



**Wessex**  
Learning Trust  
We Learn Together!

# Staff Disciplinary Policy

**Date approved by Trust Board: October 2019**  
**Review Date: October 2021**

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## **Wessex Learning Trust Staff Disciplinary Policy**

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This policy will be reviewed by the Board of Directors every two years or earlier if legislation requires it. The last review of this policy included a consultation with staff and trade union representatives. Any review will also be made in consultation with staff and trade union representatives.

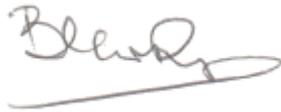
A handwritten signature in black ink that reads "Gavin Ball". The signature is written in a cursive style with a large, looped initial 'G'.

Signature:

Name: Mr Gavin Ball

Position: Chief Executive

Date: 14 October 2019

A handwritten signature in black ink that reads "Brian Kirkup". The signature is written in a cursive style with a large, looped initial 'B'.

Signature:

Name: Mr Brian Kirkup

Position: Chair of the Board

Date: 14 October 2019

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## **1. Policy Statement**

1.1 The aims of this Disciplinary Policy and its associated Disciplinary Rules (Appendix A) are to set out the standards of conduct expected of all staff and to provide a framework within which Headteachers can work with employees to maintain satisfactory standards of conduct and to encourage improvement where necessary.

1.2 It is the Trust's policy to ensure that any disciplinary matter is dealt with fairly, that steps are taken to establish the facts and to give employees the opportunity to respond before taking any formal action.

1.3 This policy does not form part of any employee's contract of employment and it may be amended at any time following consultation. We may also vary application of this policy, including any time scales for action, as appropriate. The policy has been agreed following consultation with staff and recognised trade unions.

## **2. Scope and Purpose of the Policy**

2.1 The procedure applies to all employees regardless of length of service excluding those in their probationary period where separate arrangements apply. It does not apply to agency workers or self-employed contractors. Where reference is made in this policy to a number of days, eg 5 days, this refers to school days, ie when the school is open and pupils are in attendance.

2.2 This policy is used to deal with misconduct. It does not apply to cases involving genuine sickness absence, proposed redundancies or poor performance. In those cases reference should be made to the appropriate policy or procedure for example the Staff Appraisal and Capability Policy or the Staff Sickness Absence Policy. These can be found at any Trust school on their intranet or website and also the Trust website.

2.3 Minor conduct issues can often be resolved informally between employees and their line manager. These discussions should be held in private and without undue delay whenever there is cause for concern. Where appropriate, a note of any such informal discussions may be placed on the employee's personnel file. In some cases an informal verbal warning or instruction may be given, which will not form part of the disciplinary records. Formal steps will be taken under this procedure if the matter is not resolved, or if an informal discussion is not appropriate (for example, because of the seriousness of the allegation).

2.4 Employees will not normally be dismissed for a first act of misconduct, unless the School/Trust decides that the conduct amounts to gross misconduct or the employee is in their probationary period and the act of misconduct is significant.

2.5 As recognisable figures in the local community the behaviour and conduct of staff from the Trust outside of work can impact on their employment. Therefore conduct outside work may be treated as a disciplinary matter if it is considered that it is relevant to the employee's employment (see disciplinary rules at Appendix A).

### **3. Confidentiality**

3.1 It is the aim of the Trust to deal with disciplinary matters sensitively and with due respect for the privacy of any individual involved. All employees must treat as confidential any information communicated to them in connection with an investigation or disciplinary matter.

3.2 Employees and anyone accompanying them (including witnesses), must not make electronic recordings of any meetings or hearings conducted under this procedure unless consent from all those present is obtained beforehand.

3.3 Employees will normally be told the names of any witnesses whose evidence is relevant to disciplinary proceedings against them, unless there is good reason that a witness's identity should remain confidential.

### **4. Allegations**

4.1 Allegations may be brought to the School's or Trust's attention in a number of ways and through a variety of sources. Appendix 1 sets out the disciplinary rules. As with disclosures made by children and young people, adults need to be aware that in making an allegation it is not always possible to keep the matter confidential. The Headteacher will need to decide upon the most appropriate course of action and may choose to proceed with an investigation even if the person making the allegation does not want them to.

