

BUCKINGHAMSHIRE COUNCIL

CONDUCT & DISCIPLINE POLICY & PROCEDURE FOR SCHOOLS

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1. INTRODUCTION

1.1 This document sets out the School's policy on conduct and discipline and the procedure to be applied when an employee's conduct falls below normal or acceptable standards. Its aim is to help and encourage all employees to achieve and maintain the required standards of conduct and to ensure that the School is objective, firm, reasonable and consistent in its approach to dealing with employee discipline issues.

2. SCOPE

2.1 The policy, procedure and Statutory Requirements set out in this document, if adopted by the school, apply to all Teachers on Teachers pay and conditions and Buckinghamshire Council employees employed in schools under the terms of Bucks Pay Employment Conditions.

2.2 This policy does not apply to the following:

- (With the exception of incidents relating to safeguarding as set out in the following paragraph 2.3) staff engaged on temporary contracts of less than 6 months in duration
- (With the exception of incidents relating to safeguarding as set out in the following paragraph 2.3) new staff who are still within their probationary period of employment
- Where a determination that the employee should no longer work at the school is imposed by reason of any other statutory provision (for example lack of physical or mental fitness)

2.3 Where conduct problems concern an allegation against a member of staff relating to children or adults who have care and support needs "Managing Concerns or Allegations against Staff Working with Children or Adults who have Care and Support Needs" must take precedence over this policy and procedure.

2.4 Where conduct problems are identified as having arisen due to lack of capability, they will be addressed through the School's capability procedure.

3. ROLES AND RESPONSIBILITIES

- 3.1. The Headteacher, or Chair of Governors in the case of the Headteacher, is responsible for the overall management of standards of conduct within their School. The authority to take action under this procedure rests with the Headteacher or Chair of Governors.

4. PRINCIPLES

- 4.1 The policy and procedure contained within this document is founded on the following principles:

- To maintain high standards of conduct within the School and to encourage improvement in conduct where shortcomings are identified. Additionally, teachers are required to comply with Part Two of the Teachers' Standards - 'Personal and Professional Conduct' where appropriate to address conduct issues without recourse to the formal stages of the disciplinary procedure.
- To ensure that employees facing action under the formal stages of the disciplinary procedure are treated fairly and consistently.
- Not to discriminate against any individual in the application of this policy and procedure on the protected characteristics of age, disability, gender reassignment, marriage and civil partnership, maternity and pregnancy, race, religion or belief, sex, sexual orientation, or other grounds protected in law (e.g. part-time worker status, trade union membership or HIV positive status).
- If employees have any misgivings about either the process or the managers leading it, they should notify either the Headteacher or Chair of Governors as appropriate so that their concerns can be addressed.
- Any meeting recorded without the consent of all those present (covert recordings) will be treated as a conduct matter

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5. INFORMAL ACTION

5.1 In the course of normal day-to-day management it is anticipated that the employee will be advised of any conduct concerns by their Headteacher/Line Manager and be advised of the required standards/expectations and how to meet these. This process will generally be regarded as the first step in addressing conduct issues and represents informal action outside of the School's formal Conduct and Discipline Policy & Procedure. Informal action is appropriate for low-level misconduct, which is capable of early correction. Where an issue directly concerns an employee's immediate line manager it may be helpful to involve an independent manager, such as the Headteacher or Chair of Governors if the Line Manager is the Headteacher, as appropriate, towards informal resolution.

Where informal action fails to bring about the required remedy, further misconduct is likely to be considered within the formal stages of the School's Conduct & Discipline Policy & Procedure and the employee should be notified of this.

6. RULES ON CONDUCT

6.1 Examples of acts of misconduct, which are likely to lead to formal action being taken are given in the Toolkit.

6.2 Types of offences that are deemed to constitute gross misconduct and are likely to lead to dismissal without notice are listed in the Toolkit. The list is not exhaustive and is intended to give only an indication of the nature and type of offence, which will warrant dismissal without notice or pay in lieu of notice.

7. CASES OF ALLEGED CRIMINAL ACTIVITY AND SAFEGUARDING ALLEGATIONS

Any allegation that needs reporting to the LADO (see the four allegation criteria in KCSiE part 4) should be done as soon as possible and within 24 hours. It is of note that not all allegations are criminal and not all criminal activity should be deemed as an allegation.

