

PROCEDURE

Disciplinary and Conduct

Introduction

We believe it is necessary for the proper operation of our School and the wellbeing and health and safety of our staff that we follow a recognised and consistent Disciplinary and Dismissal procedure.

The procedure will be applied fairly in all instances where we regard disciplinary action as necessary, save to the extent that a minor or informal reprimand is given for a minor infringement or act of misconduct.

We reserve the right to implement the procedure at any stage as set out below taking into account the alleged misconduct. You may not ordinarily be dismissed for a first disciplinary offence.

We reserve the right to discipline or dismiss you without following this Disciplinary and Dismissal Procedure if you have less than 24 months' continuous service.

You have the right to be accompanied at any formal disciplinary hearing by a union or professional association representative or a fellow worker of your choice.

Matters that we view as amounting to disciplinary offences include (but are not limited):

- failure to safeguard young people and staff
- bad timekeeping;
- unauthorised absence;
- minor damage to our property;
- breaches of our rules, policies and procedures
- abusive behaviour;
- unreasonable and deliberate refusal to follow instructions;
- poor attendance;
- smoking in non-designated areas on our premises.

Informal Concerns.

The nature of the SEMH sector requires staff at all times to use reasonable attitudes towards working practice. Chaigeley School requires all staff to be respectful and professional in their actions towards all colleagues and in particular pupils. There is also an expectation that professional responsibilities are undertaken efficiently and to an acceptable standard within agreed timeframes. If any member of staff falls outside of these expectations, the senior leadership team (SLT), or the Governors of the school may choose to raise a concern about the specific act or omissions related to the practice of a member(s) of the staff team. These may not be considered 'serious' in nature and it would be reasonable to expect a proportionate response by the SLT or Governors in these circumstances. Concerns of this nature may be recorded in Supervision Records in the first instance if the act is of a very minor concern. If the concern is more immediate but does not constitute a serious breach that could result in more formal action in line with this policy then the SLT or Governors will complete a 'Cause for Concern' sheet.

Examples of such issues include (not exhaustive):

- Failure to act in a reasonable manner towards colleagues and/or pupils
- Failure to meet deadlines
- Failure to be aware of risk assessment protocols
- Failure to communicate changes to the curriculum (e.g. off site)

'Cause for Concern' Sheets will detail the concern in question along with agreed strategies to support staff members over an agreed time period. 'Cause for Concern' sheets will be added to staff personnel files and kept on record for two years, after which if no related incidents have been recorded the records will be removed and destroyed.

Chaigeley School reserves the right to refer to any records in personnel files such as 'Cause for Concern' sheets and to Supervision Records in order to support any disciplinary action that may be related to consistent lack of professional judgement or practice.

Gross misconduct

Gross misconduct is misconduct of such a serious and fundamental nature that it breaches the contractual relationship between us.

In the event that you commit an act of gross misconduct, we will be entitled to summarily dismiss without notice or pay in lieu of notice.

Matters that we view as amounting to gross misconduct include (but are not limited to):

- stealing from us, members of our staff or the public;
- other offences of dishonesty;
- falsification of a qualification that is a stated requirement of your employment or results in financial gain to you;
- falsification of records, reports, accounts, expense claims or self-certification forms, whether or not for personal gain;
- sexual misconduct at work;

- fighting with or physical assault on members of staff or the public;
- deliberate damage to or misuse of our property;
- deliberate damage to or misuse of third-party property during the course of your employment;
- negligently or wilfully causing serious damage to our property;
- negligently or wilfully causing serious damage to third-party property during the course of your employment;
- drunkenness or being under the influence of illegal drugs while at work;
- possession, custody or control of illegal drugs while at work;
- wilful failure to follow a legitimate management instruction;
- serious breaches of our rules, policies and procedures;
- working in competition with us;
- using our premises and/or our equipment for private work without our authorisation;
- approaching customers/potential customers of the business with a view to securing private work without our express permission;
- carrying out private work for customers/potential customers of the business without express permission;
- serious breach/es of confidentiality or a misuse of confidential information;
- gross negligence;
- conviction of a criminal offence that is relevant to your employment;
- conduct that brings our name into disrepute; and
- discrimination or harassment of any individual on the grounds of a relevant protected characteristic during the course of your employment;
- abuse or maltreatment of children
- failure to safeguard children and staff

Other acts of misconduct or multiple incidents of misconduct may come within the general definition of gross misconduct.

Investigation

We will promptly and thoroughly investigate any matter that is reasonably suspected or believed to contravene any of our policies or rules or which may otherwise be a disciplinary matter. You will be informed as soon as possible that an investigation is being undertaken and when we envisage that investigation will conclude. Under normal circumstances this investigation will be conducted by a person who has supervisory responsibility for the member(s) of staff involved.

