be given formal advice as to their future conduct. This will be confirmed in writing.
  - 13.4. A formal disciplinary hearing be convened to be heard by:-
    - (a) The Headteacher for all offences; a member of HR will present for hearings where dismissal is a possibility.
    - (b) The Governing Body when the Headteacher has investigated the matter.
- NB** Whilst the Director of Education or his/her representative is entitled to attend all proceedings where dismissal is a potential outcome, it is recommended that an officer of the LEA be invited to attend all disciplinary hearings in an advisory capacity. No disciplinary action should be taken without a formal hearing.

## **Disciplinary Action Against a Headteacher**

14. Disciplinary action against a Headteacher will not be initiated without the involvement of the Chair of the Governing Body. The LEA will undertake the role which would normally be ascribed to the Headteacher with regard to the investigation and any subsequent disciplinary proceedings.

## **Disciplinary Action Against Trade Union Representatives**

15. Although normal disciplinary action must be taken when appropriate against trade union representatives, no such action should be taken until the circumstances of the case have been discussed by the Headteacher with a senior trade union/professional association official.

## **DISCIPLINARY HEARING**

16. The Headteacher or designated Committee of the Governing Body should, as soon as practical, hold a disciplinary hearing. The employee will be requested in writing (with at least 10 working days notice) to attend the hearing. He/she will be informed of the allegation(s) to be considered and be provided with copies of the disciplinary procedure and all the evidence to be presented and be advised of the names of witnesses to be called. The employee will also be reminded of the right to be represented.
17. If the hearing is to be conducted by the Headteacher the delegated person (normally the Deputy Headteacher) will present the results of the investigation to the hearing. This may include witness statements which may be supported by presentation of oral evidence by the witnesses themselves and other written evidence. The employee will then have the opportunity to state their case, ask questions, present evidence and call witnesses.
18. The Headteacher will decide what action to take, after an adjournment if necessary, and will inform the employee and their representative accordingly. The decision will be confirmed in writing as soon as possible.
19. If the allegation(s) are considered to be unfounded the employee will be so informed. Confirmation will be given in writing and no further action will be taken.
20. When the hearing is to be conducted by a Committee of the Governing Body the investigating officer or clerk to the Committee should notify the employee, the Governors and any witnesses of the date of the hearing. The information circulated should be as detailed in 16 above. The agenda for the hearing is given in Appendix 1.

## **ACTION FOLLOWING INVESTIGATION**

### **No Further Action**

21. This should be communicated to the employee in writing with a copy provided to their representative.

### **Formal Advice**

22. The employee should be advised of the areas of concern and the improvement required. The concerns should be explained in detail in a constructive manner with clear examples given where possible. The employee should be left in no doubt of the improvement required and strategies for support, monitoring and a timescale should be agreed. This should be confirmed in writing to the employee with a copy provided for his/her representative.

## **COURSES OF DISCIPLINARY ACTION**

### **Verbal Warning**

23. The employee will be told that his/her conduct is unacceptable, advised of what is expected of him/her and that a verbal warning will be recorded on his/her file. The employee should be told that this is the first action within the disciplinary procedure and that if his/her conduct does not improve further action will be taken. The verbal warning will be confirmed to the employee in writing and she/he will be advised of his/her right of appeal.
24. A record of the verbal warning will be kept but it will be disregarded for disciplinary purposes after 6 months (from the date of the letter confirming/giving the verbal warning) subject to satisfactory conduct and behaviour.

### **Written Warning**

25. If the offence is of a more serious nature, or if a further offence occurs within the currency of a previous warning a written warning may be given to the employee. This will give details of the complaint, the improvement required and the consequences of future misconduct. It will warn that further action will be considered if there is no satisfactory improvement or any further breach of conduct and will advise of the right of appeal. A copy of this written warning will be kept but it will be disregarded for disciplinary purposes after

6 months (from the date of the letter confirming/giving the written warning) subject to satisfactory conduct and behaviour.

26. Copies of the written warning will be sent to the employee and his/her representative (if appropriate) and a copy retained on the employee's personal file.

A copy of the written advice will be placed on the employee's file. The principles of paragraphs 41 and 42 on retention of records will apply.

### **Final Written Warning**

27. If there is still a failure to improve and conduct or behaviour is still unsatisfactory within the currency of a written warning, or if the misconduct is sufficiently serious to warrant only one written warning a final written warning may be given to the employee. This will give details of the complaint, will warn that dismissal may result if there is no satisfactory improvement or a further breach of conduct and will advise of the right of appeal. A copy of this final written warning will be kept. After 12 months from the date of the letter confirming/giving the final written warning, the final written warning will be reduced to the level of a written warning (subject to satisfactory conduct and behaviour). After 18 months from the date of the letter confirming/giving the final written warning, the warning will no longer count for progression to the next stage of the formal disciplinary procedure (subject to satisfactory conduct and behaviour).
28. Copies of the final warning will be sent to the employee and his/her representative (if appropriate) and a copy retained on the employee's file.

