



GILLINGSTOOL PRIMARY SCHOOL

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STAFF DISCIPLINE AND GRIEVANCE POLICY

Signed ... 

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Date: November 2022

Signed 

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Date: November 2022

Staff Discipline Procedure

Staff Grievance Procedure

Guidance on Discipline Procedure

Guidance on Grievance Procedure

This Policy is based upon the Model Disciplinary and Grievance Procedure for
Staff Employed in Locally Managed Schools

This Policy complies with the ACAS Code of Practice and ACAS Guide to Discipline
and Grievances at Work 2015

DISCIPLINE PROCEDURE

1. Introduction

This procedure applies to all the school's employees and is designed to help and encourage them to achieve and maintain standards of conduct. Its aim is to ensure consistent and fair treatment, without discrimination, for all staff.

2. General Principles

- 2.1 Informal action will be considered, where appropriate, to resolve problems. The Disciplinary Procedure will be used where the alleged misconduct is serious or a series of minor acts of misconduct has been committed. No employee will be dismissed for a first breach of discipline except in the case of gross misconduct.
- 2.2 No disciplinary action will be taken against an employee until the case has been fully investigated by the Headteacher, line manager or Governor, as appropriate.
- 2.3 The employee will be advised of who is conducting the investigation and, in cases where a hearing is required, of who will form the disciplinary panel. The panel may either be the Headteacher (where he/she has not conducted the investigation) or a panel of governors.
- 2.4 Where there is a disciplinary case against a Headteacher then the Governor (s) who is dealing with the case (usually including the Chair of Governors) will have the support of a Schools' HR Officer throughout the entire process. The case must not be discussed at a full meeting of the Governing Body otherwise a subsequent Panel could have a biased view of the case.
- 2.5 At all stages of the procedure, the employee has the right to be accompanied by a 'companion' who may be a Professional Association Representative/Trades Union Representative or workplace colleague. A Professional Association/ Trades Union Representative must have been certified by their union as being competent to accompany an employee.
- 2.6 Where an employee wishes work colleagues to give evidence as witnesses at hearings in support of his/her case it must be explained to those colleagues that they may choose whether or not they wish be involved. Should they agree to act as a witness for the employee they will be entitled to reasonable paid time off to carry out these duties.
- 2.7 Where an employee has understanding or language difficulties, the services of an interpreter or facilitator should be made available. Where an employee has a disability reasonable adjustments will be made to accommodate his/her needs.
- 2.8 Where the employee is a Trade Union Official, the matter will be discussed with the Full-time Official before any action is taken, after obtaining the employee's agreement.
- 2.9 An employee may be suspended while an allegation is investigated if there is no reasonable alternative option. This is not an assumption of guilt and is not considered to be a disciplinary sanction. The employee will be given the name of a person to contact (not the

investigating officer) particularly if the period of suspension is likely to be lengthy. The contact officer will give the suspended employee advice and support as necessary but this will not extend to helping them prepare their case.

2.10 The employee will be told about the nature of the allegation against him/her, in writing, before a disciplinary hearing takes place. The employee will be given the opportunity to state his or her case before any decision is made.

2.11 If the employee's chosen companion is not available at the time of the proposed Hearing, then the Hearing will be postponed to the time that the employee proposes, provided that the alternative time is reasonable and not more than 5 working days after the original date of the proposed Hearing.

2.12 An employee will have the right to appeal against any disciplinary sanction given at a formal disciplinary hearing.

2.13 The disciplinary sanctions in the procedure are not necessarily sequential. An employee may be given a sanction at any level appropriate to the misconduct.

3. Disciplinary Action

3.1 If, at a disciplinary hearing, the 'Panel'¹ considers that there is no case to answer, the employee will be informed in writing of this decision. The Headteacher or Governors' Staffing Panel may also consider that counselling or mentoring may be appropriate as well as recommendations for future conduct. This will be confirmed in writing to the employee.

3.2 If the 'Panel' believes, on the balance of probabilities, that the alleged misconduct has occurred, the 'Panel' will decide the appropriate disciplinary action. The sanctions available are:

3.2.1 First Written Warning

A First Written Warning may be issued:

- for an employee's first act of misconduct,
- or for further acts of minor misconduct.

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.

3.2.2 Final Written Warning

A Final Written Warning may be issued:

- where the first misconduct is sufficiently serious,
- or where there has been a failure to improve conduct after a first written warning and that warning remains 'live',
- or where the employee has committed an act of gross misconduct but the 'Panel' decides not to dismiss.