There may be instances where suspension with pay is necessary while investigations are carried out.

(We reserve the right to suspend you from duty with pay where there are reasonable grounds for concern that evidence may be tampered with or destroyed, or witnesses coerced before the disciplinary hearing, or if we believe there is a potential risk to the organisation, other employees or third parties, particularly pupils, in allowing you to remain at work.)

Depending on the circumstances of the case, you may be invited to attend an investigatory interview. If such an interview is held prior to a disciplinary hearing, you will be informed at the outset that the interview is an investigatory interview.

At a formal investigation interview there is no right for you to be accompanied. We reserve the right to dispense with an investigatory interview and to proceed directly to a formal disciplinary hearing.

Procedure

Upon completion of an investigation, a detailed report will be presented to the Principal and/or Trustee members of the Governing Body outlining the findings of the investigation. If there are reasonable grounds to believe that you have committed an act of misconduct you will be invited to attend a disciplinary hearing.

In the event of your poor performance, disciplinary hearings will usually be undertaken only where counselling, further training (if appropriate) and informal oral warnings have failed to produce a satisfactory improvement in your performance.

In the event of a disciplinary hearing taking place we will:

- give you a minimum of two working days' advance notice of the hearing unless there are extenuating circumstances for not doing so;
- tell you in writing the purpose of the hearing and that it will be held under our disciplinary and dismissal procedure;
- explain your right to be accompanied at the hearing by a union or professional association representative or a fellow worker;
- give you written details of the nature of your alleged misconduct;
- provide you with all relevant information and evidence (including statements taken from any fellow employees or other persons that we intend to rely upon). On occasions it may be necessary not to disclose some statements for safeguarding reasons.

Where you are unable to attend a disciplinary hearing and you provide a good reason for failing to attend, the hearing will be adjourned to another day. We will give you notice of the rearranged hearing. Where the chosen companion is unavailable on the day scheduled for the meeting, it will be rescheduled, provided that you propose an alternative time within five working days of the original scheduled date.

Unless there are special circumstances, if you are unable to attend the rearranged hearing it will take place in your absence. Your fellow worker, union or professional association representative may attend in such circumstances and be allowed the opportunity to present your case.

If appropriate, you may also be allowed to make written submissions in such a situation.

Role of Companion

You have the right to be accompanied by a fellow worker, union or professional association representative at any disciplinary hearing or subsequent appeal. The union or professional association representative need not be a fellow worker or employee, but if the person is not a fellow worker or employee, we may insist on them being certified by the union or professional association as being experienced or trained in accompanying employees to disciplinary hearings.

Your chosen companion has the right to address the hearing to put your case, sum up your case and respond on your behalf to any view expressed at the hearing should you wish him/her to do so

At any hearing or appeal hearing, your chosen companion will be allowed to address the meeting, respond on your behalf to any view expressed in the hearing, and sum up the case on your behalf.

However, both the hearing and any appeal hearing are essentially meetings involving you and our School, so any questions put directly to you should be dealt with by you and not by your companion.

The companion may also confer with you in adjournments or during the hearing.

The Disciplinary Hearing

The disciplinary hearing will be Chaired by the Principal or Trustee member of the Governing Body and is expected to take place in five working days of the investigation. At the hearing you will be given reasonable opportunity to ask questions, respond and present a full explanation of the case against you and be notified of the content of any statements provided by witnesses. You will be able to call your own witnesses.

In addition, you will also be given the opportunity to raise points about any information provided by witnesses. Where we intend to call relevant witnesses, we will give you advance notice of this. You must also give advance notice if you intend to call your own witnesses.

We may adjourn the disciplinary hearing if it appears necessary or desirable to do so (including for the purpose of gathering further information).

You will be informed of the duration of any period of adjournment. If further information is gathered, you will be allowed a reasonable period of time, together with your fellow worker, union or professional association representative, to consider the new information prior to the reconvening of the disciplinary hearing

After the conclusion of the disciplinary hearing, we will communicate the decision to you and what disciplinary action, if any, is to be taken against you. The decision will be confirmed in writing. You will be notified of your right of appeal under this procedure.

All meetings of a disciplinary nature will be recorded using a single audio device to enable accurate transcriptions to be collated. Once transcriptions have been made and agreed between all parties these recordings will be destroyed. Copies of all transcriptions will be shared with all parties that attend the relevant meetings.

