

Staff Discipline Policy

1 June 2017 Version Number:1

Review Date: Summer Term 2020

Northern
House
School



NORTHERN HOUSE SCHOOL WOKINGHAM

POLICY AND PROCEDURE

FOR

DISCIPLINE

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1. Policy Statement

1.1. The aim of this Disciplinary Policy is to ensure that there is a fair and consistent approach to the enforcement of standards of conduct affecting employees of Northern House School. The Policy should not be viewed primarily as a means of imposing sanctions but of encouraging improvement in individual behaviour.

1.1.1. This Disciplinary Policy and Procedure has been developed to enhance the ability of the school to deliver an effective, efficient and value for money service in support of the school's vision and values.

1.1.2. This Disciplinary Policy and Procedure has been drawn up in consultation with Union representatives. It is based on the principles in the ACAS Code of Practice on disciplinary and grievance procedures.

2. Purpose

2.1. The purpose of this policy is to ensure that employees observe all of the School's policies and expected practice. These include the Code for Conduct and Personal Behaviour and those concerning Health and Safety at Work, Financial Regulations and any that are required in a professional capacity.

3. Scope

3.1. This policy applies to all employees of Northern House School other than those in their probationary period to whom separate arrangements apply (see the Probation Policy and Procedure).

3.1.1. Community, voluntary controlled, community special and maintained nursery schools are strongly recommended to adopt this model policy. Foundation and voluntary aided schools may also wish to adopt it.

Collaborating governing bodies working together under the Collaboration Regulations 2003 may apply this policy where appropriate.

4. Equal opportunities

4.1. All employees will be treated with respect and dignity in accordance with the Policy for Equal Opportunities.

5. The Disciplinary Procedure

5.1. Sanctions and Factors that need to be considered

5.1.1. When deciding whether a disciplinary penalty is appropriate and what form it should take, managers must bear in mind the need to act reasonably and consistently at all times. Factors that should be considered are:

- The extent to which standards have been breached
- Precedent i.e. has this particular breach happened before and what was the penalty; will any precedent be set for the future?

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- The employee's employment record within the school
- The employee's job role and training
- The employee's length of service
- Special circumstances that may impact on the severity of the sanction.

5.1.3. No action may be taken against an appointed or elected trade union representative or officer without prior consultation with the relevant union's Regional Office and the Head of Human Resources.

5.2. The right to be accompanied at a Formal Disciplinary Hearing

5.2.1. Employees have a statutory right to be accompanied at a formal disciplinary hearing by a work colleague or trade union representative but not at the informal stage.

5.3. The right of appeal

5.3.1. An employee can appeal against a disciplinary decision made following a formal hearing; (this does not include an informal warning which is not part of the formal disciplinary procedure). An employee must also be informed of his or her right of appeal, how to make an appeal and to whom.

5.4. **Grievance** - where an employee raises a grievance during the disciplinary process the disciplinary process may be temporarily suspended in order to deal with the grievance. For example:

- bias is alleged in the conduct of the disciplinary meeting
- there is possible discrimination.

Where the grievance and disciplinary cases are related it may be appropriate to deal with both issues concurrently.

5.5. Keeping written records

5.5.1. Managers are advised to keep a written record of each stage of the disciplinary process including informal discussions. Records should include:

- School induction
- 1-1 meetings
- the complaint against the employee
- the employee's response
- decision to suspend
- outcome of investigation
- actions taken and the reason for those actions
- details of appeals
- details of any grievances raised during the disciplinary procedure
- notes of any formal hearings.

For examples of misconduct and Gross Misconduct – see Appendix 1.

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6. The Stages of the Disciplinary Procedure

6.1. Informal Stage

6.1.1. Informal warning – The manager should meet with the employee informally to investigate the breach of conduct. In most cases where a minor breach of conduct has occurred, managers should take an informal approach before any formal action is considered e.g. informal advice, coaching, training or counselling. However, should the breach of conduct be more serious, formal action may be commenced without the need for informal action to have taken place beforehand. School managers may wish to give access to a Counselling service.

6.1.2. Period of review – The manager should discuss with the employee the conduct and behaviours expected and should:

- Agree a plan of improvement and a period for review.
- Confirm in writing - give a copy of the notes or improvement plan to the employee and ask the employee to sign to show they have received a copy and understand (managers have discretion to use the Improvement Plan in the Disciplinary Procedure Toolkit for Schools).
- Proceed to the formal stage where the individual's conduct continues to fall below the required standards
- Keep a written note of any discussions/reviews so that if the employee fails to improve or maintain this improvement, they can refer to this conversation when beginning any formal procedure.

