

Disciplinary Policy

1 Introduction

The school and governing body expects the highest standards from all its employees and has established a set of standards of behaviour that all employees are expected to maintain. These are set out in the school's Code of Conduct Policy and supporting policies and procedures. A disciplinary matter arises when an employee breaches school policy or fails to meet the required standards regarding their conduct and behaviour.

The purpose of this procedure is to support employees whose behaviour falls short of what we expect and provides a framework for the school to deal with any shortcomings in a fair and consistent way.

The school aims to be an inclusive employer and reasonable adjustments will be supported throughout the disciplinary process, where employees require additional support in their employment.

2 Responsibilities

The School Staffing Regulations 2009 give governing bodies the option of delegating some powers relating to staffing issues to the headteacher. Where governors make a decision to delegate authority for sanctions up to and including dismissal to the headteacher, it would not be appropriate for the headteacher to then carry out the investigation. Under these circumstances, the investigation should be delegated to a member of the Senior Leadership Team, a nominated governor or an alternative independent Investigating Officer.

In certain circumstances, the school may decide to follow the "Collaboration for Governing Bodies" guidance, which is available on the Schools Portal. The responsibility for dismissals ultimately remains with the school's governing body.

2.1 Issues relating to the headteacher

Where concerns are raised about the conduct of the headteacher, any reference to the headteacher in this policy should be replaced with the Chair of Governors. The Chair of Governors is responsible for ensuring that an appropriate investigation takes place and advice should be sought from the HR Advice and Support team. If the issue results in a disciplinary hearing being convened, it must be considered by school governors, or by an alternative governing body in accordance with the "Collaboration for Governing Bodies" guide.

3 Informal Stage

Upon becoming aware of the issue of conduct, the headteacher (or line manager/member of the Senior Leadership Team as appropriate) will make initial enquiries, to determine the most appropriate course of action.

Minor misconduct issues can often be dealt with quickly and effectively through informal discussion between the employee and the headteacher to establish some initial facts. The

headteacher will inform the employee of the concern and give them the opportunity to respond and explain any factors affecting their behaviour or conduct.

Where the issue is relating to safeguarding matters, school must advise the Local Authority Designated Officer (LADO).

As a result of the discussion, it may become evident that there is no problem in which case the headteacher will make this clear to the employee and conclude the discussion. However, the headteacher may decide to issue a letter of management advice or that a more formal investigation is required.

3.1 Letter of management advice

Where the discussion has established that the problem is not serious enough to proceed to a formal investigation but the headteacher feels that it is appropriate for the issue to be recorded in writing, they may decide to issue a letter of management advice.

The headteacher must explain to the employee how their conduct or behaviour has caused concern, and what standard of behaviour is expected in the future. The letter of management advice should record details of the issues discussed in relation to the employee's conduct and also include the employee's response. The letter should clearly define the improvement which is required, any support to be provided and any remedial action by the headteacher which may include an action plan, refresher training etc. Timescales and review dates may be included where applicable for example in relation to an action plan.

Letters of management advice are considered to be informal action and used by the manager to retain a record of the discussion and any informal advice offered to the employee. There is therefore no set time limit for the retention of management advice and there is no right of appeal.

4 Formal Stage

Where it has been established that a more detailed investigation is required, an Investigating Officer will be appointed. The Investigating Officer will investigate the alleged misconduct, produce a report and make recommendations as to whether a disciplinary hearing is required.

The Investigating Officer may be the headteacher, or another nominated member of the Senior Leadership Team/governor. However, where the allegations concern the headteacher, it will be necessary for the Chair of Governors (or a nominated governor) to deal with the matter.

In certain circumstances, a decision may be made for the investigation to be undertaken by an external independent Investigating Officer and/or for the disciplinary hearing to be heard by another governing body as detailed in the 'Collaboration for Governing Bodies' guidance.

4.1 Types of misconduct

Disciplinary issues are categorised as misconduct or gross misconduct depending upon their severity and impact upon the employment relationship. There are some examples below, but it should be noted that there may be individual circumstances that mean it is appropriate to categorise them differently.

