



Leicestershire Traded Services

Disciplinary Policy for Thurlaston CE (Aided) Primary School

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Date Last Amended:

It will be reviewed on

Scope

This policy applies to support staff, Teachers and Head Teachers based in Schools, Colleges and Academies. Further information on the application of the policy is available in the supporting [Guidance for Schools, Colleges and Academies](#).

Purpose

The purpose of this policy is to ensure that all employees achieve and maintain satisfactory standards of conduct and behaviour. It also provides a fair and consistent method of dealing with alleged failures to observe these standards.

Safeguarding

Any allegations of misconduct that involve potential safeguarding issues should be dealt with in accordance with Leicestershire's child protection procedures and advice sought from the Council's Allegations Manager. **If an allegation is in any way connected to the safeguarding of children then a referral must be made to the Disclosure & Barring Service (DBS) at the appropriate point in the process.** Information provided by the Police or other agencies (e.g. investigation outcome, statements) should be shared with the employee, unless specifically advised otherwise, particularly if this information will form part of the management case at a subsequent disciplinary hearing.

Criminal Offences

Employees who are charged with or convicted of a criminal offence should only face disciplinary action if the conduct which led to such charges has implications on their employment or their suitability for the job. If insufficient evidence is available to form a reasonable view as to whether or not a disciplinary hearing should be held, action should be deferred until further enquiries have been made or the matter is settled by a court.

Disciplinary Action against a Trade Union Official

Although normal disciplinary standards will apply to their conduct as an employee, no disciplinary action should be taken against a Trade Union representative until the circumstances of the case have been discussed with a senior Trade Union representative or full-time officer of the Trade Union concerned. Disciplinary action should not be taken against an employee due to trade union related activities.

Investigating Officer

When allegations of misconduct are made, an appropriate person, the "Investigating Officer", will be appointed to investigate the allegations and decide whether there is

sufficient evidence to take disciplinary action. The Head Teacher/Principal should only be the Investigating Officer in circumstances where they will not be given delegated responsibility for making any decisions about a potential dismissal or other sanction.

Stage 1 – Initial Discussion

In cases of misconduct (see [Appendix A](#)), the appropriate manager must make initial enquiries about the incident/concern. The purpose of this discussion is to ascertain the employee's immediate response to the concern(s) and to establish the facts in order to determine whether any further action (e.g. further investigation or suspension) is required. It is important that the meeting does not turn into a Formal Investigatory Meeting and a detailed conversation undertaken regarding the concern(s).

The potential outcomes of the meeting are:

- No further action is necessary;
- Deal with the matter informally, i.e. good practice discussion / expectation letter, mediation, training;
- Refer the matter to a Formal Investigatory Meeting (possibly including suspension of the employee).

In cases where gross misconduct (see [Appendix B](#)) is alleged, managers may bypass the initial discussion meeting and progress directly to a Formal Investigatory Meeting (Stage 2).

Suspension

Suspension is not a disciplinary penalty and should at all times be regarded as a neutral act. It should not pre-determine in any way the outcome of any investigation. Employees may be suspended at any stage during the investigation process and it is recommended that the duration of suspensions is kept to a minimum.

Suspension should only be considered if there are concerns about the employee remaining in the work place and must be kept under regular review. The reason for the suspension (i.e. due to the seriousness of the concerns) should be made clear to the employee and confirmed in writing.

Stage 2 – Formal Investigatory Meeting

No formal disciplinary action will be taken until the matter has been fully investigated which includes the employee attending a Formal Investigatory Meeting. Before meeting with the employee the Investigating Officer should make enquiries regarding the concerns, which may include interviewing witnesses, and present evidence to the employee at the Formal Investigatory Meeting.

Five working days written notice should be given for this meeting and employees have the right to be accompanied by a work colleague or Trade Union representative. The letter should outline the nature of the concerns (e.g. serious concerns regarding your conduct). Notes should be taken at this meeting and a copy sent to the employee for agreement.

At the meeting the Investigating Officer will:

- Make clear to the employee what concerns have been raised;
- Ask the employee to respond to the concern(s) against them;
- Warn the employee that the matter may result in a formal disciplinary hearing at which they will have the right to be accompanied by a work colleague or Trade Union representative;
- Interview/obtain signed statements from witnesses following the employee's evidence (if applicable).

The employee will:

- Respond to the allegations/questions;
- Produce evidence that supports their position;
- Provide the names of witnesses (if applicable).

The Investigating Officer will collect all of the evidence and consider whether there is a case to answer. The potential outcomes of the investigation are:

- No further action is necessary;
- Deal with the matter informally, i.e. good practice discussion / expectation letter, mediation, training;
- Refer the matter to a formal disciplinary hearing (possibly including suspension of the employee).

Stage 3 – Disciplinary Hearing

Ten working days written notice will be given to attend a formal hearing in which the employee will be informed of the reasons for the hearing and their right to be accompanied by a work colleague or Trade Union representative. If applicable, the letter must state that a potential outcome of the hearing is dismissal. Employees should also receive copies of any relevant documentation that will be used as evidence. Employees will be given an opportunity to provide evidence. Notes should be taken at the hearing and a copy sent to the employee. Details of the format the hearing should take can be found in the supporting [Guidance for Schools, Colleges and Academies](#).

The following outcomes are available to the panel or delegated person dependent on the seriousness of the offence:

- No further action is necessary;
- First written warning (which will remain on file for 6 months);
- Final written warning (which will remain on file for 12 months);
- Dismissal (with or without notice).

