



Staff Discipline, Conduct and Grievance Policy

September 2017

St Mary's Catholic Primary School is committed to a coherent approach to the safety, protection and wellbeing of members of the school community, and to fairness and consistency in the way that disciplinary matters and staff grievances are handled. Our policy on discipline, conduct and grievances will contribute to achieving this. It will be used alongside the school's policies on child protection and safeguarding, allegations of abuse against staff, whistleblowing, and teacher appraisal and capability. The policy applies to all staff, including the headteacher.

The school expects staff to be professional and hardworking. It does not expect to have to discipline them for misconduct but disciplinary sanctions have to be in place should the need arise, if informal action has not been effective or is inappropriate. The **school's staff appraisal policy** provides information on how the school manages staff performance.

1. Staff conduct in school

Staff should ensure that their conduct in school is in line with school policy and sets a good example to our pupils. This includes:

- observing the terms and conditions of their contract
- attending work regularly and on time
- performing work duties to the high standard expected
- treating with respect everyone they come into contact with during the course of their work
- complying with requirements relating to training and CPD, health and safety, and information sharing
- alerting managers to any circumstances that may adversely affect their work
- complying with the requirements of the Teachers Standards

Failure to maintain satisfactory standards of conduct may result in action being taken under this procedure.

Senior leaders have the additional responsibilities of:

- recruiting staff that they think are capable of working to the high standards expected at the school, and managing them effectively
- monitoring staff conduct and taking action where conduct is unacceptable
- encouraging staff to alert them to circumstances that may adversely affect their work
- communicating the school policy and standard expectations to all staff, ensuring there is a clear understanding of both
- providing effective feedback on the conduct, attendance and performance to individuals they are responsible for
- possession, use, supply of illegal substances;
- ensuring that any actions taken as a result of staff misconduct or gross misconduct are carried out discreetly, fairly, in confidence and in line with the school's equality policy.

This policy is written and reviewed by the school

The governing body has a responsibility to:

- treat all incidents of staff misconduct or gross misconduct fairly and in line with school policy
- review this policy annually or after any incident of serious misconduct to ensure that it is effective, practicable and fair.

2. Types of misconduct

Listed below are some actions normally considered to be misconduct or gross misconduct that would be dealt with under this policy. The lists are a guide and are not exhaustive. The school has the right to discipline a member of staff for misconduct or gross misconduct even if the action they have taken is not listed below. Staff considered to have committed gross misconduct may be suspended before consideration for dismissal.

2.1 Misconduct

- Minor breaches of an employee's contract of employment
- Minor breaches of St Mary's Catholic Primary School policies, including the sickness absence policy, IT user policy and health and safety policy
- Unauthorised absence from work
- Unauthorised use of the school facilities – for example using the internet for excessive personal emailing
- Persistent lateness, poor timekeeping or timewasting
- Inappropriate or offensive behaviour – for example, using foul or abusive language
- Intentionally disobeying the reasonable instructions of a senior member of staff
- A breach of confidentiality or school regulations
- Negligence in the performance of duties.

2.2 Gross misconduct

Gross misconduct is a serious breach of contract and includes misconduct, which in the opinion of St Mary's Catholic Primary School is likely to prejudice its reputation or irreparably damage the working relationship and trust between the school and the employee. Gross misconduct will be dealt with under this procedure and will normally lead to dismissal without notice or pay in lieu of notice.

- Harassment or discrimination related to any of the protected characteristics – see other relevant policies including equal opportunities, and anti-harassment and bullying
- Inappropriate conduct with children or young people, including failing to maintain appropriate professional boundaries
- Serious failure to follow the school's child protection procedures
- Serious or repeated breaches of health and safety requirements
- Physical assaults or threats to a colleague, pupil or member of the public
- Soliciting or accepting bribes
- Actual or threatened violence, or behaviour which provokes violence
- Unauthorised removal of school property, or malicious damage to school property or equipment
- Criminal offences that in the *school's* opinion may undermine that employee's ability to do their job or adversely affect internal relations, staff or pupils

