Pathways School

Staff Conduct and Discipline Policy

Policy Monitoring

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Signed by:

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Date of next review: September 2027

This policy will be reviewed at least annually and following any concerns and/or updates to national/local guidance or procedure.

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1.Introduction

The purpose of this policy is to provide clear, consistent, and fair procedures that enable the governors of Pathways School to comply with their responsibilities under employment legislation and best practice.

The governors are committed to ensuring that all staff at the school should be treated in a consistent, fair, and sensitive manner. This approach requires that the governors should specify those aspects of misconduct which may warrant consideration under the terms of the school's disciplinary procedure.

The governors are committed to ensuring that all students at the school should be able to meet their potential and any barriers to learning due to staff conduct be removed using the school's disciplinary and grievance procedures.

The policy is compliant with the ACAS code of practice and guidance.

Links to other school policies and practices

- Safeguarding Children & Child Protection Policy;
- Equality and Diversity Policy;
- Health & Safety Policy;
- Staff Code of Conduct;
- Complaints Policy;
- Staff Grievance Policy.

2.Conduct

Staff are expected to demonstrate consistently high standards of personal and professional conduct as described in the DfE document, Teachers' Standards: Guidance for school leaders, school staff and governing bodies, and the Pathways School's Staff Code of Conduct.

Misconduct is defined as behaviour or conduct by an employee falling short of the school's standards.

Gross misconduct is behaviour or conduct that falls so far below the standards required that it can be considered as a fundamental breach of contract. Acts of gross misconduct can lead to a dismissal for a first offence.

3. Principles

The provisions of the Equality Act 2010 will be applied throughout the implementation of this policy.

It is expected that, wherever possible, problems of indiscipline will initially be dealt with through informal discussion. Where such advice has not led to the desired improvement or the matter is sufficiently serious to warrant immediate formal action, the disciplinary procedure will be operated.

The governors delegate authority to the Headteacher to take disciplinary action short of dismissal.

In the event of the Headteacher being subject to disciplinary action, the governors will be responsible for administering the procedure.

If there is the possibility of disciplinary action being taken, the employee will be advised to consult with their recognised Trade Union/Professional Association representative.

In dealing with a breach of discipline under the formal procedure, the same person should not conduct both the detailed investigation and the hearing. The governors sitting on any appeal panel will not have been involved in the case in any material sense or have acted as a panel member for the disciplinary hearing.

4. Misconduct

For the disciplinary procedure, the terms misconduct and gross misconduct are also taken to include negligence and gross negligence where the occurrence amounts to a breach of contract.

The lists below are not exclusive or exhaustive and there may be other matters which are sufficiently serious to warrant categorisation and consideration as either misconduct or gross misconduct.

Misconduct which may warrant action under the appropriate stage of the disciplinary procedure includes the following. The list is not exhaustive.

- Failure to comply with a reasonable management instruction
- Failure to observe the school's standing orders, financial or other operational regulations
- Failure to observe school policy, e.g. actions in breach of the IT Security guidelines or the school's data protection policy
- Negligence in the performance of duties
- Failure to provide a duty of care in the performance of role
- Breach of Health & Safety rules and requirements including any act or omission
- Poor-time keeping
- Misuse of School property and equipment including misuse of email, fax or internet facilities
- Failure to follow the school's sickness notification procedures and certification requirements
- Abuse of the sickness scheme e.g. engaging in activities which may delay recovery
- Actions during a period of sick leave likely to inhibit recovery or a return to health
- Being under the influence of alcohol or drugs
- Improper use of information obtained in the school's employment
- Abusive or inappropriate behaviour toward pupils, parents, fellow employees or members of the public
- Taking leave when it has not been authorized

Gross misconduct occurs when the alleged actions are such that it is not feasible to tolerate the continued presence of the employee at the place of work whilst the matter is being investigated and include the following. The list is not exhaustive.

- unauthorised removal of school property;
- sexual or racial harassment;
- offences of dishonesty;
- serious breaches of health and safety requirements;
- sexual offences;
- criminal offences which undermine the employee's ability to perform his/her job;
- sexual misconduct at work;
- persistent wilful failure to comply with a reasonable instruction from a member of senior management;
- physical assault or threats of such a nature;
- actions which bring the school into serious disrepute;
- drunkenness;
- falsification of documentation including time sheets, signing in sheets, subsistence and expenses claims etc.;
- theft;
- malicious damage to the school's property.
- Taking drugs on school premises for other than medical reasons
- Buying, selling or offering drugs on School premises
- Fraud
- other actions which fundamentally breach the relationship of trust and confidence which exists between employer and employee
- criminal offences and cautions outside of work, including reprimands, final warnings or penalty notices (dependent on the circumstances – seek HR advice)
- making of covert recordings during any meetings without the knowledge and consent of all parties.
- any action which brings or could bring the School and/or its reputation into disrepute.

