



A DISCIPLINARY PROCEDURE FOR LONGWELL GREEN PRIMARY SCHOOL

Based on South Gloucestershire Document Reference
B100 1 020 06

Date of implementation: March 2010
Responsibility: HT
Date of review: Three yearly, or when changes are announced by South Gloucestershire personnel

1. INTRODUCTION

1.1 This Model Procedure has been agreed by South Gloucestershire Council and the relevant Trade Unions/Professional Associations recognised by the LA and has been adopted by the Governing Body of this School.

1.2 In accordance with the Staffing Regulations of the Education Act 2002, the Governing Body has delegated to the Headteacher authority to take disciplinary action OR the Headteacher has chosen not to exercise his/her right of carrying out the delegated functions for staff appointments and dismissals and a Governors' Staffing Panel will be convened as necessary. (**Delete as appropriate**).

A Headteacher must take 'natural justice' principles into consideration before taking disciplinary action in paragraph 1.2, as the 'Investigating Officer' must not normally be the formal 'Disciplining Manager'. Headteachers who intend to exercise their right to make the initial dismissal determination are strongly recommended to contact their Schools' Personnel Officer and/or their Professional Association before making a decision to hear the case where an employee could be dismissed for his/her conduct.

1.3 This Procedure covers all staff employed in the School and provides for matters to be dealt with in a fair and consistent method where an employee's alleged conduct warrants formal disciplinary action including breaches of health and safety. It does not apply to those issues related to performance (for which a separate procedure exists).

1.4 This Disciplinary Procedure does not replace the normal interchange between Headteacher/Line Manager and employee, and recognises, that in most instances, minor breaches of discipline can and should be dealt with informally and promptly by the Headteacher or other appropriate Line Manager, without the use of the Formal Disciplinary Procedure. The use of supervision, coaching, counselling and informal reprimand can be effective in improving conduct. Nothing in this Procedure removes the right of a Manager to give an employee a letter to confirm an informal discussion/meeting with that individual, outside the Formal Disciplinary Procedure, when the employee is believed to have committed a minor infringement of the Governing Body's 'standards of conduct'.

- 1.5 This Disciplinary Procedure will be used when there is an allegation of a serious breach of discipline or when a series of minor breaches of discipline have occurred. An employee will not normally be dismissed for the first breach of discipline, except in cases of gross misconduct.
- 1.6 Where it becomes apparent that a breach of discipline may have occurred the Headteacher or other relevant Line Manager or Governor will undertake an investigation appropriate to the circumstances. (It would not be appropriate for the Headteacher to do so where the Governing Body has delegated to the Headteacher authority to take disciplinary action.)
- 1.7 Where it is agreed that it would be inappropriate for the Headteacher, Deputy Headteacher, Assistant Headteacher or other senior member of staff to conduct the investigation, a Governor will be responsible and it may be agreed that an Officer of the LA can assist or be nominated by the Governing Body to act as the Investigating Officer.
- 1.8 In any Disciplinary Hearing established under this Procedure the employee has the right to be represented by a Trade Union Representative/Professional Association Representative or Workplace Colleague, defined as a 'Companion'. Where the employee is a Trade Official, the matter should be discussed with the Full-time Official before any action is taken.
- 1.9 An employee may be suspended while an allegation is investigated. This is not an act of discipline.
- 1.10 In operating this Procedure, Headteachers, other Managers and Governors will apply the School's commitment to equality of opportunity by treating employees fairly and without discrimination.
- 1.11 It is a fundamental principle at Disciplinary and Appeal Hearings that the employee will be advised in writing, in advance of the nature of the allegations against him or her and will be given the opportunity to state his or her case before any decision is made.
- 1.12 An employee will have the right to appeal against any disciplinary sanction imposed at a Formal Disciplinary Hearing.
- 1.13 The disciplinary sanctions identified within the procedure are not necessarily sequential and may be implemented at any level if the employee's alleged misconduct warrants such action.
- 1.14 This Procedure should be read in conjunction with the notes of guidance for Disciplinary Hearings.

2. THE DISCIPLINARY HEARING

- 2.1 The Headteacher will make the appropriate arrangements for the Hearing. The procedures to be followed at this stage of the process may be varied by mutual agreement.

- 2.2** The employee should be given at least 5 working days' notice in writing of a Hearing and must be advised in writing of the date, time and location of the Hearing, who will be involved, the nature of the complaint being made and of the right to have a 'Companion' present. Whenever possible, the date of the Hearing will take account of the availability of the employee's chosen representative. Copies of any supporting information, including statements already taken as part of an investigation should accompany the letter and a copy of the Disciplinary Procedure must be provided. The names of witnesses should be included within the letter. The employee will reciprocate.
- 2.3** If the chosen 'Companion' is unavailable for the arranged Disciplinary Hearing, an alternative date will be set which is normally within 5 days of the original Hearing. At this rearranged Hearing, if the original 'Companion' becomes unavailable, the employee is expected to bring another 'Companion' or be unaccompanied.
- 2.4** The Hearing can be heard by the Headteacher if he/she is exercising his/her right under Sections 35 and 36 of The Education Act 2002. If the allegation is against the Headteacher, or the Headteacher is not exercising his/her rights under the Education Act 2002, the case will be presented to a Governors' Staffing Panel, none of whom will have had direct involvement in the case previously.
- 2.5** A LA representative (and, in the case of a VA School, a Diocesan representative as well) will be invited to attend as Adviser to the Headteacher or to the Governors' Staffing Panel.
- 2.6** If the employee is unable to attend the Hearing for acceptable reasons, it will be rearranged for a second date taking account of the circumstances. If the employee is unable to attend the rearranged Hearing it will normally proceed in his/her absence. His/her Representative will be given the opportunity to present the employee's case on his/her behalf.