Examples of misconduct may include, but are not limited to:

• Unauthorised absence	• Misuse of school or council facilities and equipment
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<ul style="list-style-type: none"> • Poor time keeping 	<ul style="list-style-type: none"> • Refusal or failure to carry out a reasonable management instruction
<ul style="list-style-type: none"> • Inappropriate use of social media 	<ul style="list-style-type: none"> • Unacceptable behaviour or attitude
<ul style="list-style-type: none"> • Insubordination or using abusive language 	<ul style="list-style-type: none"> • Failure to follow school policies and procedures including the Code of Conduct policy

Examples of gross misconduct may include but are not limited to:

<ul style="list-style-type: none"> • Theft or fraud or a deliberate falsification of records 	<ul style="list-style-type: none"> • Gross negligence which causes, or might cause, unacceptable loss, damage or injury
<ul style="list-style-type: none"> • Bribery, attempted bribery or knowingly allowing another person to offer a bribe 	<ul style="list-style-type: none"> • Serious breach of health and safety rules
<ul style="list-style-type: none"> • Physical violence or bullying 	<ul style="list-style-type: none"> • Criminal or other serious misconduct outside the workplace which affects the employee's suitability for the post
<ul style="list-style-type: none"> • Deliberate and serious damage to school, council and other property 	<ul style="list-style-type: none"> • Knowingly providing false information on any matter relating to the employee's employment
<ul style="list-style-type: none"> • Serious misuse of the school, council, or an associated organisation, property, or name 	<ul style="list-style-type: none"> • Serious data breach or information security breach
<ul style="list-style-type: none"> • Deliberately accessing internet sites containing pornographic, offensive, or obscene material 	<ul style="list-style-type: none"> • Serious breach of school policies and procedures including the Code of Conduct policy
<ul style="list-style-type: none"> • Serious insubordination 	<ul style="list-style-type: none"> • Allegations against another person that are malicious or made for personal gain
<ul style="list-style-type: none"> • Incapability at work through drugs, substances, or alcohol (ensure consideration of the Alcohol & Substance Misuse Policy) 	<ul style="list-style-type: none"> • Criminal or serious misconduct involving children or vulnerable adults
<ul style="list-style-type: none"> • Bringing the school or council, or an associated organisation, into disrepute (including comments on social networking) 	<ul style="list-style-type: none"> • Unlawful discrimination and harassment

4.2 Special considerations

4.2.1 Fraud and financial irregularities

The Chief Internal Auditor and Corporate Fraud Manager will be informed by the school the allegation involves possible financial irregularities, or a breach of the school's financial regulations. In these circumstances, the investigation will be carried out in conjunction with the Internal Audit and Corporate Fraud Team.

4.2.2 Safeguarding and professional bodies

Where the allegation relates to safeguarding and the employee works with children, the Local Authority Designated Officer (LADO) will be informed by the school.

In some cases, the school is required to notify, and possibly provide evidence or information to, the appropriate professional body of investigations, warnings, dismissals or restrictions placed on

practice. Depending on the seriousness of the allegations, the school may be obliged to inform the professional body at any stage of the formal procedure.

Further information on LADO procedures can be found on the [Durham Safeguarding Children Partnership](#) (DSCP) website.

4.2.3 Trade union representative

Where the employee is a Trade Union representative, following agreement from the employee an official from their union will be informed of the allegation and the instigation of the disciplinary process.

4.2.4 Criminal charges or convictions

If an employee is charged with, or convicted of, a criminal offence not related to work, this may not in itself be reason for disciplinary action. Similarly, an employee may not be dismissed solely because they are absent from work as a result of being remanded in custody. Consideration will be given to the charge or conviction and the likely effect upon the employee's ability to carry out his or her duties.

The Investigating Officer will liaise with the Police to determine whether the disciplinary investigation can proceed in parallel with the criminal investigation.

4.2.5 Employment ending during disciplinary investigation

Where an employee's employment ends before the disciplinary process has been concluded, due to resignation or other reasons, the Investigating Officer will continue with the disciplinary process during the employee's notice period.