Employees should be dismissed with notice except in the case of gross misconduct. In the case of gross misconduct, the employee should be summarily dismissed with no notice.

The employee will be notified in writing of the outcome of the hearing. If the outcome is dismissal, the letter will include the reason for the dismissal and the date this is effective from. The letter must also include details of the employee's right to appeal.

Details of allegations (including warnings) that are connected to the safeguarding of children should be retained on an employee's personal file until the individual has reached normal retirement age or for a period of 10 years from the date of the allegation if that is longer.

Delegation of Authority

The person or panel responsible for hearing the case will depend on who has been given the delegated authority. This will either be the Governing body (i.e. a panel of Governors). It would not be appropriate for the Head Teacher to make the decision if they have investigated the case.

Dismissal

Where appropriate, the panel will dismiss the employee with notice or, in the case of gross misconduct, without notice.

Local Authority Schools

Once the panel or delegated person has decided that the employee should be dismissed it should confirm this in writing. They will also notify the Local Authority of the decision and the reasons for it. The Local Authority will then write to the employee to dismiss them within 14 days of the date of the notification.

The Local Authority has the right to be represented at the hearing and this will normally be a member of the HR Services team.

Academies, Voluntary Aided, Foundation and Trust Schools

Once the panel or delegated person has decided that the employee should be dismissed it should confirm this in writing to the employee including the date their employment will be terminated.

Right of Appeal

The employee has the right to appeal against all disciplinary sanctions. Any appeal must be submitted in writing by the employee to the delegated person/panel within 5 working days of receiving notification of the outcome. The appeal will be held in line with the Appeal Policy for Schools, Colleges and Academies.

Case Referral

Where a Teacher is dismissed for misconduct or resigns prior to the completion of the disciplinary process, the Investigating Officer or panel/delegated person should consider making the appropriate referral to the National College for Teaching and Leadership. The referral should be completed on the Department for Education (DfE) website and submitted to the National College for Teaching and Leadership.

The Disclosure & Barring Service (DBS)

If the allegation against any member of staff is in any way connected to the safeguarding of children, a referral must be made to the Disclosure & Barring Service (DBS). The Referral Form is available on the DBS website and all available supporting evidence should be supplied alongside the completed form.

If misconduct and safeguarding are both involved, a referral should be made to both the DBS and the DfE.

Appendix A - Examples of Misconduct

The following list is not exhaustive but gives examples of offences which may amount to misconduct:

- Persistent bad timekeeping;
- Unauthorised absence from work without reasonable cause;
- Damage to School/College/Academy property;
- Failure to follow procedures;
- Abusive or disruptive behaviour;
- Minor breaches of Health and Safety regulations;
- Misuse of School/College/Academy facilities;
- Insubordination;
- Failure to exercise proper control or supervision of students;
- Undertaking unauthorised employment;
- Failure to comply with the procedure for the notification of sickness absence;
- Improper behaviour or conduct towards colleagues, parents or members of the public;
- Unreasonable refusal to follow a management instruction;
- Showing inappropriate information/footage to students which is outside of the curriculum;
- Complaints from parents that have been upheld on balance of probabilities.

Serious examples of any of the above may amount to gross misconduct.

Appendix B - Examples of Gross Misconduct

The following list is not intended to be exhaustive and gives only an indication of the types of offences which could be considered as gross misconduct:

- Serious incapability as a result of being intoxicated by reason of alcohol, non-prescribed drugs, illegal drugs or prescribed drugs which may have an adverse effect on performance and safety;¹
- Deliberate falsification of registers, records, reports, accounts, expense claims or self-certification forms;
- Theft, removal or unauthorised possession or deliberately aiding another person to remove or failure to properly account for any property or facilities belonging to the School/College/Academy or to another employee or student;
- Repeated refusal to carry out duties or reasonable instructions or to comply with School/College/Academy policies and procedures;
- Serious damage deliberately sustained to School/College/Academy property or to the property of another employee or pupil;
- Repeatedly leaving School/College/Academy premises during normal working hours without obtaining the permission of the line manager;
- Any indecent act (which is defined as any act of a lewd, suggestive or indecent nature which could cause any person to be offended or feel threatened);
- Serious acts of insubordination;
- Serious breach of the School/College/Academy's policies and procedures concerning health and safety at work;
- Acts of bullying, harassment or discrimination;
- Any tampering with the school/College's computer systems which results in loss or damage to hardware or software or unauthorized exposure of confidential information including the accidental installation of virus programs. This also includes any contravention of the Data Protection Act and the disclosure of any password or key to unauthorized persons or to install, run, load or download any pornography, unauthorised software or to copy, run, transfer or load software such as public domain programs or games of any description or to disregard any operating protocol;
- Serious negligence/incompetence which causes unacceptable loss, damage or injury;
- Personal behaviour which is likely to bring the School/College/Academy into serious disrepute and/or have an adverse effect on pupils;
- A criminal offence, which may (whether it is committed during or outside of the employee's hours of work) adversely affect the School/College/Academy's reputation, the employee's suitability for the type of work they are employed to perform, or their acceptability to other employees or pupils;
- Violent or threatening behaviour.

¹ - In certain cases drugs prescribed by a doctor or purchased from a chemist can induce drowsiness and will include the advice not to operate machinery. Employees must inform their line manager if they have taken such medicine and would normally be required to operate machinery or drive a vehicle during the course of their work.