



SIR THOMAS RICH'S

Staff Disciplinary Procedure

This policy draws upon the ACAS Code of Practice on Discipline and Grievance Procedures. The School Governing Body has adopted the policy and related procedures after consulting with the trade unions recognised by the School.

Date reviewed:	September 2017
Status:	Statutory
Responsibility:	The School's senior management team (SMT) has operational responsibility for this policy. Governors agree its principles, review procedures regularly, and monitor its implementation.

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This is provided to enable easy reference to sections of the procedure; however, the procedure should be read in its entirety before commencing any action.

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1. Policy Statement

This Disciplinary Procedure sets out the standards of conduct expected of all staff, to ensure employees understand the behaviour expected of them as they fulfil their duties and responsibilities. It provides a framework within which managers can work with employees to maintain satisfactory standards of conduct, and to encourage improvement where necessary.

This procedure is not primarily about imposing sanctions, or managing Capability (which is covered by a separate policy). It does not form part of any employee's contract of employment. It may be amended at any time, or varied, as needed, to meet the circumstances of each case. However, it is our policy to ensure that any disciplinary matter is managed fairly: that steps are taken to establish the facts; and that employees have the opportunity to respond before any formal action is taken.

2. Who is covered by the procedure?

The procedure applies to all employees, regardless of length of service. It does not apply to agency workers or self-employed contractors.

3. What is covered by the procedure?

This procedure is used to deal with misconduct. It does not apply to cases involving genuine sickness absence, proposed redundancies or poor performance, all of which are covered by other policies.

Minor conduct issues can often be resolved informally between employee and line manager. Such discussions should be held in private and without undue delay whenever there is cause for concern. Where appropriate, and with employee knowledge, a note of any such informal discussions may be placed on a personnel file, but will be ignored for the purposes of any subsequent disciplinary hearings. An informal verbal warning may be given, if necessary, but would also not form part of disciplinary records.

Formal procedures will be invoked if the matter cannot be resolved, or if informal resolution is inappropriate (perhaps because of the seriousness of an allegation). An employee will not typically be dismissed for a first act of misconduct, unless the School decides it amounts to gross misconduct, or an employee has not yet completed the probationary period.

If an employee has difficulty at any stage of the procedure because of a disability, they should discuss the situation with their line manager as soon as possible.

4. Confidentiality

Our aim is to deal with disciplinary matters sensitively, with due respect for the privacy of any individuals involved. All employees must treat as confidential any information communicated to them in connection with an investigation or disciplinary matter. Anyone involved in the case is normally not permitted to make electronic recordings of any meetings or hearings conducted under this procedure.

The subject of an allegation will be told the names of any witnesses whose evidence is relevant to disciplinary proceedings against them, unless the School believes that a witness's identity should remain confidential.

5. Investigations

An investigation is held to enable the School to establish a balanced and factual view of the circumstances that have led to disciplinary allegations against an employee. Its conclusions will inform the decision whether or not to proceed to a formal disciplinary hearing.

An Investigating Officer will be appointed to carry out the investigation either by the Headmaster or (if the process concerns the Headmaster) the Chair of Governors. The Investigating Officer will usually be a member of the SMT (or a governor, if the matter concerns the Headmaster). In certain circumstances the School may appoint an external investigator.

The depth of an investigation will depend on the nature of the allegations and will vary from case to case. It may involve interviewing and taking statements from the subject of the allegation and any witnesses, and/or reviewing relevant documents. Investigative interviews are solely for the purpose of fact-finding; no decision on disciplinary action will be taken until after a formal hearing has been held.

The employee does not normally have the right to bring a companion to an investigative interview. However, we may allow this if it helps the employee to overcome any disability, or if they have any difficulty in understanding English.

The employee must co-operate fully and promptly in any investigation. This will include informing the School of the names of any relevant witnesses, disclosing any relevant documents to us and attending investigative interviews if required.

6. Criminal charges

Where employee conduct is the subject of a criminal investigation, charge or conviction the School will investigate the facts before deciding whether to take action.

The School will not usually await the outcome of any prosecution before deciding what action, if any, to take. If the employee is unable or has been advised not to attend a disciplinary hearing, or say anything about a pending criminal matter, the School may have to take a decision based on the available evidence.

