



Discipline Policy

Linked Policies

- Keeping Children Safe in Education (2015) Policy
- Redundancy
- Equality
- Safeguarding – staff code of conduct
- Safeguarding – Standards, Guidance and Procedures

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NORTHGATE SCHOOL ARTS COLLEGE

Discipline Policy

1. Introduction

This policy is drawn up in accordance with the current Advisory Conciliation and Arbitration Services Code of Practice and with the relevant legislation.

These procedures are distinct from the Grievance Procedure adopted by the Governing body and;

- 1.1) Apply to all staff employed at the School and are intended to provide a fair method of dealing with alleged failures to observe standards of conduct.
- 1.2) Have been adopted by the Governing Body of the School after consultations with associations representing staff at the school.
- 1.3) Do not apply to allegations of substandard work (for which the Capability Procedure should be used) unless it is clear that the member of staff is capable of reaching the required standard and is alleged not to have done so.
- 1.4) Do not apply in the event of redundancy or in the case of ill health (please refer to separate guidance on absence and redundancies).
- 1.5) Shall not be used in respect of a trade union representative until the matter has been discussed with an appropriate official of the union concerned.

2. Aims

This policy aims to:

- 2.1) Help and encourage all employees to achieve and maintain satisfactory standards of conduct.
- 2.2) Set out the procedures for when an employee's conduct falls below the expected standard.
- 2.3) Ensure that all employees are treated fairly and consistently when a disciplinary issue is being dealt with.

3. Responsibility for discipline and delegation of authority

- 3.1) The Executive Head Teacher has general responsibility for the discipline of all staff employed at the school and has power to delegate the responsibility to a senior member of staff.

4. Legislation and guidance

We are required to set out our disciplinary procedures under general law employment law.

These procedures comply without funding agreement and articles of association.

5. Definitions

A disciplinary issue will arise when a staff member has not behaved to the standard expected of them

Appendix 1 sets out a non-exhaustive list of examples of what we define as **misconduct and gross misconduct**. For the purpose of this policy, misconduct does not cover staff capability or poor performance issues. These are addressed in our capability of staff policy.

6. Conduct of Staff other than the Executive Head Teacher

- 6.1) Where misconduct occurs every reasonable action, depending on the nature of the case, will be offered by management of the School, to objectively investigate the facts of the matter, with an opportunity for the member of staff to improve or redress the situation.
- 6.2) Minor Misconduct – In minor cases of unsatisfactory conduct (where a formal procedure is inappropriate or unnecessary), the Executive Head Teacher or his/her representative will discuss the disciplinary problem with the member of staff concerned, with a view to securing an improvement in conduct through the offer of guidance or support and/or the giving of a reprimand. Such a step should not form part of the disciplinary record of the member of staff and should not be recorded in writing. When there is no improvement in conduct or where there is a succession of minor cases, the formal procedures outlined below may be invoked.

6.3) Misconduct

- a) Where a member of staff's conduct appears to be such as to warrant formal disciplinary action, the Executive Head Teacher or his/her representative should consider whether to:-
- i) undertake investigation under paragraph 6, or
 - ii) ask the member of staff for an explanation before deciding whether to implement formal disciplinary action, or
 - iii) ask the member of staff to attend a disciplinary hearing.
- b) Asking a member of staff for an explanation under ii) or to attend a disciplinary hearing under (iii) without a formal investigation is appropriate for a first time offence which is unlikely to be repeated, continued, or have serious consequences, and where, following a disciplinary hearing, the sanction, if appropriate, will be a formal verbal warning or a written warning.
- c) Where the member of staff is asked to attend an interview for the purpose of giving an explanation under (ii) (s)he will be notified of his/her right to ask a trade union representative or friend to be present at the interview.
- d) The member of staff will be given at least **five working days'** notice in writing of the disciplinary hearing under (iii) and will be notified in writing of full details of the complaints and of their right to ask a trade union representative or friend to be notified or to be present at the hearing and provided with all relevant documents.
- e) A second senior member of staff should accompany the Executive Head Teacher or his/her representative at such interviews of disciplinary hearings. A request from either side for the date of an interview or disciplinary hearing to be re-arranged shall not be unreasonably refused but it may only be appropriate to do so for a substantial reason which is acceptable to the other side.
- f) If the Executive Head Teacher or his/her representative is satisfied with the explanation at either the interview under (ii) or at the disciplinary hearing under (iii) then no further action will be taken and the matter should be disregarded in any subsequent disciplinary proceedings.
- g) If the Executive Head Teacher or his/her representative finds against the member of staff at a disciplinary hearing under (iii) then the member of staff may be given a formal verbal warning or a written warning that his/her conduct is unsatisfactory and that if unsatisfactory conduct continues further disciplinary action in accordance with these procedures will be taken: that a formal verbal warning or a written warning has been given and that the member of staff has a right of appeal to a Panel of Governors against the warning, notice of which should be given **within ten working days** of receiving written confirmation.