5. Cases of Alleged Criminal Activity

If the case involves suspected criminal offences that may lead to police proceedings, there is no obligation to await the outcome of any criminal case before taking disciplinary action providing the allegations have been properly investigated and the Investigating Officer believes on the balance of probabilities that the employee committed the misconduct. In these cases it may be appropriate to seek advice from Police before undertaking an internal disciplinary process. However, in child protection cases, an internal investigation cannot commence until the police matter has been closed.

- If the allegation involves suspected harm to children, or vulnerable young people and adults, the Child Protection and Safeguarding Policy must take precedence over this policy.

6. Stages of the Disciplinary Procedure

Informal Action

- In the course of normal day-to-day management, the employee should be informed of any conduct issues by their manager and advised about how to correct such issues. Minor issues of misconduct will, initially, be dealt with informally as part of day-to-day management.
- This process is regarded as the first step in addressing conduct issues and represents informal action outside of the school's formal Disciplinary Policy & Procedure. Informal action is appropriate for minor misconduct issues, and headteachers / managers should discuss any problems at the earliest opportunity with the aim to encourage and support the employee to prevent matters from escalating.
- Where an issue directly concerns an employee's immediate line manager it may be helpful to involve an independent manager to reach an informal resolution.
- Where informal action fails to bring about a remedy, further misconduct is likely to be considered within the formal stages of this policy.

If informal action does not bring about the desired improvement, or the matter could constitute serious or gross misconduct, the formal procedure should be undertaken.

The formal stages of the Disciplinary procedure are based upon a graduated system of warnings with more serious sanctions being applied where poor conduct is repeated or the employee fails to heed previous warnings. The stages are listed below. The seriousness of the offence may result in stages in the process being missed out. An employee will not normally be dismissed for a first breach of discipline. For gross misconduct, however an employee may be dismissed without having had any prior formal warnings regarding their behaviour / conduct.

Stage 1 – First Written Warning	Remains on an employee's file for 6 months. Any further offence during the 6-month period will trigger a further formal meeting which could potentially result in further disciplinary action.
Stage 2 – Final Written Warning	Remains on an employee's file for 12 months. Final Written Warning is issued where the employee behaviour/conduct fails to improve in the 6-month timescale set out under the first warning, or where the misconduct is sufficiently serious to warrant a Final Warning.
Stage 3 – Dismissal	

Where the same type of misconduct becomes a pattern, which is repeated every time a warning ceases to be live, previous warnings maybe taken into account and may result in gross misconduct, following a full disciplinary investigation. The significance of recurring issues needs to be taken into account when deciding if it should be treated as gross misconduct. Advice from HR must be sought.

7. Suspension

An employee may be suspended from duty on full pay at any time in any of the circumstances described below:

- Where the School has reasonable grounds to suspect that the employee is guilty of gross misconduct and
- Where there is a real risk that the employee's continued presence at their place of work may interfere with a disciplinary investigation being undertaken or could be hindered by an employee's continued presence at work.
- Where suspension relates to a safeguarding allegation, the Child Protection & Safeguarding Policy would be followed.

Employees should be suspended in a meeting. Every effort should be made for this to be done in the presence of a Trade Union representative or work colleague, however, the suspension should not be delayed if this is not possible. Suspensions must be undertaken by the headteacher or governing body who have the designated responsibility.

Consideration must be given to alternative to suspensions and whether short- term relocation to another work area or temporary suspension from some duties is a feasible alternative. Whether to suspend or not will depend on the circumstances of the case and a suspension checklist must be completed. Advice must be sought from HR before a suspension is arranged. These alternatives will normally only be used in the short term, (not more than one week) and include:

- Permitting the employee to work from home
- Work at an alternative location or in an alternative role
- Work in a more closely supervised environment

Suspension is not a disciplinary measure however it clearly carries implications for the employee. Therefore, managers must be mindful of the dignity of the employee and the stress that suspensions can cause. When considering suspension, the school will:

- Conduct a preliminary assessment of the alleged facts of the case to ascertain whether allegations against the employee are serious enough to warrant suspension.
- Consider alternative measures to suspension, such as alternative duties, location or redeployment of transfer, to ensure that suspension is appropriate before making any decision to suspend.

- Consider whether it is necessary to immediately suspend access to equipment or resources used by the employee. This should only be considered necessary where there is a real likelihood that not doing so could prejudice any investigation. This decision will be made by the Headteacher or manager with delegated authority to suspend.

It is essential that suspension is kept to a minimum and reviewed regularly. The suspension will initially be reviewed by the Headteacher after 15 working days and then on a 15-working day basis there onwards.

During the suspension, the employee is:

- Prohibited from attending their place of work other than for the purposes of attending investigatory interviews or attending a disciplinary hearing.
- Prohibited from contacting any pupil, parent, employee of the School or officer of the Council other than their representative or through the Investigating Officer. This does not prevent the employee from having social contact with their colleagues outside of the workplace, provided the disciplinary issues that are the cause of the suspension are not discussed.

- Required to co-operate with the disciplinary investigation including any request to provide or identify documents and attend meetings.
- Required to ensure that they are, and remain, contactable during normal working hours.
- Prohibited from undertaking alternative employment.

