



Disciplinary Procedure

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Contents

1. Introduction.....	3
2. Equality and Diversity	3
Part A – Informal Procedure.....	3
3. Informal Action	3
Part B – Formal Procedure.....	4
4. Disciplinary Hearing	4
5. Formal Disciplinary Action	5
6. Gross Misconduct	5
7. Right to Appeal	6
8. Variation in Disciplinary Action	6
9. Trade Union Representatives.....	7
10. Confidentiality.....	7
Appendix A	8
1. Purpose.....	8
2. Gross Misconduct	8
3. Misconduct	10

1. Introduction

- 1.1 This disciplinary procedure must be read and applied in conjunction with Prime7's Staffing Policy Statement.
- 1.2 The aim of this procedure is to help and encourage all employees to achieve and maintain standards of conduct and to ensure consistent and fair treatment for all employees in the Trust.
- 1.3 Examples of the type of conduct that is considered to be misconduct or gross misconduct, which could lead to action under this procedure, are set out in the disciplinary rules and should be read in conjunction with this procedure.
- 1.4 This procedure may be implemented at any stage, as set out below, taking into account the alleged misconduct of an employee. Employees will not normally be dismissed for a first act of misconduct unless it is decided that it amounts to gross misconduct or the probationary period is not complete.
- 1.5 In cases against the Headteacher or senior managers, the Trust Board has the power to discipline or dismiss in accordance with the procedures set out below.

2. Equality and Diversity

- 2.1 The procedure will be operated in accordance with the School's Equality and Diversity Policy. The Trust is committed to developing, maintaining and supporting a culture of equality and diversity in employment. The impact of the procedure will be monitored in accordance with the Equality Act 2010.

Part A – Informal Procedure

3. Informal Action

- 3.1 Managers should seek to resolve minor misconduct informally and as soon as it occurs. Management advice may be given to the employee by a senior manager or line manager. Action will be taken under the formal procedure set out in Part B below if the matter is not resolved or, there is repeated minor misconduct or, where informal action is not appropriate (for example, because of the seriousness of the allegation).
- 3.2 There is no appeal against management advice given, which will not be placed on the employee's disciplinary record but should be confirmed in a written memorandum.
- 3.3 The written memorandum will set out the misconduct, the improvement that is required and, if appropriate, how this will be reviewed and during what timeframe. The employee may make a written comment on the memorandum if they have any objection to the informal action taken. A copy of the memorandum or a note of any informal discussions may be placed on the employee's personnel file.

Part B – Formal Procedure

4. Disciplinary Hearing

- 4.1 If following appropriate investigation by the Investigating Officer, the senior manager considers based on the facts that formal disciplinary action for misconduct is necessary, they will write to the employee to inform them that a disciplinary hearing will take place, at least 5 working days in advance, setting out:
- a. The date, time and place of the disciplinary hearing
 - b. The allegation/s and their possible consequences
 - c. The employee's right to be accompanied by their companion.
 - d. The titles of enclosed copies of any documents to be used as evidence
 - e. The names of any witnesses to be called by the senior manager
 - f. Their right to call witnesses on their behalf
 - g. The name and position of any HR adviser who will accompany the senior manager at the hearing
 - h. The name and position of any note taker (At the employee's request, an extra copy of this notice, together with any enclosures, should be provided for their companion)
- 4.2 The employee must advise the senior manager of the following at least three working days in advance of the hearing:
- a. The name and designation of their companion
 - b. Provide any written documentation to be considered
 - c. The names of any witnesses at that they wish to call
 - d. Any special requirements (e.g. disability, language requirements)
- 4.3 At the disciplinary hearing before the Headteacher/Senior Manager and their HR Adviser, the employee, and their companion will be given a reasonable opportunity to state their case, to question the Investigating Officer where possible and any witnesses and, to call any witnesses and raise points about any information provided by witnesses.
- 4.4 Following the hearing, the senior manager will consider the matter and confirm the decision in writing to the employee and their companion as soon as possible and usually within five working days of the hearing, to include:
- a. The sanction (if any) and the period this will remain current
 - b. The reasons for the decision
 - c. The change in behaviour required (if relevant) and the likely consequences of further misconduct

- d. Right of appeal

5. Formal Disciplinary Action

5.1 First Written Warning

- 5.1.1 The Headteacher/senior manager may give the employee a first written warning which will include a statement that any further complaint of misconduct occurring within the next twelve months that is found justified after a disciplinary hearing, will lead to a final warning unless there are mitigating circumstances.