- h) The member of staff should be notified in writing of the decision of the Executive Head Teacher or his/her representative **within ten working days** of the disciplinary hearing.
- i) The Executive Head Teacher or his/her representative will make a note of the existence of any formal verbal warning. The note and any written warning should be placed on the personal file together with any written representations received from the member of staff.
- j) Members of the Governing Body would not normally be involved in cases of minor misconduct.

6.4) Gross Misconduct

- a) Where the initial circumstances are sufficiently serious to warrant it, or following previous warnings where they have been disregarded and where there appears to be further unsatisfactory conduct, the Executive Head Teacher or his/her representative, after consultation with the Corporate Director, Education and Community Learning or their representative, will arrange for an investigation in accordance with Paragraph 6.
- b) The Executive Head Teacher or his/her representative will arrange for the member of staff to appear before a panel of 3 Governors. The County Solicitor or his/her representative may attend, and the Corporate Director of Education and Community Learning or their representative should attend, for the purpose of giving advice.
- c) The member of staff should be given **at least ten working days notice** in writing of the time and date of the hearing and the reason for it.
- d) A written report prepared by the Executive Head Teacher or his/her representative should be submitted to the panel in advance and a copy shall be sent **not less than seven working days** in advance to the member of staff concerned. The report should normally include reference to any matters of fact which touch on or concern the member of staff's previous performance in employment including any relevant recorded warnings, details of the nature of the complaint and any other factual comments relevant to the issues.
- e) The member of staff must be informed in the written notification of his/her right to be accompanied during the hearing by a representative of his/her trade union or by any other representative of his/her choice. The member of staff must be told why his/her conduct is considered unsatisfactory and that (s)he will be given an adequate opportunity to explain and defend himself/herself.
- f) The member of staff must be informed in the written notification of his right to submit **not less than three working days** in advance to the Panel any document which he/she wishes to be considered provided that a copy is also submitted not less than three working days in advance to the Executive Head Teacher or his/her representative.
- g) The procedure which must be followed is that set out in appendix 1. The Governors forming the panel should not discuss the issue before hearing the case.
- h) The Panel may decide:
 - i) To dismiss the allegations
 - ii) To issue a formal verbal warning or a written warning which may be a final warning. A final written warning should not be given normally without the previous issue of a written warning, but there may be circumstances where a first offence justifies a final warning. Any written warning must specify the complain, the improvements in conduct which are required, the period within which any review of required improvements will be undertaken and the likely consequences of any further offences. When a warning is a final one, the member of staff's attention must be drawn to this fact together with the possible consequences. The Governing Body may determine that a member of staff should cease to be employed at the School.

