Ysgol Gynradd Maes-y-Deri
Oaklands Primary School



Together Everyone Achieves More

Disciplinary Procedure Policy

DISCIPLINARY PROCEDURE

INTRODUCTION

The primary purpose of the disciplinary procedure is to provide agreed arrangements for the Governing Body (GB) and Senior Management Team (SMT) to make disciplinary decisions about members of staff. The procedures have been drafted to conform with the ACAS Code of Practice "Disciplinary and Grievance Procedures". The procedures are designed to ensure that disciplinary decisions are made fairly having regard to all relevant information from both the GB/SMT and the members of staff's point of view.

Where there is a right of appeal, the appeal will be a re-hearing of all the relevant information by the Appeals Committee of the Governing Body to decide if the disciplinary decision was reasonable and fair and if not, to make a final decision as to what, if any, disciplinary decision should be taken.
It is not the prime objective of the disciplinary procedure to inflict punishment. The main purpose is to encourage a member of staff whose standard of work or conduct is unsatisfactory to improve. The procedure serves to ensure that this is done in a fair and consistent manner.

At all times advise and guidance will be taken from LA's Human Resources department

SMT/GB that manage members of staff who care for children, should raise awareness of:

- the Council's Policy on Whistleblowing
- the Public Interest Disclosure Act 1998.

These enable a member of staff to report actual or suspected abuse of a child or vulnerable adult by other members of staff with the knowledge that the complaint will be treated in the strictest confidence.

Discipline

Implementation of the Disciplinary Procedure for a member of staff is the responsibility of the headteacher or deputy headteacher (SMT). The Chair of Governors must make arrangements for this to be done if the disciplinary procedure is against the HT

Appeal rights against disciplinary action are contained within this document

ARRANGEMENTS PRIOR TO A DISCIPLINARY HEARING

The following steps will be taken by the Investigating Officer (either a member of the SMT or Chair of Governors) prior to calling a formal disciplinary hearing:

Identify the Area of Concern

This may be obvious in some circumstances, for example persistent lateness; in other circumstances, it may be less obvious, for example, in areas of conduct, performance and capability.

In this respect there is a requirement for the SMT or Chair of Governors to submit a report to the relevant Human Resources Section identifying the areas of concern.

Investigate the Circumstances

It would be reasonable and appropriate in most cases for the member of staff to be made aware that an investigation is being carried out which may lead to invoking the disciplinary procedure. The purpose of the investigation is for the SMT/Chair of Governors to establish all the relevant facts relating to the area of concern. Evidence of witnesses should normally be recorded in writing by means of statements. All relevant documentation should be procured and assembled. The member(s) of staff concerned may be interviewed as part of the investigation process. Where possible, statements will be written up at the conclusion of the interview, and the witness requested to sign his or her statement at that time.

The member of staff may represent themselves or may be accompanied by a trade union representative or work colleague. There is no provision for any other representation / accompaniment arrangements.

Investigations should be controlled and properly managed in order to limit the scope to the relevant issues relating to the areas of concern. However, if during the course of the investigation different and unrelated issues emerge also requiring investigation then the member of staff needs to be informed appropriately. Where appropriate these issues can then be investigated in conjunction with the original investigation.

In cases where serious allegations have been made where a child or vulnerable adult has been harmed or has been at risk of harm then an investigation by the police or child protection agencies may take priority over an internal investigation. – This follows the Child Protection Procedures (see Child Protection Policy).

Clarify any Possible Breaches of Discipline

On conclusion of the investigation by the Investigating Officer a report outlining the findings will be produced. It should be possible to identify potential breaches of discipline or issues of unacceptable performance and the relevant information and supporting evidence relating to them.

Consider if a Disciplinary Hearing is necessary

When deciding if any action should be taken the SMT/Chair of Governors will consider whether the action should be by way of a discussion with the member of staff or formal disciplinary action. A discussion may occasionally be a more satisfactory method of resolving problems than a disciplinary hearing. This will take the form of a discussion with the objective of helping and encouraging a member of staff to improve. At the completion of the discussion a brief note of the outcome will be retained for reference purposes, including a letter to the member of staff where appropriate. This will not constitute formal disciplinary action.