4.2 Allegations which involve issues of child protection and/or abuse of children by staff should be referred immediately to the Designated Safeguarding Lead or their deputy and the Designated Officer of the Local Authority (LADO). See Appendix 2 for further guidance on the management of this type of allegation. No further action under this procedure will usually be taken until the Designated Officer of the Local Authority has been consulted.

### **5. Investigations**

5.1 Upon receiving any allegations against employees it is likely that further information will be required to establish what the next course of action should be. The Headteacher should seek to establish the basic facts of the situation; this may involve looking at records, speaking to witnesses, reviewing CCTV etc.

5.2 Preliminary Investigation Meeting. A preliminary investigation meeting may be held with the employee to establish the basic facts of the circumstance and to enable the Headteacher to determine whether further investigation is required. Such a meeting can sometimes give a reasonable explanation in response to allegations which then enables the matter to be concluded. A preliminary meeting will not be required in all cases and it is for the Headteacher to decide if this is appropriate.

5.3 Investigating Officer. After a preliminary investigation where it is determined that there is a need for investigation, or if the concerns are serious enough to warrant a full investigation immediately, the Headteacher will usually appoint a suitably experienced Investigating Officer to carry out the investigation. This will be an appropriate person, impartial to the nature of the

allegations and the role of the employee. In the case of allegations made against the Headteacher the Chief Executive will determine who will be responsible for the management of the procedure and determining an appropriate Investigating Officer, either internally or externally.

5.4 Further investigation. The purpose of an investigation is to establish a fair and balanced view of the facts relating to any disciplinary allegations made against an employee, before deciding whether to proceed with a disciplinary hearing. The amount of investigation required will depend on the nature of the allegations and will vary from case to case. It may involve interviewing and taking statements from the employee and any witnesses, and/or reviewing relevant documents and other information.

5.5 Interviewing witnesses. It may be necessary to interview witnesses who may have information that is relevant to the allegations. A record of the meeting will be made and the witness will have the opportunity to review the record, make amendments for clarification purposes and sign and date the record. The Trust recognises that some employees may find this difficult or worrying. However, all employees are expected to fully participate in any such investigation. Pupil witnesses will be interviewed individually and a responsible adult aside from the interviewer will be present. It is not usual to allow a witness to be accompanied but consideration will be made on a case by case basis.

5.6 Interviewing the employee. Investigation meetings are solely for the purpose of fact-finding and no decision on disciplinary action will be taken until after a disciplinary hearing has been held. Employees do not normally have the right to bring a companion to an investigation meeting. However, employees are allowed to bring a trade union representative or work colleague to the investigation meeting if they are available. No rearrangements will be made to the time and date of the investigation meeting to enable a companion to attend but will be made in respect of a trade union representative or work colleague. If the meeting is to be rearranged for attendance of a trade union representative the meeting must occur within 5 working days of the original meeting date. A record of the meeting will be made within 5 working days of the meeting and the employee will have the opportunity to review the record, make amendments for clarification purposes and sign and date the record. The employee has 5 working days to complete this.

5.7 Employees must co-operate fully and promptly in any investigation. This will include providing the names of any relevant witnesses, disclosing any relevant documents or information and attending investigative interviews if required. As each investigation will vary in length and complexity it will be completed in as short a time frame as possible.

## **6. Criminal Charges**

6.1 Where conduct is the subject of a criminal investigation, arrest, charge or conviction, the facts will be investigated before deciding whether to take formal disciplinary action. Disciplinary action will not be automatic and will depend upon the circumstances. Employees should inform their Headteacher immediately if they are involved in a criminal investigation, arrest, or are subject to a charge or conviction. Failure to notify their line manager may result in disciplinary action.

6.2 The Trust will not usually wait for the outcome of any prosecution before deciding what action, if any, to take. Where employees are unable or have been advised not to attend an

investigation meeting or disciplinary hearing or say anything about a pending criminal matter, a decision may have to be made based on the available evidence.

6.3 A criminal investigation, charge or conviction relating to conduct outside work may be treated as a disciplinary matter if it is considered that it is relevant to the employee's employment.