If the Panel decides to issue a warning, then the member of staff shall be informed of his/her right of appeal to the Governing Body and to have his/her representations placed on the personal file.

iii). To decide that the member of staff shall cease work at the School. Before making any such decision, the Panel should invite the Corporate Director, Education and Community Learning or their representative to offer advice in respect of any such decision or any matter arising in connection with it. A decision should not be made in the absence of previous warnings except in the case of gross misconduct.

iii). the member of staff should be notified in writing of the decision by the Executive Head Teacher within **ten working days** after the hearing. The letter should be delivered by hand or Recorded Delivery. The letter should be set out where appropriate the reasons for the warning or the determination. The member of staff shall be informed of the right of appeal, notice of which should be given **within 10 days** of the receipt of the letter to the Clerk of the Governors against a warning or a determination. If a member of staff does not give notice of appeal against determination, the Executive Head Teacher shall notify the Corporate Director, Education and Community Learning in writing of the determination and the reasons for it.

6.5) All notifications of hearings, reports and documents and written warnings should be delivered by hand or sent by recorded delivery.

7 Conduct of the Executive Head Teacher

Where the Chair of Governors, or in his/her absence, the Vice Chair considers that it may be appropriate to investigate the conduct of the Executive Head Teacher, he/she should consult the Corporate Director, Education and Community Learning. If appropriate, the procedure at paragraph 3 above should be followed as if reference to a member of staff were reference to the Executive Head Teacher, and reference to the Executive Head Teacher were to the Chair or Vice Chair of Governors, to a senior member of staff and to the Corporate Director, Education and Community Learning or their representative.

8 Suspension

In some circumstances it will be appropriate to suspend a member of staff temporarily, for example, where there is suspected gross misconduct. This will be a neutral act in that, in itself, it does not amount to guilt or constitute disciplinary action.

- 8.1) The Chair of Governors or, in his/her absence, the Vice Chair may suspend the Executive Head Teacher for alleged misconduct or other good and urgent cause. Where such action is taken the fact should be reported immediately to the other Governors and to the Corporate Director, Education and Community Learning.
- 8.2) The Executive Head Teacher may suspend any member of staff for alleged misconduct or other good and urgent cause. Where such action is taken the fact should be reported immediately to the Chair of Governors and to the Governing Body at their next meeting.
- 8.3) A suspension made by the Chair or Vice Chair of Governors or an Executive Head Teacher may only be revoked by the Governing Body.
- 8.4) A member of staff shall receive full pay whilst on suspension.
- 8.5) Suspension should not be regarded in any sense as a disciplinary measure but as an exceptional measure to enable a proper investigation to take place. Suspension should be used sparingly and only after most careful consideration of all circumstances. Any suspension should be lifted as soon as reasonably practicable if a hearing is not being pursued.
- 8.6) Whenever reasonably practicable a member of staff called to a meeting to be informed of suspension should have the right to be accompanied by a trade union representative or friend. The reason for the suspension should be confirmed in writing **within five working days**.

9. Investigations

9.1. Criminal Offences

- i) If the alleged misconduct appears to involve the possibility of a criminal offence having been committed, the Executive Head Teacher should immediately consult the Corporate Director, Education and Community Learning or his/her representative and take no action to investigate further. The Corporate Director, Education and Community Learning or his/her representative shall consult the County Solicitor or his/her representative if it is considered that a criminal offence may have been committed, before, on the advice of the County Solicitor, and the Corporate Director, Education and Community Learning, the matter is referred by the Executive Head Teacher to the Chief Constable for further investigation.
- ii. Where the alleged misconduct appears to involve irregularities of money, stores, property or false claims, the Executive Head Teacher should immediately inform the County Council's Internal Auditors who will carry out any necessary investigation. The report of the Auditors will be made to the County Finance Officer, the Executive Head Teacher and the Corporate Director, Education and Community Learning. If it is considered that a criminal offence may have been committed the County Finance Officer shall consult the Chief Executive and the Head of Legal Services with a view to determining whether the matter should be referred by the Executive Head Teacher in consultation with the Corporate Director, Education and Community Learning to the Chief Constable for further investigation. The Chair of Governors should be kept informed of all developments.
- iii. Disciplinary proceedings may, but not necessarily, await the outcome of the investigations or a prosecution.
- iv. Where a member of staff confesses to or is convicted of a serious criminal offence whether or not in connection with employment disciplinary action is probable.