Discipline is an essential part of management and appropriate priority should be given to enabling the process to be completed speedily and effectively. The SMT/Chair of Governing Body will endeavour to conclude the investigation process and hold a disciplinary hearing within 3 months of the initial allegation. However, there may be occasions when due to the nature of the investigation, it may go outside the 3 month period. Where this occurs all parties concerned will be informed accordingly. It is important for SMT/Chair of governors and member of staff to provide the fullest co-operation. Members of staff required as witnesses should be released from work to enable attendance.

The formal disciplinary procedures will normally be invoked by issuing the member(s) of staff involved with a written instruction to attend a disciplinary hearing. At least ten working days notice will be given of a disciplinary hearing.

It is important that the member of staff subject to disciplinary action within the procedure is made clearly aware of the complaints and/or concerns which are to be considered at the hearing. The issues must be in writing containing sufficient detail identifying the relevant conduct and/ or unacceptable performance including dates and times wherever possible and should be made available to the member of staff in sufficient time to allow him/her to prepare their case.

The purpose of the procedural formalities is to ensure that all relevant information is aired at the disciplinary hearing from both the management and the member of staff's point of view to enable a reasonable and fair decision to be made.

In respect of trade union representatives potentially subject to disciplinary action, normal disciplinary standards will apply to their conduct and/or

performance as a member of staff, but no action within this context will be taken until the circumstances of the case have been discussed with an appropriate full-time official.

Fast Tracking Process

There may be instances where the need for a full disciplinary process is not required. These may include such cases where the member of staff has admitted to the misconduct or poor performance. In such cases, the Investigating Officer should consult with the member of staff and his/her representative.

If agreement can be made with all parties concerned then a formal disciplinary meeting is arranged and a warning issued without the need to undertake a full investigation of the incident that has occurred.

This process cannot be used in investigations, where the issues are considered to be gross misconduct.

Procedure at the Fast Track Hearing

At the beginning of the hearing, the Nominated Officer shall explain the procedure to the parties, and clarify that both are happy to proceed with the fast tracking process.

- The procedure at the hearing should be as follows:
- The SMT/Chair of Governor will briefly outline the circumstances of the case.
- The member of staff and/or his/her representative will be given the opportunity to put the member of staff's case, to ask questions, to respond and to sum up.
- The decision of the SMT/Chair of Governor will normally be announced orally following the conclusion of the hearing, and the decision, together with the reasons, will be confirmed to the employee in writing, usually within 5 working days of the hearing.
- The normal rights of appeal will be applicable to this process.

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PRINCIPLES UNDERLYING THE DISCIPLINARY PROCEDURES

Introduction

The school's Disciplinary Procedure has been carefully designed to ensure that standards of conduct and performance are met and to ensure that there is a fair and consistent method of dealing with problems of conduct and performance.

General Principles

- No disciplinary action will be taken against an member of staff until the case has been investigated (except as provided by the Fast Tracking Process above).

- At every stage in the disciplinary procedure the member of staff will be advised of the specific nature of the complaint against him or her and will be given the opportunity to state his or her case before any decision is made.

- At all stages in the disciplinary procedure, the member of staff may represent themselves or may be accompanied by a trade union representative or work colleague. There is no provision for any other representation arrangements. The member of staff is made aware of this right.

- No member of staff will be dismissed for a first breach of discipline or instance of unacceptable performance except in the case of serious or gross misconduct.

- The level of warning will depend on the severity of the infringement. For example the SMT/Chair of Governors may decide that in the circumstances a written warning or final written warning is a more appropriate sanction than a first warning for an member of staff's first misconduct or instance of poor performance.

- Any investigation which has resulted in a warning involving children will remain on the member of staff's personal file permanently, and may subsequently be referred to in future investigations.

- An member of staff will have the right to appeal against any disciplinary penalty imposed.

- An investigation or suspension that does not subsequently result in disciplinary action shall not be retained on file save in exceptional circumstances. For the purpose of this clause, exceptional circumstances include disciplinary matters involving the abuse and/or harassment or the alleged abuse and/or harassment of children. In such circumstances the SMT/Chair of Governors is able to refer to previous records for the purposes of identifying patterns of behaviour, if any. A note will be placed on the member of staff's file to make clear that the investigation or suspension did not result in disciplinary action.