Where the allegation(s) are of a safeguarding nature, or relate to serious misconduct for teaching or support staff, the case may progress to a disciplinary hearing, even if the employee's notice period has ended. If the hearing takes place after the employee has left the school, they will have the option of participating in the process but are not obliged to do so. Where the former employee chooses not to attend, the hearing will be conducted in their absence.

The purpose of this hearing would be to determine what the appropriate level of sanction the employee would have been issued 'if the person had continued to be employed'. There is no right of appeal against this decision. This decision will be reported to the relevant professional body where appropriate and communicated to the employee.

4.2.6 Grievance during disciplinary process

Where an employee raises a grievance during the disciplinary process advice should be sought from the HR Advice and Support team. It may be appropriate to deal with the issues concurrently, however, in certain circumstances the disciplinary process may need to be suspended in order to deal with the grievance.

4.3 Suspension

In certain circumstances, it may be necessary to suspend the employee from work while the investigation is carried out. This is a precautionary measure to enable the Investigating Officer to conduct a fair and impartial investigation which also preserves evidence and prevents possible witness intimidation. It should only be considered where absolutely necessary and only after all other alternatives have been exhausted and HR advice has been sought.

Every effort should be made to keep an employee at work and the following alternatives to suspension should be considered:

- Restricting the duties they can carry out whilst the investigation takes place
- Limiting access to resources, such as ICT and mobile phones
- Alternative workplace

Suspension is not a disciplinary sanction and is without prejudice on full contractual pay. It is essential that the period of suspension is kept as brief as possible and the decision to suspend is regularly reviewed by the headteacher and this should be detailed on the suspension review form.

An employee who is suspended must be available for work during their normal working hours in order to attend investigation meetings, as appropriate. A suspended employee must not undertake any other work during normal working hours. The ending of a suspension is in accordance with the School Staffing (England) Regulations 2009.

4.3.1 Contact officer

The suspended employee should be provided with a Contact Officer as their first point of contact for any issues regarding work and the investigation.

The role of the Contact Officer is to keep the employee up to date, as appropriate, with the progress and likely timescale of the investigation, however, detailed information relating to the investigation will not be shared with the employee. The frequency of contact should be monthly wherever possible, but it will be determined by both the Contact Officer and the employee and dependent upon the length and complexity of the investigation.

4.3.2 Sickness and annual leave during suspension

If an employee becomes ill during their suspension, the employee must inform the headteacher as soon as possible and will be required to self-certify or submit GP fit notes, as appropriate. The employee will be classed as being on sick leave and will be managed through the Attendance Management Policy.

For employees who have an annual leave entitlement, suspension does not prevent them from taking annual leave. Employees should continue to take their full annual leave entitlement in the appropriate leave year in accordance with the Annual Leave Guidance and subject to approval from the manager.

The suspension needs to be ended by the school if sickness or annual leave is taken. Where sickness is reported the Attendance Management process will be followed. Further advice can be obtained from HR Advice & Support in these circumstances.

4.4 Investigation

The purpose of the investigation is to gather facts relating to the allegation(s) made to enable the Investigating Officer to decide whether or not there is a case to answer.

The Investigating Officer will:

- Plan the investigation;
- Interview the employee who is the subject of the allegation(s);
- Interview any witnesses;
- Gather evidence relating to the case;

- Consider any provision / reasonable adjustment that may be required for people with a disability;
- Take a balanced view on whether there is sufficient evidence to proceed to a formal disciplinary hearing;
- Write the disciplinary report where the case proceeds to a formal hearing.

The employee who is under investigation can be accompanied by a Trade Union representative or work colleague of their choice provided they will not prejudice the investigation. It is up to the employee to make these arrangements, however if their chosen companion is unable to attend the meeting, the process will not be unreasonably delayed.

The order of the interviews will depend on the nature of the case, and it may be necessary to interview people more than once as the investigation progresses and further information comes to light or clarification is required. All witnesses who are to be interviewed will be invited in writing by the Investigating Officer. The employee and witnesses should be aware they will be asked to agree and sign a written statement, which will form part of the investigation report. Witnesses may be called upon to provide evidence at any subsequent disciplinary hearing or appeals process.