9.2. Investigations into serious misconduct other than possible criminal liability.

The Executive Head Teacher, in consultation with the Corporate Director, Education and Community Learning or his/her representative will carry out the investigation with, if necessary, representatives of the County Solicitor and/or the County Finance Officer. Following the investigation if the facts so require the Executive Head Teacher shall convene a disciplinary hearing in accordance with paragraph 3.4(b). If at any stage it appears that a criminal offence may have been committed the matter should be dealt with in accordance with paragraph 6(a).

9.3. Other investigations

Where any investigations involving discipline or misconduct other than the two outlined in (a) or (b) is carried out, the appropriate officer to carry it out should usually be the Executive Head Teacher or his/her representative. Action following such an investigation shall be in accordance with paragraph 3.3

- 9.4. A member of staff who is suspended in pursuance of paragraph 5 may with prior agreement in writing of the Executive Head Teacher and in company with his/her trade union representative or friend return to his/her place of work for the purpose of carrying out his/her own investigation. In the event of a dispute as to whether a return of a member of staff shall be permitted or as to the conditions appertaining the decision of the Executive Head Teacher should be final except that the trade union representative or friend will not be denied reasonable access.
- 9.5. A member of staff who is interviewed as part of an investigation by the Executive Head Teacher or the Corporate Director, Education and Community Learning or their representative has the right to be accompanied by a trade union representative or friend.

10. Notification

If it is decided that there is a disciplinary case to answer, the employee will receive written notification 5 working days before the hearing. The meeting could be sooner if it is agreed by both parties. The notification will include:

- Details of the alleged misconduct and its possible consequences
- Copies of any written evidence, including witness statements
- The time, date and location of the disciplinary meeting
- A statement that the employee has the right to be accompanied by a colleague or a trade union representative
- Notification that the employee intends to call witness (if relevant)

11. Disciplinary Hearing

Before the hearing, the employee will receive a copy of all evidence that will be relied upon during the procedures.

At the hearing, the person conducting the hearing will explain the case against the employee and go through the evidence that has been gathered. The person may choose to have the investigating officer present the management's case.

The employee will be allowed to set out their case and answer any allegations that have been made. The employee will also be given a reasonable opportunity to ask questions, present evidence and call relevant witnesses. The will also be given an opportunity to raise points about any information provided by witnesses.

Employees have a statutory right to be accompanied at a meeting that may result in a formal warning being issued, disciplinary action being taken, or the confirmation of either of these.

The employee has the right to be accompanied by a colleague or a trade union representative. Employees must make the request in advance of the meeting, to allow the school to prepare and to ensure the employer knows who the companion will be.

If any employee's chosen companion will not be available to meet at the proposed time, the hearing will be postponed to a time proposed by the employee, as long as the alternative time is reasonable and not more than 5 working days after the original date.

The companion can address the hearing to put and sum up the employee's case, respond on behalf of the employee to any views expressed at the hearing and confer with the employee during the hearing. The companion does not, however, have the right to answer questions on the employee's behalf, address the hearing if the employee does not with it or prevent the employer from explaining their case.

Taking Appropriate Action

The hearing will be adjourned and a decision about whether further disciplinary action is necessary will be taken. The employee will be informed of the decision in writing within working days.

Action taken may be:

- **A verbal or informal warning** where it is decided that the action was not serious enough to warrant a formal written warning. This may be accompanied by a notification that arrangements will be put in place to improve the staff members' behaviour, such as a training course or occupational health support.
- **A first written warning** for a first instance of misconduct. A further instance may result in a final written warning. A first written warning will remain on the

employee's personnel file for 12 months. The written warning will explain that a further instance of misconduct or no change in behaviour within a given time frame will result in a final warning.

- **A final written warning** where the employee has already received a first warning, or where the employee's misconduct was sufficiently serious. A further instance may result in demotion or dismissal.
- **Dismissal** where there has been gross misconduct or a final written warning has already been given.