¹ The 'Panel' may refer to the Headteacher or to a Staffing Panel of the Governing Body.

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.

3.2.3 Dismissal

An employee may be dismissed;

- for failure to improve conduct
- or for an act(s) of further misconduct after a Final Written Warning has been given and it remains live; dismissal will be with notice.
- for an act(s) of gross misconduct; dismissal will be without notice (i.e. summary dismissal).

3.2.4 Demotion

Demotion to an existing suitable vacancy may be considered as an alternative sanction to dismissal, (except in cases of Gross Misconduct) where the employee is prepared to accept such an offer. The employee must agree to the pay and conditions appropriate to the new post (i.e. there will not be any pay protection) and the employee will be issued with a final written warning.

4. The Disciplinary Hearing

4.1 The Headteacher will normally make the appropriate arrangements for the Hearing.

4.2 The employee should be given at least 5 working days' notice in writing of a Hearing including:

- the date, time and location of the Hearing;
- who will be present at the Hearing;
- the nature of the allegation being made;
- the names of witnesses to the misconduct (where applicable)
- the right to have a 'companion' present.

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.

4.3 The employee must make every effort to attend the hearing. The employee should provide copies of documents, the names of any witnesses he/she wishes to call and details of his/her companion, as appropriate, at least two days before the hearing.

4.4 An LA representative (and, in the case of a VA School, a Diocesan Representative, as well) may be invited to attend as Adviser to the 'Panel'.

4.5 In the case of a possible dismissal, an LA representative must be invited to attend as Adviser to the panel.

4.6 Where an employee is persistently unwilling or unable to attend the hearing within a reasonable timescale or without good cause, the hearing will proceed in his/her absence and a decision will be taken on the evidence available. His/her Representative will be given the opportunity to present the employee's case on his/her behalf. The employee may submit his/her case in written form, and his/her representative will be given the opportunity to present the employee's case on his/her behalf

4.7 If new facts emerge during the hearing it may be necessary to adjourn the meeting to investigate these facts, if they may have a substantial impact on the case. The hearing will be reconvened as necessary.

5. Confirmation of Disciplinary Action

5.1 The employee will be provided with written confirmation of the outcome of the Hearing, together with details of his/her right of appeal.

Where the outcome is dismissal of the employee then the 'Panel' should give a written instruction to the LA. The LA must issue notice of termination of employment, 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.

6. The Appeal Process

6.1 An employee may appeal against any disciplinary sanction given by the Panel'.

6.2 When an employee wishes to appeal he/she should notify the Headteacher, in writing, normally within 5 working days of written notification of the decision, giving the reasons for the Appeal.

6.3 The Appeal Hearing may either be a review of the disciplinary sanction or a re-hearing, depending on the grounds of the appeal.

6.4 The Appeal Hearing will be conducted by a panel of governors who have not had previous involvement in the case under consideration.

6.5 The role of an Appeal Panel is to consider the grounds of the employee's appeal against the disciplinary sanction given by the first Panel. The decision of the Appeal Panel is final subject to the circumstances in '6.6'.

6.6 In exceptional circumstances, the Appeal Panel may consider increasing the level of sanction issued at the 'hearing' stage. In such a circumstance, the employee will be given a further right of appeal against this decision and the decision of the 'second' Appeal Panel is final.

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.

- 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 illegal drugs at work.
- Theft or fraud.
- Deception in relation to employment, e.g. false claims about qualifications or employment history.
- Wilful 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.
c/o South Gloucestershire Traded Services/HR for Schools/Disciplinary Procedure LMS/May 2015. All Rights Reserved.
- Deliberately accessing internet sites containing pornographic, offensive or obscene material.
- Serious and wilful 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. The Headteacher/ Governing Body will take into account any special circumstance which might make it appropriate to adjust the severity of the penalty.

STAFF GRIEVANCE

INTRODUCTION

This procedure applies to all staff based in schools and is intended to help you resolve any concerns that you may have regarding your work and working environment e.g. working conditions, relationships with colleagues, issues relating to work duties and responsibilities etc. It also helps your school to respond fairly and as speedily as possible.

If you have a grievance or complaint you should try to settle it quickly and informally where possible (see Stage 1). If you cannot get a solution by talking through the issue at Stage 1 then you have a right to ask for it to be considered formally (Stage 2).

Please note, this procedure does not apply where a grievance is raised by a trade union representative or a work place representative on behalf of two or more employees – this is dealt with under the school's procedure for collective disputes.