3. DISCIPLINARY ACTION

- 3.1** If at the Hearing the Headteacher/Governors' Staffing Panel considers that there is no case to answer, the Headteacher/Governors' Staffing Panel will inform the employee and it will be confirmed in writing. The Headteacher/Governors' Staffing Panel may also consider that counselling or mentoring may be appropriate alongside recommendations for future conduct. This will be confirmed in writing to the employee.
- 3.2** If the Headteacher or the Governors' Staffing Panel believes, on the balance of probabilities, that the alleged misconduct is substantiated, the Headteacher or Governors' Staffing Panel will decide the appropriate disciplinary action. The sanctions available are: -

First Written Warning

For a breach of discipline amounting to ordinary misconduct or for a further minor breach of discipline. A copy of a written warning will remain live on file for 1 year. The warning will be disregarded for disciplinary purposes after the 12 month period.

Final Written Warning

For a serious breach of discipline, or for a breach of discipline amounting to gross misconduct, but a lesser penalty is appropriate in the circumstances, or where there has been failure to improve conduct for a further breach of discipline after a written warning has been given and remains live.

A copy of a Final Written Warning will remain live on file for 2 years and the warning will be disregarded for disciplinary purposes after the time limit has expired.

Dismissal

For failure to improve or for an act(s) of further misconduct after a Final Written Warning has been given and remains live, dismissal may be with notice or pay in lieu of notice. For an act(s) of gross misconduct, dismissal may be without notice (i.e. summary dismissal).

4. CONFIRMATION OF DISCIPLINARY ACTION

- 4.1 The employee will be provided with written confirmation after the Hearing, together with details of his/her right of appeal.
- 4.2 Where the outcome of the Procedure is that the employee should be dismissed, the Headteacher or Governors' Staffing Panel should give a written instruction to the LA. The LA must issue notice, as appropriate, within 14 days of receiving the written instruction. In the case of VA schools, the authority to dismiss rests with the Governing Body and not the LA, so it is for the Governing Body to process the dismissal.

5. THE APPEAL PROCESS

- 5.1 Any disciplinary action taken by the Headteacher (exercising his/her right under Sections 35 and 36 of The Education Act 2002) or Governors' Staffing Panel is subject to a right of appeal to a Governors' Appeal Panel.
- 5.2 If the employee wishes to appeal, then he/she should notify the Headteacher, in writing, normally within 5 working days of written notification of the decision setting out the grounds for the Appeal.
- 5.3 The Appeal Hearing will normally take the form of a rehearing.

DISCIPLINARY PROCEDURE: APPENDIX A

Gross Misconduct

Gross misconduct is generally seen as misconduct serious enough to destroy the employment contract between the employer and the employee and make any further working relationship and trust impossible.

The following list, which is not exhaustive, provides examples of offences, which the Headteacher/Governing Body would normally regard as gross misconduct depending upon the seriousness and circumstances of the case.

- Sexual behaviour towards children or young people.
- Violent behaviour.
- Behaviour which involves a breach of a position of trust, such as a sexual, or otherwise inappropriate, relationship with a pupil (regardless of whether the pupil is over the age of consent).
- A sexual offence against someone over the age of 16
- Committing a criminal offence, the nature of which renders the employee unsuitable for continued employment with the school.
- Bringing the school into serious disrepute.
- Drug trafficking and other drug related offences.
- Being under the influence of alcohol or unprescribed drugs at work.
- Theft or fraud.
- Deception in relation to employment, e.g. false claims about qualifications or employment history.

- Willful and/or malicious verbal abuse, bullying or harassment of a personal or discriminatory nature.
- Multiple convictions, unless of a very minor nature.
- Behaviour, which involves a breach of the standards of propriety, such as falsifying pupil records or assisting pupils to cheat or gain unfair advantage in examinations.
- Deliberate and serious damage to property.
- Unauthorised use of school materials, equipment, facilities or other resources for private purposes.
- Deliberately accessing internet sites containing pornographic, offensive or obscene material.
- Serious and willful insubordination.
- Unlawful discrimination.
- Causing loss, damage or injury through serious negligence.
- A serious breach of health and safety rules.
- A serious breach of confidence.
- Engaging in work or activities incompatible with absence on sick pay.
- Improper use of position as a Council employee for personal gain.

NB: Note this list is indicative and is not exhaustive.