6.1.3. If it becomes clear during the informal/investigative interview that formal disciplinary action needs to be taken then the interview must be terminated and a formal hearing arranged at which the individual will have the right to be accompanied. The manager must not initiate the formal process during the informal interview. (Further guidance for managers is in the Disciplinary Procedure Toolkit for Schools).

6.1.4. Allegations relating to children and young people should be referred to the LADO on 0118 974 6141 or email lado@wokingham.gcsx.gov.uk.

7. Disciplinary Investigation - The manager should carry out a preliminary enquiry to confirm that the allegation is justified.

7.1. Where the facts of the case appear to call for formal action then a full investigation must take place and the employee must be informed. Employees have a right to representation at investigation interviews with the support of a trade union representative or colleague. The line manager will normally conduct the investigation and present the case to a manager at a higher level. Where the Headteacher is the line manager it will usually be appropriate for another senior manager to conduct the investigation so that the Headteacher can chair the hearing. The manager chairing the hearing will hear all the evidence before deciding the outcome at stages 1 to 3.

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- 7.1.1. The manager must decide whether it is necessary to recommend suspension to the Headteacher for a brief period whilst the investigation is carried out – **the headteacher must clearly record the decision to suspend.**

For guidance for carrying out an investigation see the Disciplinary Procedure Toolkit for Schools.

Where complaints are from members of the public or where they have witnessed incidents, the investigating manager should take all reasonable steps to establish the facts and take statements wherever possible. However, members of the public would not normally be expected to attend a formal hearing. Particular care

- 7.1.2. must be taken to maintain confidentiality, see the Code of Conduct and Personal Behaviour.
- 7.1.3 Where the alleged misconduct would, if proved, be a criminal offence, or the Police are already involved it is advisable to seek advice from the school's HR provider before starting an investigation.

7.2. Suspension

Suspension from work does not imply guilt and is not intended as a sanction but as a precaution. Before suspending an employee approval must be given by the Head teacher. When the headteacher is being suspended the chair of governors should carry out the suspension.

- 7.2.1. Employees should normally only be suspended in serious cases where there is:

- No possibility of temporary redeployment to another area
- A risk of the presence of the individual may hinder or influence the investigation
- A danger the alleged misconduct might happen again.
- Continued risk to pupils or colleagues
- On committing a gross misconduct offence

Suspension is not however automatic but is dependent on careful consideration of the individual circumstances.

- 7.2.2 An employee will normally be suspended with full pay pending the outcome of the investigation and where appropriate, the disciplinary hearing. The period of suspension should be as brief as possible.

- 7.2.3. Where an employee is to be suspended they should be invited to a meeting and informed:

- The reason for the suspension and given an opportunity to respond. A brief record should be made of any response made.
- That they must not attend work or communicate with colleagues on work related matters except Trade Union or appointed contact
- That they may be interviewed as part of the investigation which may result in disciplinary action being taken
- Of their right to representation during the investigation

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- Of the length of the initial period of suspension.

This must be confirmed in writing and must be signed by the Headteacher or their representative and sent to the employee by hand or recorded delivery.

- 7.2.4. The employee should be offered the name of a nominated manager with no involvement in the case that they may contact if they require further information.
- 7.2.5. The employee must make themselves available for interviews during the procedure and must not take alternative employment while the contract of employment still applies. Where secondary employment has already been approved by the school, this may continue, except where potential conflict of interest is the cause of the suspension.
- 7.2.6. If an employee starts a period of sick leave after disciplinary allegations, during a disciplinary investigation or a period of suspension this will not prevent the operation of the disciplinary procedure. It is in the interests of the school and the employee that any disciplinary allegations are resolved within a reasonable timescale. At least two attempts will be made to convene a hearing that the employee can attend. If the employee is still unable to attend, the hearing can proceed with a representative of their choice in attendance. If the employee does not wish any other person to attend as their representative the hearing can proceed without them. Employees must provide evidence of the reason for absence.

8. Formal Stage – Disciplinary Procedure

- 8.1. If, after the informal stage, or in more serious cases following an investigation:

- the employee's conduct has not improved, or
- the outcome of an investigation indicates there may have been a breach of conduct.

The employee should be notified in writing that they will be required to attend a disciplinary hearing.

- 8.1.1. All stages of the formal disciplinary hearings will be held by an independent manager or a more senior manager and a representative from Human Resources may attend in an advisory role. Where a formal hearing is held which may lead to a disciplinary sanction short of dismissal, i.e. the first two formal stages, the hearings should be chaired by a either the headteacher or a manager nominated by him/her. The headteacher should only chair hearings at these stages if there are insufficient senior managers, either teachers or support staff at the school to make this viable.