We will refer a case of teacher gross misconduct in the National College for Teaching and Leadership (National College) if we believe the case is so severe that the National College should consider whether the teacher should be prevented from teaching. We will also refer cases to other relevant authorities where appropriate.

12. Appeals to the Panel of Governors and the Governing Body

12.1 A member of staff has the right of appeal by the way of rehearing to the panel of Governors or the Governing Body in the following cases:

- i) A formal verbal or written warning issued by the Head Teacher or his/her representative. Appeal shall be to the panel of Governors whose decision shall be final.
- ii) A formal verbal or written warning issued by the Panel of Governors Appeal should be given to a second Panel of Governors whose decision shall be final.
- iii). A determination that a member of staff should cease to work at the School made by the Panel of Governors. Appeal should be made to the Governing Body whose decision shall be final.
- iv). A refusal by the Executive Head Teacher to disregard a warning under paragraph 8. Appeal shall be to the Panel of Governors whose decision shall be final.

12.2 No Governor should hear an appeal if (s)he has a previous material involvement in the case.

12.3 Notice of Appeal must be submitted in writing stating the general grounds of the appeal **within ten working days** of the issue of the formal verbal warning or receipt by the member of staff of a written warning or a proposed termination.

12.4 An alternative to appeal, against formal, verbal and written warnings should be by the inclusion on the files of a statement of dissent and/or an explanation by the member of staff.

12.5 The appellant should be given **at least ten working days** notice in writing of the time and date of the hearing. A written report prepared by the Executive Head Teacher or his/her representative shall be submitted to the Governors in advance and a copy should be sent **not less than 7 days** in advance to the appellant.

12.6 The appellant should have the right to be accompanied during the hearing by a trade union representative of his/her choice. (S)He shall also have the right to submit **not less than 3 working days** in advance to the Governors any document (s)he wishes to be considered provided that a copy is similarly submitted **not less than 3 working days** in advance to the Executive Head Teacher or his/her representatives

12.7 At any hearing the procedure which must be followed is that set out in Appendix I.

12.8 The Corporate Director, Education and Community Learning or his/her representative may attend any hearing for the purpose of giving advice and shall do so whenever the appeal is in connection with a proposed determination.

13. Review of Warnings

Where a formal or written warning has been given whether by the Panel of the Executive Head Teacher or his/her representative or by the Governing Body, the matter shall be reviewed by the Executive Head Teacher **at not less than 12 monthly intervals**. And save in exceptional circumstances shall be disregarded i.e. not taken into account in any future

disciplinary proceedings. The member of staff shall be informed in writing whether or not that warning is to be disregarded and a copy of that letter placed on the personal file.

14. Dismissal

The power to decide that members of staff should no longer work at this school has been delegated to the Executive Head Teacher.

Once the decision to dismiss has been taken, the Executive Head Teacher will dismiss the staff member with notice.

Appeals process

The employee has the right to appeal any sanction. Appeals must be made in writing within ten working days of the decision, setting out at the same time the grounds for appeal.

A disciplinary appeals officer/panel will be appointed.

Appeals will be heard without unreasonable delay at an agreed time and place. Employee's statutory right to be accompanied by a companion will apply as with formal disciplinary hearings. Notes will be taken and a copy sent to the employee.

The appeal will be dealt with impartially and by senior leaders or governors who have not previously been involved in the case.

The employee will be informed in writing of the results of the appeal hearing within five working days.

Special Cases

If the employee involved in a disciplinary procedure is also the trade union representative, we will notify the union and discuss the matter with an official employed by the union before action is taken, after obtaining the employee's agreement. This procedure will continue as normal.

If the employee who is subject to disciplinary procedures raises a grievance about something unrelated to the disciplinary, consideration will be given to pausing the disciplinary while the grievance is addressed.

15. Record Keeping

Minutes will be kept of all interviews and meetings. Where possible, these will be confirmed as an accurate reflection of what was discussed during the meeting.

Records of all materials relating to the disciplinary process will be kept securely for as long as necessary in line with the Data Protection Act 1998.