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SUSPENSION

The SMT/Chair of Governors should consider whether to suspend an individual for a period of time while the case is investigated.

Suspension is not a punishment and must not be treated as such. It should be used only in one (or more) of the following circumstances:-

i) To prevent disturbance to service users, members of staff or the general public.

ii) To prevent damage to persons or property.

iii) To facilitate the carrying out of any enquiries or investigation.

iv) Where the initial allegation/concern is serious enough to be viewed as potential gross misconduct.

v) Where the initial allegation/ concern relates to the interests of or the protection of children and/ or employees.

All decisions to suspend member of staff must be reported to the Director of Human Resources.

If the member of staff is a member of a trade union then their Branch Secretary must be informed before the suspension takes place.

If the member of staff is a trade union official then the appropriate Full Time Union Official will be informed prior to suspension.

The member of staff is entitled to full pay during the period of suspension (that is, the pay he/she would have received whilst at work or sick pay where the suspended member of staff is sick at any time during the suspension).

The decision to suspend, the reasons for it and the attendant conditions and implications must be conveyed to the member of staff in writing and recorded on his/her personal file.

A suspended member of staff has the right of accompaniment in an investigative interview by a trade union representative or work colleague. Although suspended members of staff are advised not to contact colleagues to discuss the circumstances of the investigation, they may do so if the person contacted is acting as their nominated individual to assist and accompany them during the investigatory process**.** There is no provision for any other representation / accompaniment arrangements.
The decision to lift the suspension must be conveyed in writing to the member of staff including the reasons for the decision.

Suspension should not extend beyond a period of 3 months. Should the suspension last for more than 3 months, the decision to suspend and the attendant conditions will be reviewed at that point and subsequently on a monthly basis, and the suspended member of staff will be informed of the outcome of the review.

In certain cases of alleged misconduct (including certain cases of gross misconduct), it may be more appropriate for the member of staff to remain in work during the investigation process (e.g. if the incident occurred outside of work) rather than to be suspended.

The decision will be at the discretion of the SMT/Chair of Governors, with the reasons for it and the attendant conditions and implications conveyed in writing and recorded on his/her personal file.

All decisions of this nature must be reported to the Director of Human Resources.

REPRESENTATION

Where an member of staff is subject to a disciplinary investigation or hearing he/she may choose to represent himself/herself or request to be represented / accompanied by a fellow worker, a lay trade union official, or an official employed by a trade union ['representative']. A trade union official must comply with the following (as laid down in the Employment Relations Act 1999):-

Be employed by a trade union of which he/she is an official within the meaning of section 1 and 119 of the Trade Union and Labour Relations (Consolidation) Act 1992;

An official of a trade union (within the meaning) whom the union has reasonably certified in writing as having experience of, or as having received training in, acting as a worker's companion at disciplinary or grievance hearings.

The Trade Union and Labour Relations (Consolidation) Act 1992 specifies that the Certification Officer shall keep a list of trade unions. The fact that the name of an organisation is included in the list of trade unions is evidence that the organisation is a trade union.

An member of staff may ask an official from any trade union to accompany them regardless of whether or not they are a member of that Union.

The right to be accompanied is subject to the member of staff's request being reasonable in the context of the disciplinary process in question.

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DISCIPLINARY PENALTIES

First Warning

Where the case [complaint] is of sufficient importance or seriousness to bring to the attention of the individual member of staff formally, a first warning, (verbal) may be given by the SMT/Chair of Governors. A letter confirming this warning will be placed on a member of staff's personal file.

Written Warning

Where the case has already involved the First Warning Stage and insufficient improvement has been made, or where the complaint is of sufficient importance or seriousness, a written warning may be given by the SMT/Chair of Governors. A written warning may also be given for minor misconduct / unacceptable performance where there is an active first warning (for a related or unrelated reason) on the member of staff's record.

