



Dated **1st May 2015**

St Hilda's Church of England Primary School "the School"

Disciplinary Policy



1. Policy statement

- 1.1 The aims of this Disciplinary Policy and the associated Code of Conduct are to set out the standards of conduct expected of all employees and to provide a framework within which the Governing Body can work with employees to maintain satisfactory standards of conduct and to encourage improvement where necessary.
- 1.2 It is the policy of the Governing Body to ensure that any disciplinary matter is dealt with fairly and that steps are taken to establish the facts and to give employees the opportunity to respond before taking any formal action.
- 1.3 This policy does not form part of any employee's contract of employment and it may be amended at any time. The Governing Body may also vary this policy, including any time limits, as appropriate in any case.

2. Who is covered by the policy?

The policy applies to all employees regardless of length of service. It does not apply to agency workers, peripatetic local authority staff or self-employed contractors.

3. What is covered by the policy?

- 3.1 This policy is used to deal with misconduct. It does not apply to cases involving genuine sickness absence, proposed redundancies, capability or performance management for pay purposes. In those cases reference should be made to the appropriate policy or procedure.
- 3.2 Minor conduct issues can often be resolved informally between you and an appropriate member of the Senior Leadership Team. These discussions should be held in private and without undue delay whenever there is cause for concern. Where appropriate, a note of any such informal discussions may be placed on your personnel file but will be ignored for the purposes of any future disciplinary hearings. In some cases an informal verbal warning may be given, which will not form part of your formal disciplinary records. Formal steps will be taken under this policy if the matter is not resolved, or if informal discussion is not appropriate (for example, because of the seriousness of the allegation).
- 3.3 You will not normally be dismissed for a first act of misconduct, unless a decision is taken that it amounts to gross misconduct or you have not yet completed your probationary period.
- 3.4 If you have difficulty at any stage of the procedure because of a disability, you should discuss the situation with the Headteacher or the Chair of the Governing Body, as appropriate, as soon as possible.

4. Confidentiality

- 4.1 The Governing Body aims to ensure disciplinary matters are dealt with sensitively and 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.
- 4.2 You, and anyone accompanying you (including witnesses), must not make electronic recordings of any meetings or hearings conducted under this policy.
- 4.3 You will normally be told the names of any witnesses whose evidence is relevant to disciplinary proceedings against you, unless the School believes that a witness's identity should remain confidential.



5. Investigations

- 5.1 The purpose of an investigation is to allow the School to establish a fair and balanced view of the facts relating to any disciplinary allegations against you, before deciding whether to proceed with a disciplinary hearing. The amount of investigation required will depend on the nature of the allegations and will vary from case to case. It may involve interviewing and taking statements from you and any witnesses, and/or reviewing relevant documents. The Headteacher, will usually appoint an appropriate member of the Senior Leadership Team to act as Investigating Officer and carry out the investigation.
- 5.2 Investigative interviews are solely for the purpose of fact-finding and no decision on disciplinary action will be taken until after a disciplinary hearing has been held.
- 5.3 The School will allow you the opportunity to be accompanied by a colleague of your choice, or a trade union representative during any investigatory meetings held as part of the investigative process. The colleague/trade union representative would be present to observe the proceedings and advise you but cannot answer questions on your behalf. There is no entitlement to external legal representation.
- 5.4 You must co-operate fully and promptly in any investigation. This will include informing the Investigating Officer of the names of any relevant witnesses, disclosing any relevant documents and attending investigative interviews if required.

6. Criminal charges

- 6.1 Where your conduct is the subject of a criminal investigation, charge or conviction the School will investigate the facts before deciding whether to take formal disciplinary action.
- 6.2 The School will not usually wait for the outcome of any prosecution before deciding what action, if any, to take. Where you are unable or have been advised not to attend a disciplinary hearing or say anything about a pending criminal matter, a decision may be taken based on the available evidence.
- 6.3 In the case of a child protection issue, there is a requirement for the Headteacher (or the appropriate Investigatory Officer) to inform the Local Authority Designated Officer. In such circumstances, a Child Protection Strategy Meeting may be convened to discuss and agree appropriate action.
- 6.4 A criminal investigation, charge or conviction relating to conduct outside work may be treated as a disciplinary matter if it is considered relevant to your employment.

7. Suspension

- 7.1 In some circumstances it may be necessary for the Headteacher or Governing Body to suspend you from work. The suspension will be for no longer than is necessary to investigate the allegations and the arrangements will be confirmed to you in writing. While suspended you should not visit the School premises or contact any pupils, parents, employees, contractors or suppliers, unless you have been authorised to do so by the Headteacher or the Chair of the Governing Body.