If disciplinary action is taken, a record of this will be added to the employee's personnel file.

We will disclose any proven disciplinary offences by a staff member if a reference is requested by a future employer.

16. Monitoring Arrangements

This policy will be reviewed every two years, but can be revised as needed.

This policy will be approved by the governing body.

17. Links with other policies

This policy links with our policies on:

- Staff code of conduct
- Appraisal and Capability of Teachers/Support Staff Policies
- Staff grievance procedures
- Equality Policy & Plan
- Safeguarding
- E-safety

APPENDIX I

Instances and behaviours classed as misconduct

The following lists are not exhaustive.

Instances of misconduct include:

- Unauthorised absence or persistent lateness from work
- Using bad language in front of pupils
- Failure to follow the policies, practices and requirements of the school
- Inappropriate use of school facilities
- Failure to comply with reasonable instructions from senior staff.

Instances of gross misconduct include:

- Physical violence or assault
- Discrimination, harassment, victimisation and/or bullying of pupils, colleagues or visitors
- Theft
- Sexual offences or misconduct
- Serious breaches of confidentiality
- Deliberately acting in a way that will cause damage to the school's reputation
- Deliberately damaging school property

Teacher misconduct guidance from the National College explains that, among other things, the following offences will be serious enough to warrant prohibition of teaching:

- Serious departure from the personal and professional conduct elements of the Teachers' Standards
- Misconduct seriously affecting the education and/or wellbeing of pupils, and particularly where there is a continued risk
- Action or behaviours that undermine fundamental British values
- Abuse of position or trust (particularly involving vulnerable pupils) or violation of the rights of pupils
- Sustained or serious bullying, or other deliberate behaviour that undermines pupils, the profession, the school or colleagues

APPENDIX 2

Hearings before the disciplinary panel and the governing body

1. A member of staff has the right to conduct their case personally, be represented, or be accompanied by a trade union official, colleague or a friend.
2. In hearings before the Governing Body, reference to the Executive Head Teacher below shall include references to his/her representative.
3. In any hearings to which paragraph 4 of the Procedures (Conduct of the Executive Head Teacher) applies, the Chair or Vice Chair of Governors may be represented and any reference to the Executive Head Teacher below shall include reference to the Chair or Vice Chair or his/her representative.
4. Witnesses for either party may be present during the hearing unless the Governors either on their own initiative or at the request of either party decides that the witnesses shall be excluded until called.
5. The Executive Head Teacher shall be put the case which may be read or otherwise in the presence of the member of staff and his/her representative (colleague or friend) and may call witnesses who may read their evidence.
6. The member of staff or his/her representative may ask questions of the Executive Head Teacher or witnesses.
7. The Executive Head Teacher should have the opportunity to re-examine his/her witnesses on any matter referred to in their examination by the Governors, the member of staff or his/her representative.
8. The member of staff or his/her representative shall put his/her case which may be read or otherwise in the presence of the Executive Head Teacher and may call witnesses who may read their evidence.
9. The Executive Head Teacher shall have the opportunity to ask questions of the member of staff, his/her representative or witnesses.
10. The Governors may ask questions of the member of staff, his/her representative or witnesses.
11. The member of staff or his/her representative shall have the right to re-examine the witnesses or any matter referred to their examination by the Governors or the Executive Head Teacher.
12. Firstly, the Executive Head Teacher and then the member of staff or his/her representative shall have the opportunity to sum up their cases if they so wish. The summing up shall not introduce any new matter.
13. The Executive Head Teacher, the member of staff, his/her representative and all witnesses shall withdraw.
14. The Governors shall deliberate in private. Any persons present as clerk or as Advisor may remain but solely for the purpose for which they are present at the hearing. Should it be necessary to clear any point of uncertainty about the evidence given, both parties shall return notwithstanding one only is concerned with the point give rise to doubt?
15. The Governors shall announce their decision to the member of staff, his/her representative and to the Executive Head Teacher. The clerk of the hearing will confirm this decision in writing **within ten working days.**