

THE THREE TOWERS
ALTERNATIVE PROVISION ACADEMY



DISCIPLINARY PROCEDURE FOR EMPLOYEES

CHAIR OF GOVERNORS:

HEADTEACHER:

To be reviewed every 5 years.

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This procedure document, as with all documentation relating to employment matters of the school, will be applied fairly, with a consistent approach, and in accordance with the School's Equal Opportunities commitment.

1. Introduction

1.1 The purpose of this disciplinary procedure is:

- to ensure that acceptable standards of professional conduct are maintained and to encourage improvements in individual conduct, where appropriate
- to ensure order, fairness and good practice in the treatment of individual employees against whom allegations of misconduct are made.

1.2 It is not intended that the procedure be only a means to impose sanctions on employees but should also be a means of giving guidance and support. For example, the procedure would not normally be used where problems of minor misconduct can be resolved by informal discussion between an employee and management. It is recognised that from time to time employees may need advice about their conduct and that minor infringements of discipline should be drawn to an employee's attention with appropriate guidance on how improvements could be made. Following counseling, realistic objectives should be established and a reasonable time limit set for these to be achieved. Normally, therefore, this formal disciplinary procedure will only be invoked after counseling concerning less serious misconduct has failed or where serious misconduct is alleged.

1.3 The disciplinary procedure is separate from the grievance procedure whereby an employee is entitled to air a grievance relating to his/her employment. The grievance procedure should not be used as a means of imposing a disciplinary penalty on an employee. If, however, the question of disciplinary proceedings arises as a result of the hearing of a grievance it will be dealt with in accordance with the disciplinary procedure set out below.

1.4 In cases relating to alleged professional abuse, then reference should be made to the procedure for dealing with allegations of professional abuse within the Employment Handbook for Schools.

1.5 Employees who are convicted of a criminal offence which is not work-related may be subject to disciplinary action if the offence affects the performance of their duties in relation to trust, respect and professional standing.

1.6 A decision to invoke criminal or civil proceedings against an individual employee will not necessarily delay any investigation or subsequent disciplinary hearing under this procedure. Similarly, a decision of the Criminal or Civil Court will not necessarily affect or impact on an investigation or the outcome of a disciplinary hearing.

1.7 Other than in exceptional circumstances, the Headteacher will invoke the disciplinary procedure. The Headteacher will inform the Trust and the Chair of the Local Governing Body when (s)he is proposing to invoke the procedure.

- 1.8 The disciplinary procedure in relation to the specific case of a Headteacher is explained in Section 7 of this document.
- 1.9 Before disciplinary action for alleged misconduct is taken against an accredited trade union representative, the circumstances of the case shall be discussed with a full-time official of the Union.
- 1.10 Proceedings in disciplinary interviews and hearings shall be confidential.
- 1.11 It is intended that this is a flexible procedure and that with the agreement of **all** parties, it may be varied in individual cases in order to settle matters quickly.

2. Suspension

- 2.1 The Headteacher, having consulted with the Chair of Governors where practicable, shall suspend an employee from duties where it is considered by the Headteacher that this is required. The Headteacher will also have sought the advice from the Trust's Personnel Service for Schools before making the decision.
- 2.2 The Headteacher, when exercising that power, shall immediately inform the Local Governing body.
- 2.3 When exercising the power of suspension, the Headteacher shall write to the employee within twenty four hours or as soon as possible thereafter, confirming the decision to suspend and giving reasons for the suspension.
- 2.4 Suspension shall be regarded as a neutral action and not in itself a disciplinary sanction. No record shall be kept on the employee's file(s).
- 2.5 Suspension shall normally be appropriate only in cases of alleged gross misconduct but may also be appropriate where the investigation may be impeded.
- 2.6 Following a suspension, an investigation shall be completed as soon as possible.
- 2.7 The Chair of Governors, having sought the advice of the Headteacher and the Trust's Personnel Service for Schools, shall be delegated the power by the Local Governing Body to lift the suspension if or when considered appropriate.

3. Investigations

- 3.1 No disciplinary action shall be taken against an employee until the case has been fully investigated.
- 3.2 The investigation shall be undertaken by a senior member of staff or the Headteacher. The support and guidance of the Trust representative, in undertaking the investigation, may be requested through the Personnel Service for Schools.
- 3.3 The employee shall normally be given five school working days' notice of an investigatory interview and informed of the right to be accompanied to the interview by a companion of his/her choice who may be a trade union representative.