- Dishonesty involving anything that relates to life in school
- Fraud or forgery, including falsification of documents such as expense claims, pupils' work, examinations or assessments
- Theft
- Being under the influence of alcohol, illegal drugs or other substances during working hours or not being capable of fulfilling duties because of their effects
- Any action that harms the reputation of the school
- Serious negligence or a serious or deliberate breach of an employee's contract of employment
- Serious or repeated failure to obey instructions, or any other serious act of insubordination
- Deliberately accessing internet sites at work or at home, or using school equipment, which contains pornographic, offensive or obscene material
- Making a false declaration or failing to disclose information in relation to the disqualification from childcare requirements, or becoming disqualified from providing childcare

3. Staff discipline procedures

St Mary's Catholic Primary School is to ensure that any disciplinary matter is dealt with fairly and that steps are taken to establish the facts and to give employees the opportunity to respond before taking any formal action. An employee may bring a companion to *all meetings under this policy/all meetings where a warning or dismissal may be a potential outcome*. The companion may be either a trade union representative or a work colleague *or anyone else that St Mary's Catholic Primary School may choose to allow – e.g. friend/family*. Employees will not normally be dismissed for a first act of misconduct, unless St Mary's Catholic Primary School decides that the conduct amounts to gross misconduct or the employee has not completed a probationary period.

Disciplinary investigations

When a manager thinks that misconduct has taken place, and where it is determined that an investigation is needed, the Headteacher will usually appoint an investigating officer to carry out the investigation. The purpose of an investigation is to establish a fair and balanced view of the facts. It may involve interviewing the employee and any witnesses, and reviewing relevant documents or other information. The investigating officer responsible will first and foremost inform the member of staff that they are going to initiate an investigation.

Where any allegation is made, the Headteacher should be informed and a meeting will be arranged with the member of staff in question. The chair of governors may be informed, and if the Headteacher is the person in question, the Chair of Governors will arrange the meeting. This will take place immediately if there is concern that a child is at risk of harm, or normally within 7 days if this is not the case.

Where misconduct is not serious enough to warrant an immediate formal meeting, the manager will meet with the member of staff informally to discuss the circumstances surrounding their misconduct. Written records of this discussion will be kept, as will documentation of any information from witnesses. The member of staff in question can bring a colleague to this meeting if they wish.

Details of the misconduct and the discussion that has followed will be passed onto a member of the senior leadership team or headteacher. The investigating officer will recommend either that no further action is taken (see paragraph (A) below) or that a disciplinary hearing should take place (see paragraph (B) below).

(A) No further action will be taken

If the investigating officer has investigated the misconduct of a staff member and has made the recommendation that no further action be taken, or that informal action should be taken, the member of staff will be informed in writing within 7 days of the initial disciplinary meeting. If the investigating officer believes that the misconduct was a one-off, a misunderstanding, or an act of poor judgement, they may wish to arrange a follow-up meeting to discuss this with the staff member and the implications of their conduct.

Investigating officers may use this follow-up meeting to draw up a personal plan to improve conduct, timekeeping or organisational skills. An improvement plan may be created with measurable improvements as targets and reasonable timescales in which to improve. These will be reviewed at the end of the agreed improvement period and if insufficient improvement has been made the investigating officer may make the decision to take more formal action.

(B) A disciplinary hearing will take place

In cases where an act of gross misconduct or a series of incidents of misconduct have taken place, the investigating officer may advise that a disciplinary hearing should take place to review the conduct of the member of staff and decide on a formal course of action. Persons who are considered to have committed gross misconduct may be suspended before consideration for dismissal.

The person who is the subject of the investigation will be informed as soon as a disciplinary hearing has been decided. If there has been an allegation made against them by a pupil, they will be informed only after the Headteacher has spoken to the Chair of Governors. The employee will then be advised what the next course of action will be. However, if the police or children's social care are to be involved, for example in a case of alleged sexual misconduct, they will be contacted before the employee and will advise on what information may be disclosed to the person under investigation.

In the case of an employee who has been accused of abuse, the Headteacher, Chair of Governors or a named representative will keep the subject of the allegation informed of the progress of the case and any other work-related issues. If that person has been suspended, they will keep them informed of any developments from school. If the employee is a member of a union or any other professional association, they should be advised to contact that body at the outset of the investigation.