6.4 Where a criminal investigation relates to allegations of abuse of children or young people the Trust will co-operate and share information about the employee with other relevant agencies as appropriate.

## **7. Suspension**

7.1 In some circumstances it may be necessary to suspend the employee from work, where there are reasonable grounds to suspend. The suspension will be for no longer than is necessary to investigate the allegations and conclude the disciplinary process. Before being suspended, an employee will be informed of the allegations and offered an opportunity to respond. If suspended, the arrangements will be confirmed to the employee in writing as soon as possible but within 48 hours. The letter to the employee will include details of a named contact who will keep in touch with them during the suspension.

7.2 Suspension of this kind is not a disciplinary penalty and does not imply that any decision has already been made about the allegations. Employees will continue to receive normal salary and benefits during the period of suspension.

7.3 Alternatives to suspension, for example re-organisation of duties, work location, temporary redeployment to another role etc will be explored where relevant before a decision to suspend is made. The nature and severity of the allegations will need to be considered as well as the employee's role and if their continued presence would result in potential harm to the organisation or others, or make it difficult to investigate.

7.4 Where allegations are made that involve the protection of children, suspension will not be considered to be automatic. A reasoned decision will be made based on all available information. Additional information on the management of these allegations is available in Appendix 2.

7.5 The suspension will be kept under review as the investigation progresses. As information is gathered it may become appropriate to lift the suspension during the course of the investigation or prior to any disciplinary hearing.

7.6 The decision to suspend an employee can be made by the Headteacher in consultation with the Chief Executive.

## **8. Disciplinary Hearing**

8.1 Following any investigation, if there are grounds for disciplinary action, the employee will be required to attend a disciplinary hearing. The employee will be informed in writing of the allegations against them, the basis for those allegations, and what the likely range of consequences will be if it is decided at the hearing that the allegations are true. The following will also be included where appropriate:

- a summary of relevant information gathered during the investigation;
- a copy of any relevant documents which will be used at the disciplinary hearing; and
- a copy of any relevant witness statements, except where a witness's identity is to be kept confidential, in which case as much information as possible will be provided while maintaining confidentiality.

8.2 Five working days written notice of the date, time and place of the disciplinary hearing will be given to provide the employee with a reasonable amount of time to prepare their case based on the information that they have been provided with. The hearing will be arranged as soon as is practicably possible.

8.3 The Headteacher will be responsible for ensuring that all of the arrangements for the hearing are made and that the employee receives the appropriate paperwork and notice of the hearing.

## **9. Role of Companion at Meetings and Hearings**

9.1 An employee (not witness) may bring a either a trade union representative or a work colleague to all meetings under this policy. The employee must inform the Headteacher conducting the meetings who their chosen individual is, in good time before the hearing.

9.2 Should the employee choose to bring a companion to the hearing they will be responsible for making these arrangements and for providing their companion with any paperwork that they require for the hearing.

9.3 Acting as a companion is voluntary and your colleagues are under no obligation to do so. If they agree to do so they will be allowed reasonable time off from duties without loss of pay to act as a companion.

9.4 If the choice of companion is not available at the time a meeting is scheduled, the employee may propose an alternative time for the meeting to take place and so long as the alternative time is reasonable and within five working days after the original scheduled date, we will postpone the meeting. If the employee's chosen companion will not be available for more than five working days afterwards, we may ask the employee to choose someone else.

9.5 A companion may make representations, ask questions, and sum up the employee's position, but will not be allowed to answer questions on the employee's behalf. The employee may confer privately with their companion at any time during a meeting.

9.6 We may, at our discretion, allow the employee to bring a companion who is not a colleague or union representative (for example, a member of family) as a reasonable adjustment if the employee has a disability, or for example, they have a difficulty understanding English.

## **10. Procedure at Disciplinary Hearings**

10.1 If the employee and/or their companion cannot attend the hearing they should inform the Headteacher immediately and an alternative date will be given. Employees must make every effort to attend the hearing. Failure to attend without good reason, or persistent inability to do so

(for example for health reasons), may lead to a decision being taken based on the available evidence.

10.2 If the employee chooses not to attend the hearing they may choose to send a written statement for consideration at the hearing. This statement and any other written material must be received 5 days before the hearing.