A criminal investigation, charge or conviction relating to conduct outside work may be treated as a disciplinary matter if it is considered to be relevant to their employment.

7. Suspension

In some circumstances the School may suspend an employee from work. Suspension will be for no longer than is necessary to investigate the allegations, and arrangements will be confirmed in writing.

While suspended an employee should not visit School premises (or contact any pupil, parent, supplier, contractor or staff member) without authorisation from the Headmaster, or his nominated officer. In the case of suspension of the Headmaster, such authorisation should be sought from Chair of the Board of Governors, or their nominated officer.

Suspension is not a disciplinary penalty, and does not imply that any decision has already been made about the allegations. The employee will continue to receive their normal basic salary and benefits during the period of suspension.

The employee will be given the name of an independent person who will provide personal and confidential support during the period of suspension.

8. Notification of a hearing

If the investigation uncovers grounds for disciplinary action, the employee will be notified that they are required to attend a disciplinary hearing. They will be informed in writing of the nature and basis of the allegations, and the range of sanctions or penalties which could be applied by the School if the hearing finds the allegations to be true. The School will also include the following where appropriate:

- a)** a summary of relevant information gathered during the investigation;
- b)** a copy of any documents to be used at the disciplinary hearing;
- c)** and a copy of any relevant witness statements. If a witness's identity needs to be confidential, the School will provide as much information as possible while maintaining confidentiality.

The School will provide written notice of the date, time and place of the disciplinary hearing. The hearing will be held as soon as reasonably practicable, although the employee will be given reasonable time (usually 5 to 7 days) to prepare their case based on the information provided.

9. The right to be accompanied

The employee may bring a companion to any disciplinary hearing or appeal hearing under this procedure. The companion may be either a trade union representative or a work colleague. The employee must inform the Investigating Officer of the identity of their chosen companion in good time before the hearing.

A companion is allowed reasonable time off from duties without loss of pay. No-one is obliged to act as a companion if they do not wish to do so.

In some cases the School may ask the employee to choose a different companion. For example:

- a) if, in the School's opinion, the companion has a conflict of interest or may prejudice the meeting; or
- b) if the companion is unavailable at the time a meeting is scheduled and is unavailable for more than five working days afterwards.

The School may allow the employee to bring a companion who is not a colleague or union representative (for example, a family member) if this will help overcome a disability, or if there is a difficulty understanding English.

10. Procedure at disciplinary hearings

If the employee or companion cannot attend the hearing, the School should be informed immediately in order to arrange an alternative time. The employee must make every effort to attend the hearing; failure to attend without good reason may itself be treated as misconduct. If the employee fails to attend without good reason, or is persistently unable to do so (for example for health reasons), the School may have to take a decision in their absence based on the available evidence.

The hearing will usually be chaired by the Headmaster, or his nominated representative (or by a Governor, in the case of allegations against the Headmaster) but may not be chaired by anyone who has been involved in the investigation. The Investigating Officer will be present, along with the subject of the hearing (with a companion, if required). Other representatives of the School may also attend.

The disciplinary hearing will first consider the allegations against the employee, and the evidence gathered during the Investigation. The employee may respond, and present additional evidence. Their companion may make representations to the hearing and ask questions, but should not answer questions on the employee's behalf. Employee and companion may confer privately at any time during the hearing.

The employee may ask relevant witnesses to appear at the hearing, provided sufficient advance notice is given to arrange their attendance. The employee will be given the opportunity to respond to any information given by a witness. However, cross-examination of witnesses will not be allowed unless, in exceptional circumstances, the School decides that a fair hearing could not be held otherwise.

The hearing may be adjourned if further investigation is required (for example, to re-interview witnesses in the light of new points raised by the employee during the hearing). The employee will be given a reasonable opportunity to consider any new information arising from these enquiries before the hearing is reconvened.

The School will write to the employee with its decision, and the reasons for it, usually within one week of the disciplinary hearing. Where possible a representative of the School will also explain the decision in person.

11. Disciplinary penalties

The usual penalties for misconduct are set out below. No penalty will be imposed without a hearing, as the School aims to treat all employees fairly and consistently. Each case will be assessed on its own merits: a penalty imposed on another employee for similar misconduct may be taken into account, but will not be treated as a precedent.