5.2 Final Written Warning

- 5.2.1 If a further complaint is made about the employee's conduct before the first written warning has expired, the same procedure (as in 4 above) will be followed.
- 5.2.2 The Headteacher/senior manager may give the employee a final written warning, which will include a statement that any further complaint of misconduct occurring within the next twelve months that is found justified after a disciplinary hearing, will lead to dismissal unless there are mitigating circumstances.
- 5.2.3 If the complaint is considered serious enough, a final written warning may be issued without previous warning.

5.3 Dismissal

- 5.3.1 If a further complaint is received before the final written warning has expired, the complaint will be referred to a hearing before the Headteacher following the same procedure as in paragraph 4 above. The Headteacher may be accompanied by an HR Adviser
- 5.3.2 If the Headteacher/senior manager decides the complaint is justified, they may decide to dismiss the employee. The Headteacher will state the decision, the reasons and inform the employee of their right to appeal to a Trustees Appeal Committee. They will confirm the decision and right of appeal in writing to the employee (and their companion) as soon as possible and normally within five working days of the hearing. The Headteacher will record the outcome of their considerations and the names of persons present at the hearing.

6. Gross Misconduct

- 6.1 If the complaint is considered so serious that it may amount to gross misconduct, justifying dismissal without previous warning and without notice (see Disciplinary Rules – Appendix A), the employee may be informed by the Headteacher or the Chair of Trustees/Trustees that they are suspended on full pay pending further investigation of the complaint. A decision to suspend will only be taken after full consideration of the facts and associated risks and consideration of alternative options.

- 6.2 If, following an investigation, the Investigating Officer considers that the facts of the case amount to a prima facie case of gross misconduct, the matter will be referred to the Headteacher.
- 6.3 Following the same procedure as in paragraph 4 above, if on conclusion of the disciplinary hearing the Headteacher/senior manager considers the complaint constitutes gross misconduct, they may decide to dismiss the employee without notice or pay in lieu of notice.
- 6.4 Where a suspension has taken place that suspension may be lifted by the Headteacher or CEO.

7. Right to Appeal

- 7.1 The employee has a right of appeal against a decision to issue a warning or to dismiss.
- 7.2 Appeals against formal written warnings or dismissal should be submitted to the CEO, stating the grounds for appeal in full, within 5 working days of the written decision.
- 7.3 An appeal against a written warning will be heard by the CEO, unless CEO made the decision. The CEO may confirm the written warning, reduce a final written warning to a first written warning, or cancel the written warning.

An appeal against dismissal will be to the Trustees Appeal Committee, none of whom shall have any previous involvement in the case. The Committee may have an HR Adviser present.

- 7.4 All appeal hearings will be held as soon as possible and, in normal circumstances, within 10 working days after receipt of the appeal. The Clerk to Trustees or the MAT Administrator will usually undertake administrative arrangements for any required hearing or meeting. The outcome will be confirmed in writing as soon as possible and usually within five working days of the hearing. There will be no further right of appeal.
- 7.5 In the event that the Trustees Appeal Committee decides not to uphold the decision to dismiss, the employee will be reinstated without loss of pay.

8. Variation in Disciplinary Action

- 8.1 If appropriate, the Headteacher/senior manager may decide to take informal action (as in Part A above) instead of giving a first written warning.
- 8.2 The Headteacher/senior manager may decide the misconduct is so serious that it justifies a final written warning, without any previous written warning having been given.
- 8.3 Rather than dismiss, the Headteacher may decide to issue no sanction or a lesser sanction.
- 8.4 In determining an appropriate sanction, consideration may be given to a change to role/duties which may impact on remuneration.
- 8.5 Where the Trustees Appeal Committee overturns a decision to dismiss or to issue a written warning, they may substitute a lesser sanction. There is no right of appeal against such a decision of the Trustees Appeal Committee.

9. Trade Union Representatives

- 9.1 Where disciplinary action is being considered against an employee who is a trade union representative, the normal disciplinary procedure should be followed. Depending on the circumstances, however, it is advisable to discuss the matter at an early stage with an official employed by the union, after obtaining the employee's agreement.

10. Confidentiality

- 10.1 All employees subject to disciplinary investigations or proceedings must treat as confidential any information communicated to them in connection with an investigation or disciplinary matter.

Appendix A

Disciplinary Rules for All Employees

1. Purpose

The disciplinary rules should be read in conjunction with our disciplinary procedure. The disciplinary rules are intended to give examples of the type of conduct that is considered to be misconduct or gross misconduct, and which could lead to action under our disciplinary procedure.