10.3 The hearing will be chaired by the Headteacher unless it is unreasonable for the Headteacher to chair the hearing in which case the Chief Executive will chair the hearing. If the hearing involved the Chief Executive, the Chair of the Trust Board or their deputy will chair the hearing. The Investigating Officer and a member of the Human Resources department/advisors will also be present. Other individuals may also be present, for example a Governor, depending on the nature and seriousness of the allegations. At the disciplinary hearing the Investigating Officer will go through the allegations against the employee and the evidence that has been gathered. The employee will be able to respond and present any evidence of their own. The companion may make representations to the Headteacher and ask questions, but should not answer questions on the employee's behalf. The employee may confer privately with the companion at any time during the hearing.

10.4 Relevant witnesses may be asked by the Investigating Officer or the employee to appear at the hearing. The employee and the Investigating Officer must give at least 5 days' notice if they wish to call witnesses to ensure that there is time to arrange their attendance. The employee will be given the opportunity to respond to any information given by a witness. However, the employee will not normally be permitted to cross-examine witnesses unless, in exceptional circumstances, the Chair decides that a fair hearing could not be held otherwise.

10.5 The Chair may adjourn the disciplinary hearing if there is a need to carry out any further investigations such as re-interviewing witnesses in the light of any new points that have been raised at the hearing. The employee will be given a reasonable opportunity but a minimum of 5 days to consider any new information obtained before the hearing is reconvened.

10.6 The employee will be informed in writing of the decision and the reasons for it, usually within 5 working days of the disciplinary hearing. Where possible this information will also be explained to the employee in person.

## **11. Disciplinary Penalties**

11.1 The Headteacher/Chair may find that there is no case to answer and may refer the case back to an informal process. Alternatively the Headteacher/Chair may give the employee a disciplinary warning or dismiss them.

11.2 The usual penalties for misconduct are set out below. No penalty should be imposed without a hearing. The Trust aims to treat all employees fairly and consistently, and a penalty imposed on another employee for similar misconduct will usually be taken into account but should not be treated as a precedent. Each case will be assessed on its own merits.

11.3 Verbal Warning. A verbal warning may be authorised by the Headteacher. The warning will be used for minor disciplinary cases. The verbal warning will not be recorded on the employee's disciplinary record.

11.3 First written warning. A first written warning may be authorised by the Headteacher. It will usually be appropriate for a first act of serious misconduct where there are no other active written warnings on the employee's disciplinary record.

11.4 Final written warning. A final written warning may be authorised by the Headteacher. It will usually be appropriate for:

- a. misconduct where there is already an active written warning on the employee's record; or
- b. misconduct that is considered sufficiently serious to warrant a final written warning even though there are no other active warnings on the record.

11.5 Dismissal. Dismissal may be recommended by a Headteacher but must be authorised by a panel of the Board of Trustees. The panel will consist of 3 individuals. The panel will review the Headteacher's decision and the procedure followed. The panel will invite the Headteacher who heard the initial hearing, the employee and the Investigating Officer and any witnesses. Dismissal will usually only be appropriate for:

- a. any serious misconduct during the probationary period;
- b. further misconduct where there is an active final written warning on the record; or
- c. any gross misconduct regardless of whether there are active warnings on the record. Gross misconduct will usually result in immediate dismissal without notice or payment in lieu of notice (summary dismissal).

## **12. The Effect of a Warning**

12.1 Written warnings will set out the nature of the misconduct, the change in behaviour required, the period for which the warning will remain active, and the likely consequences of further misconduct in that active period.

12.2 A first written warning will usually remain active for six months and a final written warning will usually remain active for 12 months. In exceptional cases verging on gross misconduct, a final written warning may state that it will remain active for up to five years. The conduct will be reviewed at the end of a warning's active period and if it has not improved sufficiently the active period may be extended.

12.3 After the active period, the warning may remain permanently on the employee's personnel file, for example in safeguarding incidents, but will be disregarded in deciding the outcome of future disciplinary proceedings.