4. Disciplinary hearings

When the investigating officer has recommended disciplinary action, a disciplinary hearing will be convened. The employee will be notified in writing as soon as is practicable of the date, time and location of the hearing. The procedure and copies of relevant documentation that will be used or may be useful or necessary to prepare a response will be provided. The employee will be informed of the allegations against them, the basis for those allegations and the likely range of consequences if it is decided at the hearing that the allegations are true. An employee may bring a companion to all meetings where a warning or dismissal may be an outcome, and this may be either a trade union

representative or a work colleague. The employee will be informed of their right to be accompanied in the written notification of the hearing. Should they wish to bring a companion to the hearing, they will be responsible for making the necessary arrangements and providing them with copies of paperwork that they may require.

The disciplinary board will be made up of: The Headteacher, Chair of Governors and members of the governing body as decided by the Headteacher.

St Mary's Catholic Primary School has a duty of care to its employees and will do all it can to minimise the stress of the disciplinary process.

The employee may need additional support and the school will consider what would be appropriate. If there is a criminal investigation and the police are involved, they may provide this additional support. For more information on support, confidentiality, suspensions, resignations and investigation processes that relate to allegations of abuse, please refer to the school's **allegations of abuse against staff policy**.

4.1 Confidentiality

The school will make every effort to protect the privacy of all parties during and after an investigation into misconduct. It is in everyone's best interest to maintain this confidentiality to ensure a fair investigation with minimum impact for all parties. All employees must treat information communicated to them in connection with an investigation or disciplinary matter as confidential.

A breach of confidentiality will be taken seriously and may warrant its own investigation. It is a criminal offence to publish information that could lead to the identification of someone who is the subject of an allegation or a disciplinary hearing before they are charged or summonsed.

4.2 Suspensions

The school will not suspend a member of staff without serious consideration, and will not do it automatically when an allegation of abuse or gross misconduct is made. Depending on the nature of the case, it may be possible that alternative arrangements are made such as work location or reorganisation of duties, and these will be considered before a decision to suspend is made.

Suspension is not a disciplinary penalty and does not imply that any decision has already been made about the allegations. Where an employee is suspended, they will receive confirmation in writing as soon as possible and will be informed of the reason for the suspension. The suspension will be for no longer than is necessary and will be kept under review. Employees will continue to receive full pay and benefits during any period of suspension.

4.3 Resignations

If an employee hands in their resignation when a disciplinary hearing has been ordered or during an investigation, the investigation will still continue until an outcome has been reached, with or without the person's cooperation. They will be given full opportunity to respond to the hearing. A referral to

the Disclosure and Barring Service and Secretary of State will also be made where the thresholds for referral are met.

4.4 Record keeping

Detailed records of all investigations and outcomes should be kept securely, and in line with the Data Protection Act, in the personal file of the person who has been under investigation, who should be given a copy of the same information. This will enable the school to:

- provide all the necessary information for future schools if the individual requires a reference. Where DBS checks highlight allegations that did not result in any criminal charges, records will need to show exactly what happened, what points of action were taken during and after the investigation, and how the result of the investigation was reached
- prevent unnecessary re-investigation in the future if an allegation re-surfaces.
- Allegations or investigations that are proven to be malicious will not be kept on employment records or used in employee references.

4.5 Action on conclusion of the case

The employee will be informed in writing of the decision and the reasons for it, usually within 7 days of the hearing. The *disciplinary board* may find that there is no case to answer and refer the case back to an informal process. Alternatively, the panel may give the employee a disciplinary first warning or final warning or dismiss them. The usual penalties are set out below.

- Written warnings will set out the nature of the misconduct, the period for which the warning will remain active and the likely consequences of further misconduct in that active period. After the active period, the warning will remain permanently on the employee's personal file but will be disregarded in deciding the outcome of future disciplinary proceedings.
- Where an employee is dismissed, a referral to the Disclosure and Barring Service and Secretary of State will be made where the thresholds for referral are met.
- If it is decided that the employee may return to school (after a suspension) then provisions will be put in place by the school to ensure that the transition is as smooth as possible. This may involve a phased return for a trial period or use of another member of staff as a support system in the short term.

4.6 Appeals

Members of staff can appeal to the governing body in relation to disciplinary action taken against them within 7 days of the date on which they were informed of the decision.