Stage 1 - First written warning will usually be appropriate for a first act of misconduct, provided there are no other active written warnings on the employee's disciplinary record. The written warning will be decided by the Headmaster, If the process concerns the Headmaster, the warning will be authorised by the Chair of Governors, or their nominee.

Stage 2 - Final written warning will be authorised as for Stage 1, but will apply in cases of misconduct where:

- a) there is already an active written warning on the employee record;
- b) or the misconduct is considered sufficiently serious to warrant an immediate final written warning.

Stage 3 - Dismissal may be decided by the Headmaster, or his nominated representative, with the approval of the Governors' Personnel Committee. If the process concerns the Headmaster, dismissal would be authorised by the Chair of Governors, or their nominee. Dismissal is an appropriate penalty in cases of:

- a) misconduct during the employee's period of probation;
- b) further misconduct, following a final written warning; or
- c) gross misconduct, even if there are no active warnings on record. Gross misconduct will usually result in immediate (summary) dismissal without notice or payment in lieu of notice. Some examples of what constitutes gross misconduct are in Schedule 1.

Alternatives to dismissal - The School has the discretion to consider alternatives to dismissal, on the authority of the Headmaster or his nominated representative (or the Chair of Governors, if the process concerns the Headmaster). Alternative penalties, all of which would usually be accompanied by a final written warning, might include:

- a) Demotion.
- b) Transfer to another department or job.
- c) A period of suspension without pay.
- d) Loss of seniority.
- e) Reduction in pay.
- f) Loss of future pay increment or bonus.
- g) Loss of overtime.

12. The effect of a warning

Written warnings will set out the nature of the misconduct, the change in behaviour required, the period for which the warning will remain active, and the likely consequences of further misconduct in that active period.

A first written warning will usually remain active for twelve months; a final written warning will usually remain active for twenty-four months. In exceptional cases, verging on gross misconduct, a final written warning may state that it will remain active indefinitely. An employee's behaviour may be reviewed at the end of the active period of any warning. If the employee's conduct has not improved, the active period may be extended.

After the active period, the warning will remain permanently on an employee's personnel file, but will be disregarded in deciding the outcome of future disciplinary proceedings.

13. Appeals against disciplinary action

If an employee feels that disciplinary action taken against them is wrong or unjust, appeal may be made within one week of the decision being notified to them. The appeal must be submitted in writing, stating full grounds for the appeal, to the person named in the decision letter.

If the employee is appealing against dismissal, the date on which dismissal takes effect will not be delayed pending the outcome of the appeal. However, if the appeal is successful, reinstatement will occur with no loss of continuity or pay.

If the employee raises any new matters during the appeal, the School may need to carry out further investigation. If any new information comes to light the School will provide the employee with a summary including, where appropriate, copies of additional relevant documents and witness statements. The employee will have a reasonable opportunity to consider this information before the hearing.

The School will give the employee written notice of the date, time and place of the appeal hearing. The hearing will normally be five to seven days after receipt of the written notice.

The appeal hearing may be a complete re-hearing of the matter, or a review of the fairness of the original decision, based on the procedure followed and how any new evidence presented was considered. The scope of the appeal hearing is at the discretion of the School, reflecting the circumstances of the case.

The same standards of fairness, impartiality and confidentiality apply to the appeal process as to every other aspect of this disciplinary procedure. This means that, where possible, the appeal hearing will be conducted by a senior manager, or panel of governors, not previously involved in the case. The Investigating Officer and the manager who conducted the disciplinary hearing will also usually be present and there may also be other representatives from the School present. The employee may bring a companion to the appeal hearing (see paragraph 9).

The School may adjourn the appeal hearing if further investigations are required in the light of new points raised at the hearing. There will be a reasonable opportunity for the employee to consider any new information obtained before the hearing is reconvened.

Following the appeal hearing the School may:

- a) confirm the original decision;
- b) revoke the original decision; or
- c) substitute a different penalty.

The School will write to the employee with its decision, and the reasons for it, usually within one week of the appeal hearing. Where possible a representative of the School will also explain the decision in person. There will be no further right of appeal.

14. Referrals to National College for Teaching and Leadership

In relation to teaching staff; if decision has been made to dismiss the teacher for misconduct, or the teacher would have been dismissed had they not resigned first, the School may refer the case to the National College for Teaching and Leadership.