For stages 2 and 3, if your chosen 'companion' is not available at the time of the stage 2 meeting/stage 3 'appeal' then the stage 2 meeting or stage 3 'appeal' will be postponed to the time that you propose, provided that the alternative time is reasonable and no more than 5 working days after the date originally proposed.

Stage 1 – INFORMAL ACTION

If you have a grievance you should first raise the matter informally, ideally with the person who has caused your grievance, or, if this is not possible, with your line manager or a member of the Senior Leadership Team (SLT). (Many problems can be solved quickly and often a quiet word is all that is needed.) Do let your manager know that you have a grievance, however you choose to deal with it.

You can put your grievance in writing or explain it verbally; either way, stick to the facts and avoid language which may be considered insulting or abusive.

Make it clear what solution you are looking for.

If you can work out a solution with whomever or whatever caused your grievance, then let your manager know you've resolved the problem.

If you have asked your manager or a member of the SLT (who could be the Head teacher*) to help find a solution then he/she will arrange a meeting with you as soon as practicable, and will then tell you his/her decision in writing.

If you would like support during the meeting you can be accompanied by a work colleague or trade union representative

Your manager will keep a brief record of the issues and outcome on your file. You may receive a copy if you wish.

* The Head teacher may ask a senior manager to act on his/her behalf.

Stage 2 – FORMAL GRIEVANCE

If your grievance is not resolved to your satisfaction at the informal stage, or you think the matter is too serious to be dealt with informally, then you should ask for it to be considered formally, under Stage 2.

To do this you should complete an Employee Grievance Form (Appendix A) stating your grievance and the outcome you are looking for. If you have already been through Stage 1 you should send in this form within 10 working days of getting the Stage 1 written decision.

Send the form to the Head teacher* who will investigate your grievance.

If your grievance is against the Head teacher send the form to the Chair of Governors.

He/she will invite you to a meeting to ask you to explain your complaint and to consider how to deal with it. You can ask a work colleague or trade union representative (a 'companion') to come to the meeting with you and provide support.

The Head teacher*(or Chair of Governors) will try to find a solution that is acceptable to yourself and to the school; this might involve:

Taking immediate action that resolves your grievance

Speaking to other members of staff on your behalf

Carrying out further investigation and meeting with you again when he/she has further information

Calling in an external third party e.g. a mediator, with your agreement, to help all the parties involved to come to a mutually acceptable solution.

Once the Head teacher* (or Chair of Governors) has taken the appropriate action and reached a decision about your grievance he/she will arrange a meeting with you to inform you of the decision. He/she will then confirm this to you in writing (normally within 20 working days of the first Stage 2 meeting) and will also tell you about your right of appeal (Stage 3).

A copy of your grievance and the decision(s) reached will be kept on your personal file.

*The Head teacher may ask a senior manager to act on his/her behalf.

Stage 3 - APPEAL

If you don't think the decision made at Stage 2 has resolved your grievance, then you can appeal to the Governing Body's appeals panel. To do this you have to write to the Clerk to Governing Body within five working days of receiving the written 'Stage 2' decision.

In your letter you should state why you are unhappy with the Stage 2 decision and what solution you are looking for.

A panel of Governors will hear your appeal, normally within 20 working days of receiving your letter. They will be Governors who have not had any direct involvement with your grievance. One of the panel members will be elected as Chair. Usually a representative from Integra HR will be present to give advice to the panel of Governors.

The panel will invite you to a meeting to ask you to explain why you are unhappy with the Stage 2 decision. You can ask a 'companion' i.e. a work colleague or trade union representative, to come to the meeting with you and provide support. The person responsible for the investigation at Stage 2 will also be invited to the meeting to explain how he/she reached the decision.

You can ask the panel to consider new information about your grievance and you can bring witnesses along to support your arguments. Any information that you want the panel to consider should be sent to them no later than 10 working days before the date of the meeting*. You must not raise a different grievance, however, at Stage 3.

You will be informed of the panel's decision in writing, normally within five working days of the meeting.

*If you ask for new information to be considered at appeal the panel may need to delay or suspend the appeal to enable the new information to be investigated properly.

GRIEVANCE PROCEDURE - GUIDANCE

When to use the grievance procedure

The purpose of the grievance procedure is to resolve any concerns that you may have regarding your work and working environment.