Interviews will not be recorded by the Investigating Officer and permission will not be given for the employee to record the meeting.

Should further allegations come to light during the course of the investigation, the Investigating Officer will write to the employee informing them of the additional allegations and the employee will be provided with an opportunity to respond to them during the course of the ongoing investigation.

The investigation process is confidential and the employee under investigation and witnesses must not discuss the details of the case with anyone other than their chosen representative.

4.4.1 Final investigation meeting

To conclude the investigation, the Investigating Officer will offer a final meeting with the employee who the allegations were raised against. If further witnesses need to be interviewed following this meeting the employee will be given the option of another final interview once these meetings had been concluded.

The Investigating Officer will use this meeting to:

- Outline the key points of the investigation including everyone who has been interviewed;
- Allow the employee the opportunity to highlight any areas they feel have not been sufficiently investigated;
- Allow the employee the opportunity to respond to any key additional information or evidence that has come to light during the investigation.

The Investigating Officer will collate a report of the findings and determine whether there is sufficient evidence to progress to a disciplinary hearing. It is not the Investigating Officers role to make a recommendation as to the level of sanction to award.

5 Disciplinary hearing

5.1 Before the hearing

The employee will be informed by the Investigating Officer that a hearing will be arranged to consider the issues that have been investigated. The employee will receive written confirmation of the hearing, usually providing at least 7 school days' notice of the date and will be provided with a

copy of the Investigation report. At this time, both the Investigating Officer and employee will also be asked to confirm if they are arranging for witnesses to attend the hearing.

The employee must submit any documents that they wish to be considered at the hearing at least 5 school days before the hearing. If relevant documentation is not received within these timescales, it would be at the discretion of the committee as to whether this information could be considered at the hearing.

5.2 At the hearing

The hearing will allow governors to consider all the evidence related to the case and reach a decision with regards to whether a disciplinary sanction is appropriate.

The Investigating Officer and the employee (or their trade union representative) will present their case, call any relevant witnesses and ask relevant questions to seek clarification where necessary. Governors may adjourn the hearing for clarification or if further information is required. Once all information has been shared, the governors will adjourn the hearing to deliberate and reach a decision as to whether there is a case to answer, whether a sanction should be issued and the level of any such sanction.

Following deliberation, the hearing will usually reconvene, and the governors will inform the employee of their decision and this will be confirmed in writing, usually within 5 school days of the hearing.

Where an employee does not wish to wait for the outcome both parties should be informed by the same method e.g. phone call, email, etc with the employee being informed first, wherever possible.

Where collaboration with another governing body has been agreed please refer to the 'Collaboration for Governing Bodies' guidance.

5.3 Postponing the hearing

The employee must make all reasonable efforts to attend the hearing, including securing the attendance of their representative, but if they are not able to attend, they will be offered one alternative date. This should normally be within 5 working days of the original date, although this can be extended by mutual agreement.

If the employee fails to attend the original or rearranged hearing without explanation the hearing may proceed and a decision reached in their absence.

The employee can choose to put their case in writing for consideration by the governors or an employee's representative may attend and present the case in their absence.

5.4 Right to be accompanied

Employees have a statutory right to be accompanied by either a work colleague, a trade union representative or an official employed by the trade union at disciplinary hearings. The individual accompanying the employee must not be someone whose presence would prejudice the hearing or who has a conflict of interest. The employee's representative can play an active role in the hearing, however they should not answer questions that are put directly to the employee.

If the employee's chosen representative is not available on the original date for the meeting, the employee has the right to have one postponement, within 5 school days of the original date,

although this can be extended by mutual agreement. The hearing will not be unreasonably delayed due to the availability of the employee's chosen representative.