7.2 Suspension of this kind is not a disciplinary penalty and does not imply that any decision has already been made about the allegations. You will continue to receive your full salary and benefits during the period of suspension.

7.3 Should disciplinary proceedings be warranted it should be noted that involvement in the suspension process will not preclude the Headteacher or any member of the Governing Body from further involvement in the disciplinary policy.

8. Notification of a hearing

8.1 Following any investigation, if the Investigating Officer considers there are grounds for disciplinary action, you will be required to attend a disciplinary hearing. You will be informed in writing of the allegations against you, the basis for those allegations, and what the likely range of consequences will be should a decision be taken after the hearing that the allegations are true. The notification will also include the following where appropriate:

- (a) a summary of relevant information gathered during the investigation;
- (b) a copy of any relevant documents which will be used at the disciplinary hearing; and
- (c) a copy of any relevant witness statements, except where a witness's identity is to be kept confidential, in which case you will be provided with as much information as possible while maintaining confidentiality.

8.2 You will also be provided with written notice of the date, time and place of the disciplinary hearing. The hearing will be held as soon as reasonably practicable, but you will be given a reasonable amount of time, usually two to five working days, to prepare your case based on the information provided to you.

9. The right to be accompanied

- 9.1 You may bring a companion to any disciplinary hearing or disciplinary appeal hearing under this policy. The companion may be either a trade union representative or colleague. You must tell the person conducting the hearing who your chosen companion is, in good time before the hearing.
- 9.2 A companion is allowed reasonable time off from duties without loss of pay but no-one is obliged to act as a companion if they do not wish to do so.
- 9.3 If your choice of companion is unreasonable you may be required to choose someone else, for example:
- (a) if it is considered that your companion may have a conflict of interest or may prejudice the meeting; or
 - (b) if your companion is unavailable at the time a meeting is scheduled and will not be available for more than five working days afterwards.
- 9.4 The School may, at its discretion, allow you to bring a companion who is not a colleague or union representative (for example, a member of your family) if this will help overcome a disability, or if you have difficulty understanding English. There is no entitlement to legal representation.
- 9.5 A companion may make representations, ask questions, and sum up your position, but will not be allowed to answer questions on your behalf. You may confer privately with your companion at any time during the hearing.



10. Delegation of Authority

- 10.1 The School Staffing (England) Regulations 2009 allow the Governing Body to delegate its responsibility for discipline and power to dismiss employees and the Governing Body has taken a decision to delegate such responsibility under this Disciplinary Policy to the Headteacher. In exceptional circumstances, for instance where a conflict of interest exists for the Headteacher, responsibility for discipline or dismissal under this Disciplinary Policy will be delegated to the Chair of the Governing Body. For the avoidance of doubt this includes the imposition of all disciplinary sanctions including the decision to dismiss an employee. [Ross – as we discussed the Governing Body must issue a resolution to delegate this authority formally. Also a copy of the resolution should be clearly recorded and available should a copy of it ever be requested by an individual employee or trade union representative.]
- 10.2 The Governing Body will also delegate responsibility for matters of discipline and or dismissal relating to the Headteacher to a suitably convened Disciplinary Panel of at least three governors. For the avoidance of doubt this includes the imposition of all disciplinary sanctions including the decision to dismiss the Headteacher.

11. Procedure at disciplinary hearings

- 11.1 If you or your companion cannot attend the hearing at the time specified you should inform the Headteacher immediately and he/she will try, within reason, to agree an alternative time. You must make every effort to attend the hearing, and failure to attend without good reason may be treated as misconduct in itself. If you fail to attend without good reason, or are persistently unable to do so (for example for health reasons), a decision may be taken in your absence based on the available evidence.
- 11.2 Unless the hearing relates to the alleged misconduct of the Headteacher, the hearing will normally be chaired by the Headteacher under his/her delegated authority. The Investigating Officer and an appropriate note taker will also generally be present. You may bring a companion with you to the disciplinary hearing.
- 11.3 During the disciplinary hearing the allegations against you and the evidence that has been gathered will be presented to you. You will be able to respond and present any evidence of your own.
- 11.4 You may ask relevant witnesses to appear at the hearing, provided you give sufficient advance notice to allow their attendance to be arranged. You will be given the opportunity to respond to any information given by a witness. However, you will not normally be permitted to cross-examine witnesses unless, in exceptional circumstances, a decision is taken that a fair hearing could not be held otherwise.
- 11.5 The disciplinary hearing may be adjourned to carry out any further investigations such as re-interviewing witnesses in the light of any new points you have raised at the hearing. You will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened and/or a decision is taken.
- 11.6 You will usually be informed of the outcome of the disciplinary hearing and the reasons for it in writing within 10 working days of the disciplinary hearing.