If your head teacher feels at any stage that your issue can be better dealt with outside this procedure then he/she may suggest this to you; for instance, he/she might advise you that another procedure is more appropriate. The school has the following procedures that could be relevant to your concerns or issues:

- Bullying and Harassment Procedure
- Sickness Absence Procedure
- Disciplinary Procedure
- Capability Procedure
- Re-grading (for non-teaching staff)
- Request to take Flexible Retirement
- Statutory Right to request Deferred Retirement
- Flexible Working Procedure
- Statutory Right to Request Time to Train
- Whistle-blowing Procedure
- Pay Policy
- School Complaints Procedure (for non-employment related issues).

You (and your union representative) can decide whether or not to accept this advice.

If you raise a grievance and then leave the school your grievance will be dealt with up to Stage 2.

If you raise a grievance after you have left the school the head teacher will seek advice from Schools' Personnel as to whether an investigation into your concern is still appropriate.

When NOT to use the grievance procedure

You cannot use the grievance procedure to raise a concern about any policies or conditions of service that have been agreed either locally or nationally on the school's behalf with the recognised Trade Unions/Professional Associations, unless you are claiming that the policy had been incorrectly applied or interpreted.

You should never raise a grievance that is frivolous, malicious or vexatious; that could lead to disciplinary action being taken against you.

Standard Practices when using the Procedure

The school will try to respond to your grievance within the timescales set out, but there may be occasions when this is not possible e.g. because a complex investigation and/or a series of interviews are required. Where this is the case, you will be told the reasons for the delay and new timescales will be agreed.

The person hearing your grievance, at any stage, will keep a written note of the issues you have raised and the outcome on file. You will be given copies of documents that form part of the manager's decision-making process, such as notes of meetings held either with yourself or with witnesses. A copy of the documentation will also be kept on your personal file.

All records must be kept confidential, be accurate, relevant and not kept for longer than required.

If a manager or another employee is the subject of your grievance then they will be given a copy of the grievance as it relates to them. (This might be amended, with your agreement, from your original statement to make sure that it accurately covers your concerns and ensures they can respond to them.)

If you raise a grievance when you are the subject of a disciplinary process then the disciplinary procedure may be temporarily suspended in order to deal with the grievance. If, however, the grievance and disciplinary cases are related it might be appropriate to deal with both issues together. Schools' Personnel will advise which option is suitable.

Right to be accompanied

You have the right to be accompanied at all stages of the grievance procedure, by a work colleague or trade union representative employed by the local authority or by a full time Trade Union Official; this person will be referred as your 'companion'.

If your companion is a work colleague or a trade union representative he/ she will be given reasonable paid time off work so that they can discuss your case with you and prepare for, and attend, the meetings. Please note that a professional association/trades' union representative who is not an employed official must be confirmed by their professional association/trades' union as being competent to accompany as being competent to accompany the employee. Employees must check that the professional association/trades' union representative who is accompanying them is certified for this purpose.

If an employee's chosen companion is unable to attend an arranged meeting (at stage 2) or an 'Appeal' (stage 3) then the stage 2 meeting or the stage 3 'Appeal' will be postponed to the time the employee proposes, provided that the alternative time is reasonable and no more than 5 working days after the date originally proposed

Grievance against Headteacher

If your grievance is against the Head Teacher then the same procedure applies – you should try to resolve it informally directly with the Headteacher. If you are not satisfied with the outcome you should complete an Employee Grievance Form and send it to the Chair of Governors who will follow the procedure for Stage 2*. Any appeal against the decision of the Chair will go to a panel of governors in accordance with Stage 3. *If you raised your grievance at Stage 1 with the Chair of Governors then another nominated Governor will normally investigate the grievance at Stage 2.

Employee Grievance Form

Your Name:

School:

Job Title:

Statement of Grievance: *Please give a full description of your grievance, stating what happened and when and where it happened. Where possible please give the names of all individuals involved and the names of any witnesses to the behaviour or incident.*

How has the behaviour/ incident affected your ability to work effectively?

Have you raised the grievance informally with the individual(s) involved, or with a manager within the school? *(If yes, please give details)*

What actions do you want taken to deal effectively with your grievance? *You may wish to consult your trade union representative about what might be an appropriate remedy but you should bear in mind that the manager hearing your grievance needs to achieve a solution that is as fair as possible to all parties, as well as considering the effect on the school.*

Declaration: I confirm that the details above are true and accurate and that I have read and understood the Employee Grievance Procedure. I also understand that a copy of this form will be given to the people I have named in it.

(A shortened version of the form may be given where an individual is named in only part of the form.)

Signature:

Date: