



## **Wibsey Primary School**

### **Disciplinary Policy**

#### **Disciplinary Policy Statement**

It is not the prime objective of the disciplinary procedure to inflict punishment. The main purpose is to encourage an employee whose standard of work or conduct is unsatisfactory to improve. The procedure serves to ensure that this is done in a fair and consistent manner. Clear guidelines are set out in the Council's disciplinary rules and the GTC (England) Code of Conduct and Practice for Registered Teachers on what constitutes acceptable standards of performance and behaviour.

#### **1) Preamble**

Schools are strongly recommended to follow the guidance in the Managing Investigations document. The guidance includes detailed information on conducting investigations, suspending a member of staff and examples of what constitutes gross misconduct. Please contact your Human Resources (HR) Advisor for advice.

- The disciplinary procedure is strictly confidential and all aspects including all documentation and records shall be treated as such.
- In minor cases of alleged misconduct the manager should initially seek to resolve the matter informally by discussion with the employee.
- The disciplinary procedure is to be used where an employee's work or conduct is alleged to be unsatisfactory.
- Please check with you HR Advisor whether a concern should be dealt with under the disciplinary or capability procedures
- Each step and action under the procedure must be taken without unreasonable delay.
- The timing and location of meetings must be reasonable.

#### **General Principles**

1. No disciplinary action will be taken against an employee until the case has been fully investigated
2. During any management interview, an employee has the right to be accompanied by a trade union representative or a work colleague. The right to be accompanied will be confirmed in writing to the employee.
3. Before any disciplinary decision is made regarding an employee the employee will be advised of the allegations against him/her and will be given the opportunity to state his/her case. The employee will be notified in writing of the allegations to be answered at least 10 working days (plus any documentary evidence) before the hearing.

4. At any disciplinary hearing or appeal hearing the employee will have the right to:
- produce written statements and bring witnesses (All written statements shall be circulated to all parties at least 3 days in advance of the hearing);
  - ask questions of any witnesses present.
  - be represented by up to two trade union representatives or work colleagues
  - present his/her case (or be represented by up to two trade union representatives or work colleagues) prior to the decision being made whether or not to issue the warning or to dismiss.

**NB. In accordance with Section 10(4) of the Employment Relations Act 1999 an employee may seek a postponement of a hearing and propose an alternative time if their chosen trade union representative or work colleague is not available. The alternative time proposed by the employee must be reasonable and fall within 5 working days beginning the first day after the day proposed by the employer.**

1. No employee will be dismissed for a first breach of discipline except in the case of gross misconduct when the penalty may be dismissal without notice and without pay in lieu of notice.
2. NB In all circumstances teachers are entitled to a minimum of 4 weeks pay – see Local Conditions of Service paragraph 4.6
3. The decision and the reasons shall be communicated in writing (or verbally and in writing) to the employee.
4. An employee will have the right to be informed (if a warning is given or if the employee is dismissed) at the time the decision is made, of the right of appeal and how to exercise that right (see Section 5).

### **Trade Union Officials**

Although normal disciplinary standards will apply to their conduct and performance as employees, no disciplinary action or suspension will be taken until the circumstances of the case have been discussed with an appropriate full-time official. In the case of suspension this may not be practical and should not prevent Management taking action.

### **Suspension**

In exceptional circumstances consideration may be given to removing the member of staff from their place of work (i.e. suspension) at the outset of the investigation or at any stage during the course of the investigation. Suspension should only happen in extreme cases and the Suspension procedure document should be followed

Please contact your Human Resources Business Partner if you are considering suspension.

Every effort should be made to avoid lengthy periods of suspension.

The decision to suspend and the conditions of suspension will be reviewed initially after a period of 1 month and subsequently on a monthly basis. The suspended employee will be informed of the outcome of each review. Any representations received from the employee or the employee's trade union representative will be considered at each review.

For more details regarding entitlements to pay and sickness entitlement during suspension the Pay during Suspension document

## 2. Levels of Disciplinary Action

There are four stages, each of which is designed to cover the varying seriousness of the cases. The stages give a proper sequence for persistent cases. Where the case is of sufficient importance or seriousness to use the procedure, disciplinary action will be taken at whatever stage appears appropriate to the circumstances.

No employee will be dismissed for a first breach of discipline except in the case of gross misconduct when the penalty may be dismissal without notice and without pay in lieu of notice

The following decisions will be confirmed in writing:-

- The decision to issue no warning
- **Level 1** - A first warning may be given where the case is of sufficient importance or seriousness to bring to the attention of the employee formally
- **Level 2** - A written warning may be given where the case has already involved a first warning and insufficient improvement has been made, where further misconduct has occurred, or where the case is of sufficient importance or seriousness.
- **Level 3** - A final warning may be given where the case has already involved a written warning and insufficient improvement has been made, where further misconduct has occurred or where the case is of sufficient importance or seriousness.
- Also where gross misconduct may not warrant dismissal for example due to mitigating circumstances.
- **Level 4** - Dismissal. An employee is likely to be dismissed where the case has already involved the final warning and insufficient improvement has been made or where further misconduct has occurred or where the case is so serious as to constitute gross misconduct or where there is some other substantial reason.

## 3. The Decision Letter

A letter detailing the decision will be given to the employee and a copy placed on their personnel file, if a warning is issued.

Following the outcome of the hearing the decision letter will state:-

- The decision ie that there is no case to answer or the appropriate level of disciplinary sanction
- The reason for the decision.
- The course of action to be followed by the employee.
- Time scale in which improvement is required, if applicable.
- Where assistance is required, the assistance which will be made available to the employee e.g. training and guidance.
- The date on which the warning will elapse (see section 4).

- That further disciplinary action will be considered if there is further misconduct or insufficient improvement within the timescale of the warning.
- The right of appeal against the decision and how to exercise that right. (See Section 5).
- If the warning is a final warning it will also state that if the employee's conduct continues to be unsatisfactory or if there is further misconduct it may lead to dismissal.

#### 4. **Time Limit for Keeping Records**

**First warning**, the time limit shall be 6 months (excluding the Summer Break) from the date of the decision.

**Written warning** the time limit shall be 9 months (excluding the Summer Break) from the date of the decision.

**Final warning** the time limit shall be 12 months (excluding the summer break) from the date of the decision. However in exceptional circumstances misconduct may be so serious that if repeated at any time in the future the likely consequence is dismissal. The person/s making the decision may impose a final written warning and specify that such a warning will remain in force for as long as the employee's employment with the Council exists.

Breaches of discipline will be disregarded after the specified period of satisfactory conduct (with the possible exception of the final warning - see above)

#### 5. **Right of Appeal**

All Employees have the right of Appeal.

Appeals must be lodged in writing to the Clerk of the Governing Body within 28 days (excluding the Summer Break) of the date of the letter.

There is no further internal appeal against the decision of the Appeals Committee.

Appeal Process.

An appeal is a rehearing and an employee has the same rights as s/he had at the first hearing.