12. Disciplinary penalties

- 12.1 The usual penalties for misconduct are set out below. No penalty should be imposed without a hearing. The Governing Body aims to treat all employees fairly and consistently, and a penalty imposed on another employee for similar misconduct will usually be taken into account but should not be treated as a precedent. Each case will be assessed on its own merits.
- 12.2 **Stage 1 - First written warning.** A first written warning may be authorised by the Headteacher, the Chair of the Governing Body or a suitably convened Disciplinary Panel under the appropriate delegated authority. It will usually be appropriate for a first act of misconduct where there are no other active written warnings on your disciplinary record.
- 12.3 **Stage 2 - Final written warning.** A final written warning may be authorised by the Headteacher under his/her delegated authority or if appropriate a suitably convened Disciplinary Panel of at least three Governors. It will usually be appropriate for:
- (a) misconduct where there is already an active written warning on your record; or
 - (b) misconduct that is considered sufficiently serious to warrant a final written warning even though there are no other active warnings on your record.
- 12.4 **Stage 3 - Dismissal.** Dismissal may be authorised by the Headteacher the Chair of the Governing Body or a suitably convened Disciplinary Panel under the appropriate delegated authority and will usually only be appropriate for:
- (a) any misconduct during your probationary period;
 - (b) further misconduct where there is an active final written warning on your record; or
 - (c) any gross misconduct regardless of whether there are active warnings on your record. Gross misconduct will usually result in immediate dismissal without notice or payment in lieu of notice (summary dismissal). Examples of gross misconduct are set out in the School's Code of Conduct, which is available from the School office.
- 12.5 **Alternatives to dismissal.** In some cases the School may at its discretion consider alternatives to dismissal. These may be authorised by the Headteacher, the Chair of the Governing Body or a suitably convened Disciplinary Panel under the appropriate delegated authority and will usually be accompanied by a final written warning. Examples include:
- (a) Demotion.
 - (b) Transfer to another department or job.
 - (c) A period of suspension without pay.
 - (d) Loss of seniority.
 - (e) Loss of future pay increment or bonus.



13. The effect of a warning

- 13.1 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.
- 13.2 First and final written warning will usually remain for twelve months.
- 13.3 After the active period, the warning will remain permanently on your personnel file but will be disregarded in deciding the outcome of future disciplinary or capability proceedings.

14. Appeals against disciplinary action

- 14.1 If you feel that disciplinary action taken against you is wrong or unjust you should appeal in writing, stating your full grounds of appeal, to the Headteacher or Chair of the Governing Body, as appropriate, within 5 working days of the date on which you were informed in writing of the decision.
- 14.2 If you are appealing against dismissal, the date on which dismissal takes effect will not be delayed pending the outcome of the appeal. However, if your appeal is successful you will be reinstated with no loss of continuity or pay.
- 14.3 If you raise any new matters in your appeal, it may be necessary to carry out further investigation. If any new information comes to light you will be provided with a summary including, where appropriate, copies of additional relevant documents and witness statements. You will have a reasonable opportunity to consider this information before the hearing.
- 14.4 You will be provided with written notice of the date, time and place of the appeal hearing. An appeal hearing will normally be held within 15 working days of receiving your written appeal.
- 14.5 The appeal hearing may be a review of the fairness of the original decision in the light of the procedure that was followed and any new information that may have come to light or in appropriate circumstances may be a re-hearing of all or part of the matter.. This will be at the Disciplinary Appeal Panel's discretion depending on the circumstances of your case. In any event the appeal will be dealt with as impartially as possible.
- 14.6 Where possible, the appeal hearing will be conducted impartially by a suitably convened Disciplinary Appeal Panel consisting of at least three Governors who have not been previously involved in the case. The Investigating Officer, the person who conducted the disciplinary hearing or an appropriate member of the disciplinary panel, may also be present as will a suitable note taker. You may bring a companion with you to the appeal hearing.
- 14.7 The Disciplinary Appeal Panel may adjourn the appeal hearing if appropriate to carry out any further investigations in the light of any new points you have raised at the hearing. You will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened and/or a decision is taken.



- 14.8 Following the appeal hearing the Disciplinary Appeal Panel may:
- (a) confirm the original decision;
 - (b) revoke the original decision; or
 - (c) substitute a different penalty.
- 14.9 The Disciplinary Appeal Panel will inform you of the outcome of your appeal and the reasons for it in writing as soon as possible, usually within 15 working days of the appeal hearing. There will be no further right of appeal.