5.5 Outcomes

The outcomes available to the governors are:

No further action	Insufficient evidence of any wrongdoing or no case to answer as it was unfounded
Informal action	The employee's conduct is considered to be unsatisfactory but not serious enough to warrant formal disciplinary action, the matter will be referred back to the headteacher for further consideration. This may include advising that a letter or management advice is issued.
Written warning	For a first instance of misconduct. This will usually remain live for 12 months, although this can be extended.
Final written warning	There has been further misconduct while a written warning is still live i.e., within 12 months or the first instance of misconduct which is considered to be serious. This will usually remain live for 18 months, although this can be extended.
Dismissal with notice	For further misconduct where a previous warning is still live. An employee will not be dismissed for a first breach of misconduct, except in cases of gross misconduct.
Summary dismissal	Dismissal without notice for cases of gross misconduct.

Where a formal disciplinary sanction is issued, the sanction will remain in place for the relevant time period and will be disregarded for disciplinary purposes thereafter. However, where issues of safeguarding or a pattern of behaviour have been identified, a previous warning may be taken into consideration, even where the warning is no longer live.

5.5.1 Alternatives to dismissal

In exceptional circumstances, where the governors have taken the decision to dismiss but there are mitigating circumstances, they may consider alternatives such as transferring the employee elsewhere within the school or demotion where appropriate.

The transfer or demotion will be offered in writing, as an alternative to dismissal and will be considered by the employee and they must respond to this alternative within the timescale specified by the governors. If they accept the transfer or demotion, the employee will be issued with a final written warning and there will be no protection of salary. If an alternative to dismissal is refused the employee will be dismissed.

5.5.2 Referral to professional bodies

Where the issues are in relation to a role that is governed by professional standards e.g. TRA and/or subject to a Disclosure and Barring Service (DBS), the appropriate professional body and/or DBS will be informed of the outcome of the disciplinary hearing where a sanction is issued where the employee has caused harm or poses a future risk in relation to harm to vulnerable groups, including children.

5.5.3 Record keeping

A copy of the disciplinary hearing outcome letter will be kept on the employee's personnel file.

Where a referral was made to LADO, and the allegation was recorded with LADO as substantiated, a clear and comprehensive summary of the allegation will be kept on the employee's file at least until the individual has reached normal pension age or for 10 years from the date of the allegation, if that is longer. The outcome will also be referred to in any future reference request – see [Reference Policy](#) for more details.

Details of allegations that are recorded with LADO as false, unfounded, unsubstantiated or malicious do not need to be retained on the employee's personnel file and should not be referred to in any future reference.

6 Performance hearing (support staff capability only)

Where the employee is subject to capability and has reached the formal stage of the Capability Policy (Support Staff) and it has been determined that a performance hearing is necessary, the following process will be followed.

Where the employee has reached the formal stage of the Capability Policy (Support Staff) and there is sufficient evidence to progress to a performance hearing, the following arrangements will apply:

6.1 Before the hearing

The employee will be informed by the headteacher that a hearing will be arranged to consider the ongoing performance issues. The employee will receive written confirmation of the hearing providing at least 7 school days' notice of the date and will be provided with a copy of the headteacher's report.

The employee may submit a statement of case at least 5 working days before the hearing. The employee's statement of case should detail their responses to the issues set out in the report. Any documents that the employee wishes to be considered at the hearing should also be submitted at this time. If documentation is not received within these timescales, this may lead to an adjournment of the hearing.

Witnesses will not be allowed to attend the meeting, as the hearing is to consider an employee's individual performance.

6.2 At the hearing

The hearing will be conducted by a committee of governors who will consider all the evidence related to the case and reach a decision with regards to whether a disciplinary sanction is appropriate.

At the hearing the headteacher and the employee will present their statement of case and ask relevant questions to seek clarification where necessary.

Once all information has been shared, the committee will adjourn the hearing to deliberate and reach a decision as to whether there is a case to answer, whether a sanction should be issued and what the level of any such sanction should be.

Following deliberation, the hearing will reconvene and the committee will inform the employee of their decision and this will be confirmed in writing, within 5 school days of the hearing.

6.2.1 Postponing the hearing

The employee must make all reasonable efforts to attend the meeting but if they are unable to attend, they will be offered one alternative date. This should normally be within 5 school days of the original date, although this can be extended by mutual agreement.