The appeal will be dealt with as impartially as possible and where possible, will be conducted by a different panel of governors not previously involved in the case. The employee will be given written notice of the date, time and place of the appeal hearing no less than 5 working days before the hearing. They may bring a companion to the appeal hearing (see the opening to section 4).

Following the appeal hearing, the panel may confirm or revoke the original penalty or substitute a different penalty. Ordinarily a penalty will not be increased on appeal unless there is new

information or evidence that requires further investigation. The employee will be informed in writing of the decision and the reasons for it, usually within 5 working days of the hearing.

The decision of the appeals panel is final and there is no further right to appeal.

5. Staff grievances

Grievances are complaints, concerns, or problems raised by staff relating to their employment. Formal grievances must be made in writing. The procedures outlined below can be used when:

- a staff member has a grievance with a colleague
- a staff member has a grievance with their manager or another member of the leadership team, including the Headteacher or Governors

Grievances include:

- terms and conditions of employment
- health and safety
- work relations
- bullying and harassment
- new working practices
- working environment
- organisational change
- discrimination.

The procedures outlined in this policy **should not be used** for:

- grievances about termination of employment
- grievances about national insurance, income tax or pensions
- grievances about pay or performance management
- grievances related to whistleblowing.

5.2 Informal procedure

The wellbeing of school staff is very important and we strive for an environment in which employees are confident that any grievances can be resolved quickly and informally through open communication with their line manager or headteacher. Staff are encouraged to seek an informal resolution. If they are unable to speak to their manager (e.g. because the complaint concerns their manager), they should speak informally to a more senior manager, which could be the headteacher.

If this does not resolve the issue or is not appropriate, staff should follow the formal procedure below.

5.3 Formal procedure

Where staff think that informal procedures cannot or have not resolved their grievance they can initiate formal procedures. These will progress as outlined below:

- The staff member with the grievance should describe the grievance in writing and identify the outcome they are seeking. This should be handed to their manager or, if the manager is the subject of the grievance, to a member of the senior leadership team or the Headteacher. Where the Headteacher is the subject of the grievance, the form should go to the Chair of Governors. Where the governing body is the subject of the grievance, the employee should consult with the Headteacher before approaching the chair of governors.
- An initial meeting will be held involving the member of staff with the grievance and the recipient of the written grievance to discuss the grievance and context. The individual who has received the written grievance will take notes and pass these on to the Headteacher or person delegated by the Headteacher to consider the grievance.
- An employee has the right to bring a companion (a trade union representative or a colleague) to the formal grievance meeting or appeal meeting under this procedure. Employees should tell the person holding the grievance meeting who their chosen companion is in good time before the meeting.
- The person holding the meeting will hear evidence from the parties involved and review any relevant documentation. The person may adjourn the meeting or defer a decision until they are satisfied that they have thoroughly reviewed all the evidence and taken into account all relevant factors.
- In some cases, it may be necessary for investigations to be carried out into the grievance. The meeting may be adjourned to carry out necessary investigations, or an investigation may be conducted before the grievance meeting if appropriate. The nature of the investigation will depend on the complaint; it may involve interviewing the employee, a witnesses or witnesses, or reviewing relevant documents.
- All parties involved will usually notified in writing of the decision of the panel and the reasons for the outcome within five working days. There may be circumstances in which it is considered inappropriate for all those involved to receive the full notification.

6. Appeals

The individual who has brought the grievance can appeal by writing to the Headteacher /chair of Governors within 5 working days of the decision, stating in detail the grounds. An appeal meeting will be held as soon as practicable and will be dealt with impartially by a more senior manager not previously involved. Where the headteacher made the decision, a panel of governors will hold the appeal meeting. The grievance will be re-heard on condition that:

- there is new evidence
- new grievances will not be added.

The decision of this panel is final.

7. Overlapping grievance and disciplinary issues

If an employee raises a grievance after disciplinary proceedings have started against them, the school will consider suspending the disciplinary period for a short time to consider the implications of the grievance on the disciplinary proceedings. If the grievance and disciplinary issues are unrelated then they can be heard separately.

This policy will be reviewed annually: September 2018

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