Disciplinary Action

Where, following a disciplinary hearing, we have decided that you have committed a disciplinary offence, the following disciplinary action will be taken:

- a) Where it is proven that you have committed a minor offence or offences, a first stage written warning may be given. We will rely on such a warning in the event of you committing further misconduct. The warning will:
 - i. set out the nature of the offence(s) committed;
 - ii. inform you that further misconduct is liable to result in further disciplinary action under this procedure;
 - iii. specify the period for which the warning will remain "active" on your personnel record. After such a period the warning will be reviewed;
 - iv. state that you may appeal against the warning.

- b) Where you commit either a more serious disciplinary offence, or, further minor offences have been committed by you after a first stage written warning has been issued to you and remains active, you will normally receive a second stage written warning. The warning will:
- i. set out the nature of the offence(s) committed;
 - ii. inform you that further misconduct is liable to result in further disciplinary action under this procedure;
 - iii. specify the period for which the warning will remain "active" on your personnel record. After such a period the warning will be reviewed;
 - iv. state that you may appeal against the warning.
- c) Where a serious disciplinary offence amounting to gross misconduct has been committed justifying your dismissal but we decide after taking into account all mitigating circumstances, that a lesser penalty is appropriate, or, where you commit a further disciplinary offence after a second written warning has been issued to you and remains active, you may be given a combined first and final written warning or final written warning. Such a warning will:
- i. set out the nature of the offence(s) committed;
 - ii. inform you that further misconduct is likely to result in your dismissal;
 - iii. specify the period for which the warning will remain "active" on your personnel record. After such a period the warning will be reviewed;
 - iv. state that you may appeal against the warning.
- d) Where you commit further acts of misconduct (these being acts of misconduct other than gross misconduct) following a final written warning given under c. above, you may be dismissed with notice or payment in lieu of notice.
- e) Where we establish that you have committed an act of gross misconduct, you will be summarily dismissed.
- f) Where we are entitled to dismiss you but due to mitigating circumstances, have chosen to issue you with a final written warning we may also impose either:
- i. a disciplinary suspension - for the avoidance of doubt this may result in you not being required to work and a stoppage of pay for up to five working days; or
 - ii. a demotion - for the avoidance of doubt which may involve transfer to another position of lower status, pay and seniority.

Appeal

You may appeal against any disciplinary sanction imposed against you, with the exception of an informal oral warning.

When lodging an appeal, you should do so in writing and state:

- a) your grounds of appeal; and
- b) whether you are appealing against the finding that you committed the alleged act or acts of misconduct, or against the level of disciplinary sanction imposed.

You are required to provide your written notice of appeal within five working days of being informed of the disciplinary sanction being registered against you.

Appeal hearings will normally take place within two weeks of receipt of your written notice of appeal unless there are extenuating circumstances.

The appeal hearing will be chaired by the Chair/Deputy Chair of Governors and at least one other Trustee Governor.

Upon completion of the appeal, the panel conducting the hearing will consider matters and a decision will then be notified, to you, in writing

The panel conducting the appeal is obliged to consider any representations made by you and your fellow employee or trade union official and those of any members of management who conducted the investigation or who imposed the disciplinary penalty.

The panel conducting the appeal will decide on the basis of these representations, and any facts that may have come to light since the disciplinary hearing, whether or not to uphold the disciplinary sanction.

In the event that your appeal is successful, depending on the level of disciplinary penalty given and the nature of your appeal, you may receive a lesser penalty e.g. a final written warning may be converted into a first written warning. Alternatively, we may decide no penalty was merited in which case all records of the original disciplinary penalty will be removed from your personnel record.

In the event that your appeal is unsuccessful, the original disciplinary penalty will be upheld.

You will normally receive written confirmation of the appeal outcome within ten working days of the meeting unless there are circumstances preventing the notification of the outcome within that timescale. If there are reasons preventing notification, you will be notified accordingly.

Any decision taken to dismiss you will have had immediate effect. Accordingly, if your dismissal is with notice, the period of notice will already have commenced on the date on which you were notified of our decision. If your dismissal was a summary dismissal without notice, we will be under no obligation to reinstate or pay you for any period between the date of the original dismissal and any appeal decision.

In the event that the decision to dismiss is overturned, you will be reinstated with immediate effect and you will be paid for any period between the date of the original dismissal and the successful appeal decision. Your continuous service will not be affected.

Review and Amendment

This procedure will be periodically reviewed. Any amendment to it will be notified to you in writing and such written advice will inform you as to the date when any amendment comes into effect.

| Committee | Date amend/changed | Review Date |
|-------------------|--------------------|-----------------|
| Source: Personnel | Date : 03/2018 | Review: 03/2019 |