### **Dismissal**

29. If the conduct or behaviour is still unsatisfactory and the employee still fails to reach the prescribed standards after receipt of a final written warning, dismissal with notice may apply. Dismissal without notice (SUMMARY DISMISSAL) may apply in cases of gross misconduct regardless of any, or the absence of, written warnings.
30. The Governing Body has the sole authority to dismiss an employee. Where the Headteacher, in the course of hearing a disciplinary case, considers dismissal may be the appropriate course of action, the hearing should be adjourned and the employee informed that the case will be referred to a hearing of the Disciplinary Committee of the Governing Body. The employee will be requested in writing to attend the meeting of the Governing Body and will be reminded of their right to be accompanied as described in paragraph 8 above.
31. The Director of Education or his/her representative, as joint employer, is entitled to attend all proceedings relating to a potential dismissal from employment.
32. The Governing Body Committee meeting will constitute a full hearing of the case.
  - 32.1. The Headteacher will normally present the case to the Committee and the employee and/or their representative will be able to respond.
  - 32.2. The task of presenting the case may be delegated by the Headteacher to a member of the school's senior management team or assistance may be sought from an officer of the LEA.
  - 32.3. The Governing Body will decide whether or not to dismiss the employee, impose a lesser penalty or reject the allegations entirely or in part.
  - 32.4. The Governing Body is obliged to consider any advice given by or on behalf of the Director of Education. The LEA is obliged to accept and carry out any recommendation to dismiss made by the Governing Body.

### **Alternative to Dismissal**

33. The Governing Body may decide that the misconduct warrants dismissal but having regard to extenuating circumstances may substitute relegation to a lower graded post without protection of salary, provided there is scope within the school's staffing establishment. A final written warning will always be given in conjunction with relegation.

Relegation without protection of salary cannot apply to teachers. However a teacher may be willing to agree to such a relegation as an alternative to dismissal.

### **Right of Appeal**

34. Employees have the right of appeal to the Appeals Committee of the Governing Body against decisions of the Disciplinary Committee or the Headteacher. The appeal may be against the decision taken, the sanction imposed or the procedure adopted.
35. Unless otherwise directed by the Disciplinary Committee, appeals must be notified in writing to the clerk to the Committee within 10 working days from the date of written notification of the decision. A copy should be sent to the Headteacher.
36. Employees have no right of appeal beyond the Appeals Committee but may have recourse to an Industrial Tribunal.

### **Holding an Appeal**

37. Having established a Committee to deal with disciplinary issues, a separate Committee will be set up to hear appeals. The Appeals Committee will have the authority to uphold the original decision or to substitute a lesser penalty or to reject the original decision. The minutes of the Appeals Committee will be circulated to the Governing Body.

No member of the Appeals Committee (including nominated substitutes) will be involved in any preceding disciplinary action.

38. The appeal hearing should be convened as quickly as possible, normally within 4 working weeks of receipt of the appeal but allowing sufficient time for the employee to prepare for the hearing.
39. The Director of Education or a nominee is entitled to attend meetings of the Appeals Committee and the Committee is obliged to consider any advice given by or on behalf of the Director of Education.
40. An appeal will be conducted in accordance with the agenda shown in Appendix 1 (with the exception of 13b). Both parties may introduce new evidence.

### **Retention of Records**

41. A formal warning will remain effective during the period of time specified. This means that it will be taken into consideration, as part of the cumulative process, when determining the level of disciplinary action warranted for any further offences which may occur during the period.

42. At the end of the specified period the formal warning will expire. This does not mean that the warning should be completely removed from the employee's personal record but that it should be disregarded when determining the level of further disciplinary action. Previous warnings form part of the employee's work history and should remain on file for reference purposes.

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## **DISCIPLINARY RULES**

### **INTRODUCTION - EMPLOYMENT RIGHTS ACT 1996**

1. Under the Employment Rights Act 1996, the written statement of main terms must include a note specifying any disciplinary rules applicable to employees or referring employees to a document, which is reasonably accessible to them, specifying such rules.
2. The object of the attached document on Disciplinary Rules is twofold:
  - (1) to fulfill the Governing Body's obligations under the Employment Rights Act, 1996 and
  - (2) to ensure that each employee is aware of the general standard of conduct and work performance expected of him or her.

### **WHY HAVE DISCIPLINARY RULES, POLICIES AND PROCEDURES?**

3. Disciplinary rules, policies and procedures are necessary for promoting fairness and order in the treatment of individuals and in the conduct of industrial relations. Rules set standards of conduct at work; the Disciplinary Policy and Procedure help to ensure that the standards are adhered to and provides a fair method of dealing with alleged failures to observe them.

### **DISCIPLINARY RULES -LIMITATIONS**

4. It is unlikely that any set of disciplinary rules can cover all circumstances that may arise; moreover the rules will vary according to particular circumstances in a school.