The Formal Written Warning will include:

i. The decision to issue the formal warning.

ii. The nature of the offence(s) or unacceptable performance.

iii. Action or performance required of the individual.

iv. Timescale in which improvement is expected.

v. Assistance which the school will make available to the individual e.g. training, counselling or guidance.

vi. The right of appeal.

vii. The time limit in which the warning will remain on the individual's file for the purpose of discipline.

viii Possible consequences of further misconduct or unacceptable performance

Final Written Warning

Where the member of staff has already received a Written Warning and insufficient improvement has been made or where the complaint is of sufficient importance or seriousness, a Final Written Warning may be given by the SMT/Chair of Governors.

The Final Written Warning will include points i-viii above, including a statement that the consequences of further misconduct (whether related or unrelated to the current offence) or insufficient improvement will lead to dismissal.

A final written warning may also be given for minor misconduct / unacceptable performance where there is an active written warning on the member of staff 's record whether it is for a related or unrelated reason.

Any disciplinary penalty will remain on the member of staff's file once it has expired, however it will be disregarded for the purposes of any future disciplinary action save in exceptional circumstances. For the purpose of this clause, exceptional circumstances include, but are not limited to, disciplinary matters involving the abuse and/or harassment of children or allegations of such abuse.

Dismissal

The Governing Body may consider dismissal where:-

- the member of staff has an active Final Written Warning for any reason (performance or misconduct) and there is a further act of misconduct or poor performance (related or unrelated to the previous reason for the warning);

- the case is of sufficient importance or seriousness to constitute gross misconduct

WORKING WITH CHILDREN

The Safeguarding Vulnerable Groups Act 2006 sets the school with a legal duty to refer information about individuals who may pose a risk to children or vulnerable adults to the Independent Safeguarding Authority (ISA).

The ISA will consider all information referred to it in relation to whether an individual should be included in a barred list.

The school also has a responsibility to refer information to other regulatory bodies. e.g. Care Council for Wales and General Teaching Council for Wales.

The school may also receive information about a member of staff from other regulatory bodies. In such cases, the school reserves the right to consider whether any action should be taken under the Disciplinary Procedure.

Time Limit on Life of Warnings

In cases of :

First Warning	The time limit will be 6 months
Written Warning	The time limit will be 9 months
Final Written Warning	The time limit will usually be 12 months; however in exceptional circumstances there is discretion to extend beyond 12 months dependent on the nature of the misconduct. Justification will be provided on why warning is over 12-months.

The time limit for warnings will be applicable for periods when the member of staff is in work e.g. if a member of staff is absent due to sickness for a period of 2-months , then the warning will be extended for that length of time.

DISCIPLINARY HEARINGS

Any documents to be presented at the hearing must be exchanged no later than 10 working days prior to the hearing and tabled with the SMT/Chair of Governing Body at least 5 working days prior to the hearing. The member of staff or his / her representative will be required to provide their documents to Human Resources(HR) no later than 5 working days prior to the hearing.

It is the responsibility of each party to ensure that the SMT/Chair of Governing Body receives the relevant documentation within the agreed timescales. If either party cannot comply with this requirement this must be notified to the Nominated Officer, (HR) as soon as possible**.**

9.2 **Procedure at the Hearing**

At the beginning of the hearing, the Nominated Officer shall explain the procedure to the parties.

- The procedure at the hearing should be orderly, but flexible. The following running order will normally be used, but can be varied in the interest of clarifying evidence in order to reach as informed a decision as possible.

- The school's representative(s) will put forward their case and may call witnesses.

- The member of staff and his/her representative will have the opportunity to ask questions of the school's representative(s) and any witnesses he/she called.

- The member of staff and/or his/her representative will put his/her case and may call witnesses. They may confer. The representative may not answer questions on behalf of the member of staff nor prevent him or her from speaking. The representative must not address the hearing if instructed by the member of staff e not to do so

- The school's representative(s) will have the opportunity to ask questions of the member of staff and any witnesses he/she has called.