Investigations

In most cases an investigation will be required to establish whether or not there is a case for the employee to answer at a formal disciplinary hearing. Where an investigation takes place, the School will aim to conduct it promptly and without unnecessary delay, normally no later than 15 working days following the commissioning of the investigation. If, in exceptional circumstances, it is not possible to complete the investigation within 15 working days any extensions to timescales must be discussed and reasonably agreed by both parties.

The nature, scale and duration of any disciplinary investigation will however, depend on the seriousness and complexity of the misconduct being investigated.

The School may normally continue with the Disciplinary process regardless of a resignation but each case will be considered on a case by case basis.

Investigating Officer

The person with responsibility for the investigation is the Investigating Officer. The Investigating Officer will also undertake the role of Presenting Officer during the hearing. The function of the Investigating Officer is to:

- Ascertain the facts and circumstances surrounding the allegation or allegations of misconduct.
- Ascertain the employee's initial response to the allegation.
- Interview relevant parties.
- Compile a report containing a written summary of their findings.
- Form a view as to whether there is a case to answer at a formal disciplinary hearing.
- The investigating officer may be the Headteacher, a member of the leadership team or an independent candidate.

9. Disciplinary Procedure

Where a formal disciplinary hearing is to take place, the employee will receive written notification from the Headteacher/Chair of Governors at least 5 working days in advance, of the requirement to attend a disciplinary hearing. The letter will advise the employee of the following:

- The location, date and time of the proposed disciplinary hearing.
- Details of the disciplinary allegations which the employee is to face.
- Whether dismissal is being contemplated as a sanction.
- Their right to be accompanied.
- Who will hear the case.
- The requirement for the employee to confirm in writing that they are attending, at least 2 working days before the disciplinary hearing, providing all relevant documentation and confirming the names of their employee representative.

The employee is under a duty to take all reasonable steps to attend the hearing. The disciplinary hearing may proceed in the employee's absence when all of the following conditions are met:

- The employee has either failed to attend one disciplinary hearing (or failed to respond to one previous notification to attend a disciplinary hearing).
- The employee is on notice that the disciplinary hearing may proceed in their absence.
- The employee has been informed of the opportunity to provide a written statement setting out their response to the allegations.

Recordings of Meetings.

A written record of all meetings conducted under this procedure will be taken. This will be done either by the person holding the meeting or by an additional person arranged to take notes. The employee, or any other person acting on their behalf, are not permitted to record electronically any meeting that is held under this procedure. Any breach of this may lead to further disciplinary action.

Right to be accompanied

At any investigation meeting, disciplinary hearing or appeal hearing, the employee has the right to be accompanied by a recognised trade union representative or a work colleague.

Grievances during the course of the disciplinary procedure

Where, during the course of the disciplinary process the employee raises a grievance about any aspect of the disciplinary process, (e.g. the fact the employee has been suspended, that disciplinary action is being taken against them, the procedure being applied, or any of the individuals involved in the disciplinary process), the employee's grievance will be dealt with as part of the disciplinary hearing and will not be treated as a separate grievance under the school's grievance procedure.

Disciplinary Hearings

The Disciplinary Panel will comprise of three Governors and the Headteacher, where appropriate. The employee will be given the opportunity to outline their case in response to the allegations.

The policy does not to allow electronic recordings of disciplinary or appeal hearings.

The hearing bundle and notice of the hearing must be provided to the employee at least 5 working days before the hearing.

Confirmation of the outcome of Disciplinary Hearing

Whether or not the employee has been informed of the outcome of the disciplinary hearing orally at its conclusion, the employee will be notified of the outcome of the disciplinary hearing in writing. Written notification will normally be within 5 working days of the date of the hearing and will include:

- The reasons for upholding any allegation of misconduct.
- The details of any disciplinary sanction applied.
- If the disciplinary sanction is a warning, the nature and type of the warning and the date of its expiry.
- A warning as to the consequence of further offences of a similar or different nature.
- Any specific requirements for future conduct.
- Any specific requirements in respect of training and development to be undertaken.
- If the disciplinary sanction is dismissal, the reason(s) for dismissal.
- Any right of Appeal, giving the name of the person to whom the appeal should be addressed.

10. Right of Appeal

An employee may appeal against a decision to issue them with any formal disciplinary sanction, i.e. first written warning, final written warning or dismissal.

An employee seeking to appeal must do so within 10 working days of the date of receipt of the letter confirming the decision. The employee should complete Disciplinary Appeal Form outlining their grounds of appeal to the named person, as detailed in the letter confirming the outcome of the hearing.

Once an appeal has been received in writing, an appeal hearing will normally be convened promptly, allowing at least 5 working days written notice of the hearing.

The hearing bundle and notice of the hearing must be provided to the employee at least 5 working days before the hearing.

An Appeals Panel, comprising three Governors will consider an appeal against a first or final warning and an appeal against a decision to dismiss. The three Governors need to be different than those in the initial Disciplinary Panel. The role of the appeal panel shall be to conduct either a review of the disciplinary sanction or a re-hearing, depending on the grounds of the Appeal.