If the employee fails to attend the original or rearranged meeting without explanation the meeting may proceed and a decision reached in their absence.

6.2.2 Right to be accompanied

Employees have a statutory right to be accompanied by a work colleague, a trade union representative or an official employed by the trade union at disciplinary hearings. The individual accompanying the employee must not be someone whose presence would prejudice the hearing or who has a conflict of interest. The employee's representative can play an active role in the hearing, however they should not answer questions that are put directly to the employee.

If the employee's chosen representative is not available on the original date for the meeting, the employee has the right to have one postponement, within 5 school days of the original date, although this can be extended by mutual agreement. The hearing will not be unreasonably delayed due to the availability of the employee's chosen representative.

6.3 Outcomes

The committee, supported by a member of the HR Advice & Support team, will consider the performance concerns in detail, and the outcomes of the meeting could be:

No further action	The employee's performance is considered satisfactory and will be managed within the school.
Informal action	The employee's performance is considered to be unsatisfactory but not serious enough to warrant formal disciplinary action. The matter will be referred back to the headteacher to develop a further action plan with the aim of improving performance.
Written warning	The performance issues are serious enough to warrant formal action and will set out the nature of the improvement required. This will usually remain live for 12 months, although this can be extended, and will be accompanied by an action plan developed by the headteacher.
Final written warning	There have been further performance issues while a written warning is still live i.e. within 12 months or the performance issues are considered to be significant. This will usually remain live for 18 months, although this can be extended, and will be accompanied by an action plan developed by the headteacher.
Dismissal with notice	Where an employee's performance does not meet a sustained and sufficient improvement following a previous warning(s), and employee may be dismissed, with notice. An employee will not be dismissed at a first Performance Hearing.

Where a formal disciplinary sanction is issued, the sanction will remain in place for the relevant time period and then will be disregarded for disciplinary purposes thereafter.

6.3.1 Alternatives to dismissal

In exceptional circumstances, where the governors have taken the decision to dismiss but there are mitigating circumstances, they may consider alternatives such as transferring the employee elsewhere within the school or demotion.

The transfer or demotion will be offered in writing, as an alternative to dismissal and will be considered by the employee and they must respond to this alternative within the timescale specified by governors. If they accept the transfer or demotion, the employee will be issued with a final written warning and there will be no protection of salary. If an alternative to dismissal is refused the employee will be dismissed.

7 Right of Appeal

Employees have the right of appeal against any formal disciplinary sanction issued.

An employee wishing to submit an appeal should do so by following the [Appeal Policy](#), which is available on the Schools Portal.

8 Confidentiality

Confidentiality should be maintained by all those involved at all stages throughout the procedure. Management will ensure that only those people who need to know have access to details, including the outcomes of any investigation or hearing.

The employee should only discuss the circumstances relating to this case with someone assisting them with the process, for example a trade union representative or work colleague, and must not discuss any aspect of the case with other colleagues or third parties.

All employees must treat any information communicated to them in connection with an investigation or disciplinary matter as confidential during or after an investigation into an allegation.



HR Advice and Support

For advice regarding the application of this policy please contact:

HR Advice and Support

hradvice@durham.gov.uk

Pay, Reward and Employment Services can be contacted by emailing:

Schools

PESSchools@durham.gov.uk

Further support can be accessed by contacting:

Occupational Health

occhealthadmin@durham.gov.uk

Health and Safety

hsteam@durham.gov.uk

Employee Assistance Programme

wisdom.healthassured.org/login

Employer Code MHA042951

Tel 0800 0280199

School policies and guidance documents will be reviewed periodically as required, and in accordance with any changes to legislation and/or best practice.

The school complies with all relevant statutory obligations. The school privacy notice provides more specific information on data collected and how it is handled, a copy of which can be accessed from the school. For more information please contact the school directly.

If you have any concerns about how your data is handled, please contact either the school Data Protection Officer (details available from the school office), or the Information Commissioner's Office

Author	Version	Last review
MM	V1.6	January 2025