### **13. Appeals against Disciplinary Action**

13.1 The employee has the right to appeal against the disciplinary action taken against them. This must be in writing, stating the full grounds of appeal and sent to the Headteacher within 5 working days of the date on which the employee was informed of the decision.

13.2 If any new matters are raised in the appeal hearing further investigation may need to be carried out. The Chair may adjourn the appeal hearing if there is a need to carry out any further investigations such as re-interviewing witnesses in the light of any new points that have been raised at the hearing. If any new information comes to light this will be provided to the employee with a summary including, where appropriate, copies of additional relevant documents and witness statements. The employee will have a reasonable opportunity to consider this information before the hearing is reconvened.

13.3 The employee must be given written notice of the date, time and place of the appeal hearing. This will normally be no less than 5 working days. The employee may bring a companion to the appeal hearing (see section 9).

13.4 Where possible, the appeal hearing will be conducted by another Headteacher from within the Trust or the Chief Executive but an individual not previously involved in the case. The hearing may be a complete re-hearing or it may be a review of the fairness of the original decision in the light of the procedure that was followed and any new information that may have come to light. This will be at the Chair's discretion depending on the circumstances of the case. In any event the appeal will be dealt with impartially.

13.5 Following the appeal hearing the Chair may:

- a. confirm the original decision;
- b. revoke the original decision; or
- c. substitute a different penalty. A penalty will not be increased on appeal. However, a new investigation can be instigated if new information or evidence becomes available.

13.6 The employee will be informed in writing of the decision and the reasons for it, usually within 5 working days of the appeal hearing. Where possible this information will also be explained to the employee in person. There is no further right to appeal.

13.7 If the employee is appealing against dismissal, the date on which dismissal takes effect will not be delayed pending the outcome of the appeal. However, if the appeal is successful they will be reinstated with no loss of continuity or pay.

### **14. Referrals to External Bodies**

14.1 In cases where employees are dismissed or resign during a disciplinary process, a referral to the Disclosure and Barring Service and Secretary of State will be made where the thresholds for referral are met.

## **APPENDIX A:**

### **Disciplinary Rules and Disciplinary Procedure**

#### **1. Policy Statement**

1.1 The aim of the Disciplinary Rules and Disciplinary Procedure is to set out the standards of conduct expected of all staff and to provide a framework within which the Headteacher can work with staff to maintain those standards and encourage improvement where necessary.

1.2 If any employee is in any doubt as to their responsibilities or the standards of conduct expected they should speak to their line manager/Headteacher.

#### **2. Rules of Conduct**

2.1 While working for the Trust or any school in the Trust, employees should at all times maintain professional and responsible standards of conduct. In particular employees should:

- a. observe the terms and conditions of the employment contract;
- b. observe and follow the Trust's Code of Conduct for Employees;
- c. observe all of the Trust's and School's policies, procedures and regulations which are on the Trust/school's websites or notified to them from time to time by means of notice boards, e-mail, the intranet or otherwise;
- d. take reasonable care in respect of the health and safety of colleagues, pupils and third parties and comply with the Trust/School's Health and Safety Policy;
- e. comply with all reasonable instructions given by the Headteacher and managers;  
and
- f. act at all times in good faith and in the best interests of the Trust, School and those of the pupils and staff.

2.2 Failure to maintain satisfactory standards of conduct may result in action being taken under the Disciplinary Policy.

2.3 Misconduct. The following are examples of matters that will normally be regarded as misconduct and will be dealt with under the Disciplinary Policy:

- a. Minor breaches of the Trust's/ School's policies;
- b. Minor breaches of an employee's contract of employment;
- c. Damage to, or unauthorised use of, the Trust's/School's property;
- d. Persistent poor timekeeping or time wasting;

- e. Unauthorised absence from work;
- f. Refusal to follow reasonable instructions;
- g. Excessive use of the School's telephones, email or internet usage for personal reasons;
- h. Inappropriate or other offensive behaviour, including using obscene language, victimisation or harassment of other members of staff or pupils;
- i. Negligence in the performance of duties;
- j. Smoking in no-smoking areas, which applies to anything that can be smoked and includes, but is not limited to, cigarettes, electronic cigarettes, pipes (including water pipes such as shisha and hookah pipes), cigars and herbal cigarettes; or
- k. Poor attendance but not related to sickness absence.