A note relating to all formal warnings will be retained on the individual's personal file. Warnings will normally be disregarded for disciplinary purposes after a period of 12 months (this may be extended to 2 years in exceptional circumstances).

- 8.1.2. **Adjournment before decision** – The manager should adjourn the hearing to allow time for proper consideration before a decision is taken about whether a disciplinary penalty is appropriate. It also allows for any further checking of any issues raised, particularly if there is any dispute over facts.

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8.2. Formal Written Warning (Stage 1)

8.2.1. If at the end of the hearing there is:

No case to answer; the manager will confirm this in writing.

Or

A belief that disciplinary action is appropriate; the manager will issue a formal written warning giving details of the complaint.

8.2.2. As with all stages of this procedure the warning must always follow an investigation and a hearing with the individual concerned.

8.3. Final Written Warning (Stage 2)

8.3.1 Where there is still a failure to improve or change behaviour or the breach of conduct is very serious the employee will be required to attend a second (or first at this stage) disciplinary hearing. Where a member of staff is subject to further hearings as a result of a failure to improve, for example in the case of timekeeping, the line manager can make the case for further action to the manager who has previously decided on formal action at a lesser level. However in the case of larger schools it may be possible for the line manager to present the case to another manager. If at the end of the hearing there is a belief that disciplinary action is appropriate the manager will issue a final (or first and final) written warning to the employee.

8.3.2 The manager should also inform the employee that if there is no improvement or change this could result in dismissal or advised of some other action short of dismissal.

8.4. Dismissal – (Stage 3)

8.4.1. If conduct remains unsatisfactory and the employee still fails to reach the required standards or there is an allegation of gross misconduct the employee will be required to attend a stage 3 disciplinary hearing and must be informed that the outcome may be dismissal.

8.4.2. If at the end of the hearing there is a belief that disciplinary action is appropriate the employee may be dismissed (with or without notice). The employee may be dismissed summarily i.e. without a period of notice if the circumstances justify this course of action i.e. gross misconduct. The decision to dismiss should be confirmed in writing.

8.4.3. Dismissal for misconduct (not regarded as gross misconduct) will normally be with pay in lieu of notice. Summary dismissal for gross misconduct will normally be effected immediately (after a thorough investigation and disciplinary hearing) and without pay in lieu of notice.

8.5. The Appeal

8.5.1 An employee can appeal at any level of the formal stage of disciplinary process i.e. Formal Written Warning and Final Written Warning against the reasonableness of the decision taken at the hearing; (this does not include the informal stage). The specific grounds for appeal must be made

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by the employee in writing to the Clerk to the Governors within five working days of receipt of the letter confirming the outcome of the disciplinary hearing and the action to be taken.

- 8.5.1 Appeals against dismissal must be made to the Clerk to the Governors within 5 working days of receiving notification of the outcome of the hearing.

Appendix 1 - Examples of Misconduct

The following are examples of misconduct and gross misconduct. The list is not intended to be exhaustive as not all examples of misconduct or gross misconduct can be included in this policy:

Misconduct:

- Unauthorised absence
- Negligence
- Inadequate standards of work caused by carelessness
- Careless damage to or wastage of school property and/or equipment
- Failure to carry out reasonable instructions
- Insubordination
- Improper behaviour or conduct towards a member of the public
- Disregard of safety instructions
- Aggressive behaviour towards colleagues/members of the public/or pupils
- Harm to pupils/employee or member of the public
- Timekeeping offences
- Breach of the Code of Conduct for Employees
- Improper disclosure of confidential information
- Knowingly aiding an offence against discipline
- Smoking in prohibited areas
- Harassment and/or bullying
- Breach of the School's guidelines for the e-mail/internet
- Breach of the School's approach to equality

Gross Misconduct

- Theft of school, staff or public property
- Fraud and deliberate falsification of records
- Deliberate damage to or neglect of school property and/or equipment
- Serious insubordination
- Serious harassment and/or bullying
- Deliberate disregard of the Equal Opportunities Policy
- Deliberate disregard of other school policies/legislation which may bring the school into disrepute
- Physical violence
- Serious harm to pupil/employee or member of the public
- Bringing the school into serious disrepute

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- Serious incapability whilst on duty brought on by alcohol or non-prescribed drugs
- Serious breach of the Code of Conduct for employees.
- Serious negligence which causes or might cause unacceptable loss, damage or injury
- Serious infringement of health and safety rules
- Serious breach of confidence.
- Serious breach of the school's approach to equality.
- Serious breach of the school's guidelines for the e-mail/internet

The above are only examples and advice should be sought from the School's HR Provider regarding cases that do not fall directly into a category – most cases are different, or will have different circumstances.