- 7.1 The School / Buckinghamshire Council reserves the right to suspend any internal investigation pending the outcome of a police investigation.
- 7.2 If the behaviour or activity of concern meets the allegation criteria, “Managing Concerns or Allegations against Staff Working with Children or Adults who have Care and Support Needs” must take precedence over this policy and procedure.
- 7.3 If the allegation involves suspected serious financial irregularity or fraud, the Director who deals with school’s Finance and Assets of Buckinghamshire Council must be informed.

8. FORMAL STAGES OF THE DISCIPLINARY PROCEDURE AND DISCIPLINARY SANCTIONS

- 8.1 The School reserves the right to take a range of actions in addition to formal warnings or as an alternative to more serious disciplinary action depending on the circumstances of the case. Such actions may include withholding annual pay increments or other pay supplements, demotion for a specified or unspecified period or transfer to an alternative job or location with or without a reduction in the contractual rate of pay.
- 8.2 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 alleged matter may result in stages in the process being missed out. An employee will not normally be dismissed for a first breach of discipline. However, in cases of gross misconduct an employee may be dismissed without having had any prior formal warnings as to their behaviour / conduct:

Stage 1 – First Written Warning

Stage 2 – Final Written Warning

Stage 3 – Dismissal

- 8.3 Any warning applied is regarded as live and kept on the employee’s personal file for the duration of the warning and will be disregarded thereafter in determining future disciplinary sanctions. (Please see the Conduct & Discipline Schools’ Toolkit for Managers for further guidance).
- 8.4 Where the same type of misconduct becomes a pattern, which is repeated every time a warning ceases to be live, or the employee has a ‘live’ warning for a similar offence, previous warnings may be taken into account and may result in gross misconduct. The significance of the recurring issues needs to be taken into account when deciding if it should be treated as gross misconduct and advice from HR must be sought.
- 8.5 Where the sanction is summary dismissal this will be without pay

9. **SUSPENSION**

9.1 Supporting the employee during suspension is crucial for maintaining a positive relationship, ensuring fairness, and helping them navigate through a challenging time. An employee may be suspended from duty on full pay at any time in any of the circumstances described below:

- Pending an investigation into an allegation of gross misconduct, where there is a potential risk that the employee’s continued presence at their place of work may interfere with a disciplinary investigation being undertaken or
- The continued presence of the employee at their place of work might be detrimental to their health or
- A combination of both of the above or

If consideration of suspension relates to a safeguarding allegation, the guidance in Appendix 1 “Managing Concerns or Allegations against Staff Working with Children or

Adults who have Care and Support Needs” must take precedence over this Policy and Procedure

9.2 Alternatives to suspension may be agreed pending the results of a preliminary fact-finding investigation and a decision on whether to suspend. These alternatives will normally only be used in the short term, ideally for not more than one week on a case-by-case basis, 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
- Management leave (liaise with your HR support for further guidance)

9.3 Suspension does not constitute part of the formal disciplinary procedure and does not imply any assumption that the employee has committed gross misconduct. However, failure to observe the terms of suspension, detailed in Paragraph 9.4 of this document, may invoke disciplinary proceedings.

9.4 During the period of suspension, unless otherwise informed, the employee is:

- Prohibited from entering 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 designated contact. This prohibition 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.
- Prohibited from undertaking alternative employment with another employer.

- Obligated to co-operate with the disciplinary investigation including any request to provide or identify documents and attend meetings.
- Obligated to ensure that they are, and remain, available and contactable during normal working hours.

9.5 Suspension will be for the shortest time possible. However, suspension will usually continue until either it is decided not to proceed with a disciplinary hearing against the employee or the disciplinary hearing has taken place and the employee has been informed of the outcome of it. In most cases where it is anticipated that the employee will be suspended for a period exceeding three calendar months there shall be a review at monthly intervals to determine whether it is necessary for the employee to remain suspended.

Should a suspension be extended due to investigations conducted by external parties (e.g. police, social services, etc.) consideration may be given to managing this suspension under a 'some other substantial reason' (SOSR) process.

10. INVESTIGATIONS

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

10.2 Investigations relating to safeguarding allegations must be made with reference "Managing Concerns or Allegations against Staff Working with Children or Adults who have Care and Support Needs".

10.3 The School may, at the Headteacher/Chair of Governor's discretion, continue with the Conduct and Discipline process regardless of a resignation. Each case will be considered

on a case-by-case basis. If it is a safeguarding related case, please liaise with your HR support.

10.4 The person with responsibility for the investigation is the Investigating Officer. The Investigating Officer may also undertake the role of Presenting Officer in the event that there is a case for the employee to answer at a formal disciplinary hearing. The function of the Investigating Officer is to:

- Ascertain the facts and circumstances surrounding the allegation or allegations of misconduct/gross misconduct
- Ascertain the employee's initial response to the allegation/s
- Compile a report containing a written summary of their findings
- The report to be presented to the Commissioning Manager (either the Headteacher/Chair of Governors) and the HR Support. In the case of an allegation/s of a safeguarding nature, the Local Authority Designated Officer (LADO), will receive a copy of the report for their comments, if any. The Commissioning Manager will work with the HR Support to decide if there is a case for the employee to answer at a formal disciplinary hearing.

11. MUTUAL AGREEMENT PROCESS (ONLY APPLICABLE IN EXCEPTIONAL CIRCUMSTANCES)

11.1 On some occasions and in misconduct cases only, rather than attending a formal disciplinary hearing, the employee / school may prefer to consider a mutually agreed first written warning rather than a hearing process. Following HR advice and with both parties' agreement, the employee may waive their right to a disciplinary hearing and accept an agreed sanction under the Mutual Agreement process. In these circumstances, following an investigation, management may issue a first written warning outside of a disciplinary hearing. Further details are available in the Toolkit.

12. NOTIFICATION TO ATTEND A DISCIPLINARY HEARING

12.1 Where a formal disciplinary hearing is to take place, the employee will receive written notification from the Headteacher/Commissioning Manager at least 7 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
- The Hearing Bundle may be sent at the same time as the hearing invite with sufficient details of the disciplinary allegations to enable the employee to properly prepare. The Hearing Bundle must be sent at least 7 working days in advance
- Whether dismissal is being contemplated as a sanction
- Their right to be accompanied
- The identity of the panel members and attendings outlining their roles
- The requirement for the employee to confirm in writing that they are attending, at least 5 working days before the disciplinary hearing, providing all relevant documentation in defence of their case and confirmation of the name of their Trade Union representative or work colleague and any witness/es that they wish to call.

12.2 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 failed to attend two scheduled disciplinary hearings.
- 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 defence to the allegations.

12.3 If the disciplinary hearing could potentially lead to dismissal the Council will also be informed and required to attend, in accordance with the attached Schedule of Statutory Requirements relating to Dismissals.

13. RIGHT TO BE ACCOMPANIED

13.1 At any disciplinary hearing or appeal hearing the employee has the right to be accompanied by a representative of their choice. The representative may be an accredited trade union representative or work colleague but not a friend, family member or legal representative.

13.2 In exceptional circumstances, the Chair of the Staff Disciplinary Hearing Committee/the Hearing Officer/Commissioning Manager may at their discretion allow the employee to bring a companion who is not a work colleague or trade union representative where this will help overcome a particular difficulty caused by disability, or where the employee has a difficulty understanding English.

13.3 Exceptionally, an employee is entitled to legal representation at a disciplinary hearing or appeal hearing, where the decision of the disciplinary hearing may result in the employee being referred to an external body, as a result of which the employee may lose the right to practice their profession.

13.4 Employees should be aware that their personal information including possible sensitive information will be shared with their nominated representative unless permission to do so is formally withheld.

14. GRIEVANCES DURING THE COURSE OF THE DISCIPLINARY PROCESS

14.1 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.

15. DISCIPLINARY HEARINGS

15.1 The disciplinary hearing will be chaired by the Headteacher/Chair of Governors for alleged misconduct. For alleged gross misconduct, the disciplinary hearing will be held by the Staff Disciplinary Hearing Committee. The employee will be given the opportunity to outline their case in response to the allegations. Refer to paragraph 15 of the Schools' Conduct and Discipline Toolkit for Managers for guidance on the format of the hearing.

15.2 It is the School's policy not to allow recordings of disciplinary or appeal hearings.

15.3 The Governing Body/Headteacher is required to notify the Council in any case where dismissal is a possible outcome as the Council has the right to be represented at a dismissal hearing.