2. Gross Misconduct

Gross misconduct is a serious breach of contract and includes misconduct which, in our opinion, is likely to prejudice our organisation or reputation or irreparably damage the working relationship and trust between us. If you are suspected of committing an act of gross misconduct, you may be suspended with full pay pending investigation. Allegations of gross misconduct will be dealt with under our disciplinary procedure and, if upheld, will normally lead to dismissal without notice or pay in lieu of notice (summary dismissal). The following are examples of matters that are normally regarded as gross misconduct. This list is intended as a guide and is not exhaustive:

2.1 Behaviour that has or may have harmed a *child/children or, behaviour towards a child or children that indicates you would pose a risk of harm to children, for example:

- Sexual behaviour towards or relations with a pupil
- Physically harming a pupil
- Criminal offences related to or against a child

* Child/children relates to anyone under the age of 18.

2.2 Criminal activities or offences, whether committed at work or not, that may affect our reputation or otherwise affects your suitability and/or ability to continue in employment.

2.3 Sexual misconduct, whether at work or not and, whether criminal or not.

2.4 Acts of physical or threatened violence, vandalism, bullying or, behaviour which provokes violence.

2.5 Possession, use, supply or attempted supply of illegal drugs or any other inappropriate substances, whether illegal or not.

2.6 Being under the influence of alcohol or other substances that make you unfit to perform your duties during working time, or illegal use of drugs at any time.

2.7 Deliberately accessing internet sites containing pornographic, offensive or obscene material on our equipment or during working time.

2.8 Communicating offensive, obscene or unauthorised sexually explicit material whether verbally, written, in electronic communication, or by social media.

2.9 Serious negligence, serious neglect of duties or, a serious or deliberate breach of your conditions of employment, operating procedures, public examination rules, DfE statutory requirements, statutory rules affecting your work or, Health and Safety rules, for example:

- Failure to comply with the Prevent Duty
- Failure to report safeguarding concerns
- Failure to exercise proper control or supervision of pupils
- Disclosure of restricted public examination material or content
- Falsifying sickness absence
- Taking leave when permission denied
- Job abandonment
- Ignoring handling instructions/responsibilities/safety regulations to include those in relation to chemicals, machinery, equipment or food

2.10 A serious breach of our Code of Conduct.

2.11 A serious act of insubordination.

2.12 Dishonesty associated with place of work or job being undertaken, for example:

- Theft or unauthorised removal or misuse of property.
- Fraud, forgery or other dishonesty, including fabrication of expense claims, time sheets, qualifications, application forms, public examination forms and any other forms or records in use, falsification of any information given on your application form for a post, entitlement to work (including immigration status) in order to gain employment or other benefits or falsification of registration of pupils.
- Demanding or accepting monies or other considerations as a bribe for the use of our property or provision of our service.
- Failure to disclose criminal convictions, cautions, bindover orders reprimands or warnings (except those which are 'protected' under the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended from time to time) or, failure to disclose during the course of your employment an arrest or summons for an offence, a conviction, a bindover order, a reprimand or a warning given by a police force.
- Undertaking unauthorised paid or unpaid employment during working hours, including during periods of sickness absence.

- 2.13 Unauthorised use or disclosure of confidential information (or information which is of a confidential nature) or failure to ensure that such information in your possession is kept secure.
- 2.14 Making statements that are or could be damaging, slanderous or libellous whether verbally, written, in electronic communication or by social media, which could be harmful to a pupil, an employee or other worker, a Trustee, a member of the public, or our reputation.
- 2.15 Unlawful harassment or victimisation of, or unlawful discrimination against, a pupil, an employee or other worker, a Trustee, or a member of the public.
- 2.16 Victimising a person who has raised concerns, made a complaint, given evidence or information under our policies, e.g. grievance procedure, disciplinary procedure or otherwise.
- 2.17 Making a disclosure of false or misleading information under our whistleblowing policy maliciously, for personal gain, or otherwise in bad faith against a person or, making untrue allegations in bad faith against a person.
- 2.18 Bringing the organisation into serious disrepute.

3. Misconduct

The following are examples of matters that will normally be regarded as misconduct and will be dealt with under our disciplinary procedure. This list is intended as a guide and is not exhaustive.

3.1 Absenteeism and lateness, for example:

- Unauthorised absence or leaving your job during working hours without permission or sufficient cause for absence
- Frequent failure to attend work punctually
- Failure to comply with our sickness absence reporting procedure

3.2 Neglect of duty, for example:

- Failure to adopt safe working practices/use protective equipment where required by law or management
- Damage to, or unauthorised use of our property or contractors property
- Insubordination

3.3 Obscene language or other offensive behaviour.

3.4 Undertaking additional employment outside normal working hours without authorisation.

3.5 Breaches of our policies.

3.6 Breaches of your contract.

3.7 Failure to follow a reasonable management instruction.