### **SCOPE**

6. This document applies to all staff at the school.

### **DISCIPLINARY RULES APPLYING GENERALLY TO STAFF**

6. The following Disciplinary Rules are applicable to all staff:
  - (a) Whilst it is not possible to list all offences or to specify the nature of the disciplinary action to be taken in each case, every offence will be carefully considered and disciplinary action taken in accordance with Governing Body's Policy on Discipline and the Disciplinary Procedure, depending upon the gravity of the case and in the light of all the circumstances.
  - (b) Employees will not normally be dismissed for the first offence, but there are certain cases of gross misconduct where dismissal could result without there being any previous recorded offences.



## **DISCIPLINARY RULES - CONDUCT**

### **Gross Misconduct**

7. The following list indicates within broad parameters, the type of conduct which could constitute gross misconduct:

- (a) Fighting during working hours and/or at a work place.
- (b) Willful damage to the City Council' s property.
- (c) Intimidation of colleagues.
- (d) Any act of discrimination, or willful omission leading to discrimination, against a colleague(s)/pupil.

**Please note that, dependent on the level and seriousness of each case, (d) and (e) could be gross misconduct or misconduct.**

- (e) Any criminal activities during the course of employment.
- (g) Driving a school vehicle whilst under the influence of alcohol or drugs or whilst otherwise unfit to do so.
- (h) Driving employer's vehicle without an appropriate driving licence.
- (i) Any act or omission calculated to defraud the employer  
e.g. falsification of time sheets/bonus sheets.
- (j) Incapacity on duty due to the effects of alcohol or drugs.
- (k) Improper disclosure of confidential information.
- (l) Actions which could damage the public image of the school.
- (m) Professional misconduct.
- (n) Any willful introduction of a virus into a computerised system.
- (o) Sexual harassment of/or sexual misconduct with colleagues or pupil.
- (p) Willful act or omission which causes unacceptable risk of loss, damage or injury (gross breach of safe working practices).

8. The above list is not exhaustive or exclusive.

9. Gross misconduct such as that listed above normally result in dismissal without notice, however the circumstances of each case will be fully considered and if they are sufficiently mitigating, a more lenient course of action may be taken.

### **Misconduct other than Gross Misconduct**

10. The following are actions or omissions which constitute a breach of discipline to be dealt with under the Local Disciplinary Procedure.
- (a) Poor timekeeping
  - (b) Unauthorised absence from school
  - (c) Failure to adhere to working hours
  - (d) Insubordination or refusal to obey a reasonable instruction - failure to observe an operational requirement of the school
  - (e) Abuse of any uncertified/self certified sickness provisions.
  - (f) Willful failure to produce work of the required standard.
  - (g) Unauthorised destruction, mutilation, alteration, addition to or erasure of official documents.
  - (h) Disregard of safety practices, procedures and rules.
  - (i) Rude or offensive behaviour.
  - (j) Unauthorised use of equipment on school premises.
11. The above list is not exhaustive or exclusive but again illustrates the sort of conduct that may, if known about, necessitate action under the Governing Body's Disciplinary Procedure.

### **Cumulative Misconduct**

12. A single act of ordinary misconduct will not in itself normally justify dismissal, but it must be clearly understood that under the concept of cumulative misconduct, i.e. the "totting up procedure" this act, when added to others, may result in dismissal.

### **OBSERVANCE OF SAFETY RULES**

13. Under the Health and Safety at Work etc. Act, 1974, it is the duty of every employee whilst at work, to take reasonable care for the health and safety of him/herself, and of other persons who may be affected by his/her acts or omissions, and to co-operate over the implementation of the Act at school level.
14. Although all safety rules must be stringently observed the following list identifies the areas of particular importance
- (a) Operating machinery without authority or instruction.
  - (b) Operating machinery in the absence of the correct safety guards or devices, or with defective safety guards or devices.
  - (c) Removing or interfering with the safety guards or devices without authority.
  - (d) Altering or adjusting machinery speeds or operations without authority.
  - (a) Failure to replace safety guards or devices.
  - (f) Using machinery for unauthorised purposes.
  - (g) Failure to conform to safety systems of work laid down.
  - (h) Failure to observe safety precautions, safety rules and regulations.
  - (i) Work on equipment (e.g. electrical equipment) other than by properly authorised persons
  - (p) Work involving dangerous materials (e.g. asbestos, lead, chemicals etc.) without proper precautions and/or authorisation.
  - (k) Use of unauthorised equipment.
  - (I) Failure to use or wear safety equipment and/or personal protective equipment provided and identified as being necessary by risk assessment, safe systems of work etc.
  - (m) Smoking in prohibited areas.
  - (n) Endangering by act or omission any employee or other person.
  - (o) Failure to comply with terms of permit-to-work system or lock-off system or similar safety or procedure where they are in operation.
  - (p) Causing or contributing to unsanitary or unhealthy conditions, e.g. smoking in areas where food is being prepared.

15. It is the duty and responsibility of all management and supervisory staff to ensure that safe equipment, safe systems of work, safe places of work and access thereto, and a healthy environment are provided and used by all employees and that sufficient information, instruction, training and supervision is provided to ensure the health and safety of employees.

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