4. Disciplinary Sanctions

- 4.1 Possible disciplinary sanctions are:
- verbal warning
 - first or further written warning
 - final written warning
 - dismissal
- 4.2 In this document, any reference to a warning which does not specify the type shall include all types of warning, i.e. verbal, written, further written and final. Any reference to written warning which does not specify the type shall include all types of written warning i.e. written, further written and final.
- 4.3 It may be decided that a formal verbal or written warning is the most appropriate sanction. If this is the Headteacher's opinion, having considered all the information available to her/him, then, s/he shall have the power not to refer the matter further to a disciplinary hearing but to issue a formal oral or written warning. The Headteacher can only exercise this power if the employee concerned is in agreement with this course of action and the sanction to be issued.
- 4.4 If the Headteacher chooses to exercise the powers conferred on her/him by paragraph 4.3 above her/his decision should be conveyed to the employee in the presence of her/his representative. The employee should be given the opportunity to consider this sanction in private with her/his representative and subsequently make any representation to the Headteacher before confirmation of the level of sanction to be issued is given. If the decision is to issue either warning, a letter confirming this should be given to the employee within 7 working days.
- 4.5 Where a sanction proposed by the Headteacher is not accepted by the employee then the issue should be referred to a Governors Committee under Section 8 below. This should also be the case where the Headteacher decides that there is a disciplinary case to answer that s/he feels should be referred to a Governors Committee in the first instance.
- 4.6 In normal circumstances should an employee have an outstanding appeal against a final warning, a further disciplinary hearing which could result in the dismissal of the individual will be postponed until the appeal against the final warning has been decided. Except for gross misconduct (see examples at Appendix 1) no employee shall be dismissed without first receiving a final warning.
- 4.7 A disciplinary warning shall remain in force and on the employee's file(s) for a specified period as follows:-
- verbal warning - six months
 - first or further written warning - twelve months
 - final warning - two years
- 4.8 A warning issued to an employee shall be recorded only on Form DP1 (attached) and shall be removed after the prescribed period has elapsed.
- 4.9 Should any disciplinary action be rescinded on appeal all reference to it shall be

removed from the employee's file(s) and the employee notified accordingly.

5. Disciplinary Hearing

- 5.1 Following an investigation into the alleged offence, should it be considered that there is a case to answer, a disciplinary hearing shall be convened.
- 5.2 At least seven school working days' notice of the disciplinary hearing shall be given and part-time employees shall normally only be called to a hearing on one of their contractual days of work.
- 5.3 The employee shall also be informed of the details of the allegation(s) and shall be provided with a copy of this procedure, written documentation to be referred to at the hearing, plus, where possible, a list of witnesses who will attend the hearing.
- 5.4 Where possible, the employee will also forward any documents to be referred to and a list of witnesses who will attend the hearing, prior to the hearing date.
- 5.5 The employee shall have the right to be accompanied to the disciplinary hearing by a companion of his/her choice who may be a trade union representative.
- 5.6 The Trust or his/her representative will attend the hearing in accordance with his/her advisory rights.
- 5.7 The hearing shall be heard by either the Headteacher or the Staffing Committee of the Local Governing Body. This decision shall be made by the Headteacher, in consultation with the Chair of the Local Governing Body, taking into account whether the Headteacher has had previous involvement in investigating the case and any other substantive knowledge.
- 5.8 The hearing shall be conducted in accordance with the procedure at Appendix 2.
- 5.9 Having considered the case, the Headteacher or Staffing Committee shall invite both parties to return to the meeting and may:
 - (a) where the employee has no previous warning on file:
 - (i) dismiss the allegation and determine that no further action be taken against the employee arising out of matters heard; or
 - (ii) issue an verbal warning; or
 - (iii) issue a first written warning; or
 - (iv) issue a formal warning where serious misconduct is established.
 - (b) where the employee has an verbal or written warning other than a final warning on file:
 - (i) dismiss the allegation and determine that no further action be taken against the employee arising out of the matters heard; or
 - (ii) find the allegation to be substantiated and issue the employee with first or further written warning or a final warning

- (c) where the employee has a final warning on file:
 - (i) dismiss the allegation and determine that no further action be taken against the employee arising out of matters heard; or
 - (ii) find the allegation to be substantiated and issue the employee with another final warning; or
 - (iii) find the allegation to be substantiated and determine that the employee's contract of employment be terminated.
- (d) where there has been an allegation of gross misconduct on the part of the employee:
 - (i) dismiss the allegation and determine that no further action be taken against the employee arising out of the matters heard; or
 - (ii) dismiss the allegation of gross misconduct but determine misconduct is proven and, therefore, that either an appropriate warning will be issued or, if a final warning is on file, that a final warning be re-issued or the contract of employment be terminated;
 - (iii) find the allegation of gross misconduct to be substantiated and issue the employee with a final warning; or
 - (iv) find the allegation of gross misconduct to be substantiated and determine that the employee's contract of employment be terminated.