This list is intended as a guide and is not exhaustive.

2.4 Gross Misconduct. Gross misconduct is a serious breach of contract and includes misconduct which, in the opinion of the Trust/School is likely to prejudice its business or reputation or irreparably damage the working relationship and trust between the Trust and the employee. Gross misconduct will be dealt with under the Disciplinary Policy and may lead to dismissal without notice or pay in lieu of notice (summary dismissal).

2.5 The following are examples of matters that are normally regarded as gross misconduct:

- a. Theft, or unauthorised removal of property or the property of a colleague, contractor, pupil or member of the public;
- b. Fraud, forgery or other dishonesty, including fabrication of expense claims and time sheets, pupil's work, examinations or assessments;
- c. Actual or threatened violence, or behaviour which initiates violence;
- d. Deliberate damage to the buildings, fittings, property or equipment of the Trust/School or the property of a colleague, contractor, pupil or member of the public;
- e. Inappropriate conduct with children or young people, including failing to maintain appropriate professional boundaries;
- f. Serious failure to follow the Trust's child protection procedures;
- g. Making a false declaration or failing to disclose information in relation to the disqualification from childcare requirements, or becoming disqualified from providing childcare;
- h. Serious misuse of the Trust or School's property or name;

- i. Deliberately accessing internet sites at work or at home, using School equipment, which contain pornographic, offensive or obscene material;
- j. Repeated or serious failure to obey instructions, or any other serious act of insubordination;
- k. Bringing the Trust or a school in the Trust into serious disrepute;
- l. Being under the influence of alcohol, illegal drugs or other substances during working hours or not being capable of fulfilling your duties because of the effects of alcohol or illegal drugs or other substances.
- m. Causing loss, damage or injury through serious negligence;
- n. Serious or repeated breach of health and safety rules or serious misuse of safety equipment;
- o. Unauthorised use or disclosure of confidential information or failure to ensure that confidential information in your possession is kept secure;
- p. Acceptance of bribes or other secret payments;
- q. Conviction or caution for a criminal offence that in the opinion of the Trust /School may affect our reputation or our relationships with our staff, pupils, parents or the public, or otherwise affects your suitability to continue to work for us;
- r. Possession, use, supply or attempted supply of illegal drugs;
- s. Serious neglect of duties, or a serious or deliberate breach of your contract or operating procedures;
- t. Unauthorised use, processing or disclosure of personal data contrary to the Data Protection Policy and principles of GDPR;
- u. Harassment of, or discrimination against, employees, pupils, parents or members of the public, related to any of the protected characteristics contrary to the Equality Statement and Objectives;
- v. Refusal to disclose any of the information required by your employment or any other information that may have a bearing on the performance of your duties;
- w. Giving false information as to qualifications or entitlement to work (including immigration status);
- x. Making a disclosure of false or misleading information under our Whistleblowing Policy maliciously, for personal gain, or otherwise in bad faith;
- y. Making untrue allegations in bad faith against a colleague;

- z. Victimising a colleague who has raised concerns, made a complaint or given evidence information under, for example, the Whistleblowing Policy, Grievance Procedure, Disciplinary Policy or otherwise;
- aa. Serious misuse of our information technology systems (including misuse of developed or licensed software, use of unauthorised software and misuse of email and the internet);
- ab. Undertaking unauthorised paid or unpaid employment during your working hours;
- ac. Unauthorised entry into an area of the premises to which access is prohibited.

This list is intended as a guide and is not exhaustive.

2.6 In some instances, offences which would normally constitute gross misconduct may be considered as misconduct because of mitigating circumstances. Similarly, issues which would normally be treated as misconduct may, in certain circumstances, be considered so serious that they constitute gross misconduct.

## **APPENDIX B:**

### **Dealing with Allegations of Abuse against Staff**

In dealing with allegations of abuse against employees there is guidance that needs to be followed to ensure that children and young people are not at risk of harm as well as supporting employees through the relevant processes. In such cases, the Dealing with Allegations of Abuse against Staff Policy is to be used. These can be found at any Trust school on their intranet or website or the Trust website.