16. CONFIRMATION OF THE OUTCOME OF THE DISCIPLINARY HEARING

16.1 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/gross misconduct
- The details of any disciplinary sanction applied
- If the disciplinary sanction is by way of 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 to be undertaken

- If the disciplinary sanction is dismissal, the reason(s) for dismissal
- The right of Appeal, giving the name of the person to whom the appeal should be addressed

16.2 If the disciplinary sanction is dismissal, the Local Authority will also be informed in writing, at the same time as the employee, in accordance with the attached Schedule of Statutory Requirements relating to Dismissals.

17. RIGHT OF APPEAL

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

17.2 An employee seeking to appeal must do so within 10 working days of the date of written notification of the decision. The employee should send their letter of appeal, together with the grounds of appeal, to the Clerk to the Governors/person named in the letter confirming the outcome of the hearing.

17.3 Once an appeal has been received in writing, an appeal hearing will normally be convened promptly, allowing at least 10 working days written notice of the hearing. The Staff Disciplinary Warning Appeal Committee will review the previous Hearing Bundle along with the new appeal information presented by the employee.

17.4 An appeal against a first or final written warning and dismissal will be considered by the Staff Disciplinary Appeal Committee.

17.6 The role of the Appeal Committee shall be to conduct a review of the case using the previous hearing bundle and any appeal information sent from the employee. The employee will present the basis of their appeal to the Appeal Committee. HR will be present at the appeal review.

18. FURTHER GUIDANCE

18.1 Further guidance is contained in the Conduct & Discipline Policy Toolkit for Managers for all parties involved during the Conduct and Discipline process.

18.2 The C&D Policy and Toolkit are updated on a regular basis. Headteachers should ensure that they refer to the most up to date copy on Schoolsweb and not a previous printed version.

18.3 Formal advice and guidance is available from HR

SCHEDULE OF STATUTORY REQUIREMENTS

BASED ON SCHOOL STAFFING REGULATIONS (ENGLAND) 2009

1. POTENTIAL DISMISSALS

Type of School	Legal Employer	Right to attend hearing where dismissal is potential outcome	Letter confirming dismissal to be written by
Controlled	Local Authority Section 35 Education Act 2011	Local Authority must attend hearing*	Local Authority**
Voluntary Controlled	Local Authority Section 35 Education Act 2011	As above*	As above**
Nursery	Local Authority	As above*	As above**
Foundation	Governing Body Section 36 Education Act 2011	Local Authority may attend hearing*	Governing Body. Outcome Letter should be sent to the Local Authority

Voluntary Aided	Governing Body Section 36 Education Act 2011	As above*	As above**
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* Where any Conduct & Discipline hearing is convened that could potentially lead to dismissal, the Local Authority (Human Resources Team) must be informed, given the opportunity to attend and be provided with the Hearing Bundle. The Local Authority representative in attendance will give advice that must be listened to and given full consideration by the Disciplinary Panel.

** The Panel/Headteacher will write to the employee and the Local Authority, at the same time, to confirm the outcome of the hearing. Where the decision is to dismiss, the outcome letter will include the Local Authority statutory dismissal confirmation. The Local Authority is required to notify the Secretary of State for Education whenever an employee in a school is dismissed on grounds of gross misconduct, or resigns in circumstances, which would have led to their dismissal, or consideration of their dismissal, on those grounds, if they had not resigned. The Secretary of State/Disclosure and Barring Service are able to bar a person from employment as a teacher and/or from any work involving regular contact with children, to place restrictions on such employment, to suspend a person from teaching for up to 2 years (with or without conditions), to issue a reprimand or to issue a warning about future conduct.

Governing Bodies are free to choose whether or not to collaborate/work jointly with Governing Bodies of other schools, in their arrangements for dismissal hearings:

2. HEADTEACHER'S PERFORMANCE

The Local Authority has a duty to make a written report to the Chair of Governors if it has a serious concern about the performance of the Headteacher.

3. SUSPENSION

Both the Governing Body and the Headteacher have the power to suspend employees at the school but only the Governing Body can lift the suspension.

Type of School	Suspension imposed or lifted by Chair of Governors, acting on behalf of Governing Body	Suspension imposed by Headteacher
Community	Must immediately inform the Headteacher	Must immediately inform the Chair of Governors
Voluntary Controlled	As above	As above
Nursery	As above	As above
Voluntary Aided	Recommended to inform Diocesan Director of Education (or representative)	Recommended to inform Diocesan Director of Education (or representative)
Foundation	Decision of the Trustees	Recommended to inform the Trustees