5.10 The Headteacher or Staffing Committee conducting the hearing shall confirm its decision in writing to the employee and the reasons for it, using form DP1 (Appendix 3) as appropriate. (S)he shall also be advised of the right of appeal.

5.11 In the case of community, community special, voluntary controlled and maintained nursery schools, where the decision is to dismiss, the Headteacher or the Chair of the Staffing Committee must notify the Trust of its decision and reasons in writing. Within fourteen days of the date of notification, the Trust will terminate the contract without notice (in cases of gross misconduct) or issue notice of termination of contract in line with the contractual notice period, as appropriate.

5.12 In the case of voluntary aided schools, where the determination is to dismiss, the Chair of Governors, on behalf of the Local Governing Body, will terminate the contract without notice (in cases of gross misconduct) or issue notice in line with the contractual notice period, as appropriate.

6. Appeal

6.1 An employee wishing to exercise the right of appeal must submit a written appeal to the Clerk to the Local Governing Body within five school working days of receiving written notification of the determination to dismiss and should state the grounds on which the appeal is to be made. (S)he will indicate which of the original documents used at the first hearing will be re-submitted.

6.2 The appeal will be heard by the Appeals Committee of the School's Local

Governing Body. At least seven school working days' notice of the appeal hearing will be given. Part-time employees shall normally only be called to a hearing on one of their contractual days of work.

- 6.3 At least five school working days' prior to the appeal hearing, the investigating officer will indicate which of the original documents used at the first hearing are to be re-submitted.
- 6.4 If either side wish to deal with some aspect that was not included in the documentation previously provided, this is permissible. However, where this applies, the documentation should also normally be submitted to the Clerk to the Local Governing Body at least five school working days in advance of the hearing in order that it may be forwarded to both parties.
- 6.5 The employee shall have the right to be accompanied to the appeal hearing by a companion of his/her choice who may be a trade union representative.
- 6.6 A representative from the Trust will attend the hearing in accordance with his/her advisory rights.
- 6.7 The conduct of the appeal hearing shall be in accordance with Appendix 2 to this procedure.
- 6.8 Where there has been no finding of gross misconduct but where the employee has received a warning or it has been determined that the employee shall cease to work at the school, the Appeal Committee may decide that:
 - (i) the employee's appeal be upheld and no further action be taken against the employee arising out of matters heard; or
 - (ii) the decision of the Headteacher/Staffing Committee be confirmed; or
 - (v) the allegation is substantiated but a lesser penalty will be issued.
- 6.9 Where there has been a finding of gross misconduct at the first hearing, the Appeal Committee may decide that:
 - (i) the employee's appeal be upheld and no further action be taken against the employee arising out of matters heard; or
 - (ii) the allegation of gross misconduct be dismissed but misconduct proven and, therefore, that either an appropriate warning will be issued or, if a final warning is on file, that a final warning be re-issued or the contract of employment be terminated;
 - (iii) the decision of the Headteacher/Staffing Committee be confirmed; or
 - (iv) the allegation of gross misconduct is substantiated but a lesser penalty than dismissal will be issued.
- 6.10 The decision of the Appeal Committee will be confirmed to the employee in writing. In the case of community, community special, voluntary controlled and maintained nursery schools, the Trust will be notified of the outcome of the appeal within seven days.
- 6.11 In the case of dismissals, if the appeal by the employee is lost, any notice of termination of contract will continue. If the appeal is upheld, termination of

contract and any notice period will be rescinded.

7. Initiation of the Disciplinary Procedure against a Headteacher

- 7.1 Where it is alleged that a Headteacher has committed an offence of misconduct, the Chair of the Local Governing Body shall ensure that an investigation is undertaken to establish whether there is a case to answer. The Trust will nominate a senior officer to undertake this investigation on the behalf of the Chair of Governors if requested.
- 7.2 Where it is considered appropriate the Chair of Governors may suspend the Headteacher from duty pending the completion of the investigation.
- 7.3 Following the investigation, the Chair of Local Governors will decide as to whether there is, in his/her opinion, a case for the Headteacher to answer. If that opinion is that there is a case to answer, the matter shall be referred to the Staffing Committee of the Local Governing Body. Given the role of the Chair of Local Governing Body in the investigation stage, the Chair of Local Governing Body shall not be a member of the Staffing Committee or Appeal Committee.
- 7.3 In all other matters, the provisions outlined in this procedure apply.

- *The contents of this document will be brought to the attention of existing and newly appointed staff on a regular basis.*
- *The document will be available for reference purposes within the Employment Handbook retained within the school staff room.*
- *The application of the procedure will be monitored by the Local Governing Body*