- The Nominated Officer may ask questions of any party and call for further information to clarify matters. If, as a result of questioning, new evidence emerges; both parties will be given the opportunity to comment, and if necessary, to seek an adjournment. The decision on whether to adjourn, for how long and what the expected outcome of the adjournment will be is at the discretion of the Nominated Officer. Should it be necessary to adjourn, then both sides will be asked to withdraw.

- The school's representative(s) will have the opportunity to sum up their case. No new evidence may be introduced at this stage.

- The member of staff or his/her representative will have the opportunity to sum up his/her case. No new evidence may be introduced at this stage.

- The parties to the case will withdraw from the hearing and the Chair of Governors will consider his/her decision.

- The decision will normally be announced orally as soon as possible following the conclusion of the hearing, and the decision, together with the reasons, will be confirmed to the member of staff in writing normally within 5 working days of the hearing.

RIGHT OF APPEAL AGAINST DISCIPLINARY ACTION

An appeal against a First Warning, a Written Warning or a Final Written Warning issued by the SMT/Chair of Governors maybe exercised by writing to the Governors' Appeals Committee within 5 working days of written notification of the decision. The letter of appeal **must** outline the grounds for the appeal. This is the final level of appeal.

An appeal against dismissal may be exercised by writing to the Governors' Appeals Committee within 5 working days of notification of the decision. The

letter of appeal **must** outline the grounds for the appeal. This is the final level of appeal.

The member of staff will have the same right to be accompanied as applied at the disciplinary hearing

DISCIPLINARY APPEAL HEARINGS

Any documents, including the statements of case, must be presented by both sides to the Governors' Appeals Committee at the earliest opportunity prior to the hearing. The notes of the first hearing will form part of these documents and will be relied on as an accurate record of the hearing. If the appellant has any concerns with these notes, they should inform the Governors' Appeals Committee prior to the appeal hearing taking place.

An appeal against a First Warning, Written Warning or Final Written Warning will usually be to Governors' Appeals Committee

An appeal against dismissal will also usually be to the Governor's Appeal Committee but could involve The Director of Human Resources and/or officers of the LA

Chair of the Governor's Appeal Committee, (usually the Vice-chair of Governors) will arrange for both parties to receive relevant documentation 10 working days prior to the hearing. Arrangements will also be made for the members of the Appeals Committee to review the documentation prior to the date of hearing.

If the date of the hearing is inconvenient for either side, then one postponement is allowed for both parties. If the appellant is unable to attend the re-arranged hearing, it may be heard in their absence. The appellant will however have the right to make written representations and to have their chosen representative present.

No new evidence will usually be introduced at this stage without the leave of the Chair of Appeals Committee. Witnesses that were called for the original disciplinary hearing will not automatically be invited to the appeal hearing; therefore it is the responsibility of both parties to call any witnesses they feel will support their case at the appeal. The procedure for hearing the appeal is as follows:

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- The Chair of Appeals Committee will request both parties to introduce themselves and any representatives, which are attending the hearing. Representatives will be requested to confirm the capacity in which they are attending the hearing i.e. trade union official or work colleague.

- The Chair will also introduce the adviser(s) to the Committee and confirm that they will be present during the appeal hearing to provide procedural advice to Members of the Panel.

- The school's representative(s) will put the management case and may call witnesses.

- The member of staff and his/her representative will have the opportunity to ask questions of the school's representative(s) and any witnesses he/she has called.

- The member of staff and/or representative will put his/her case and may call witnesses. They may confer. The representative may not answer questions on behalf of the member of staff nor prevent him or her from speaking. The representative must not address the hearing if instructed by the member of staff not to do so.

- The Council's representative(s) will have the opportunity to ask questions of the member of staff and any witnesses he/she has called.

- The Chair of the Appeal Appeals Committee (or other Panel Member) may ask questions of any party and call for further information to clarify matters. If, as a result of questioning, new evidence is brought out, both parties will be given an opportunity to comment and, if necessary, to seek an adjournment. The decision on whether to adjourn, for how long and what the expected outcome of the adjournment will be is at the discretion of the Chairperson. Should it be necessary to adjourn, then both sides will be asked to withdraw.

- The school's representative(s) will have the opportunity to sum up their case.

- The member of staff and/or his/her representative will have the opportunity to sum up his/her case.

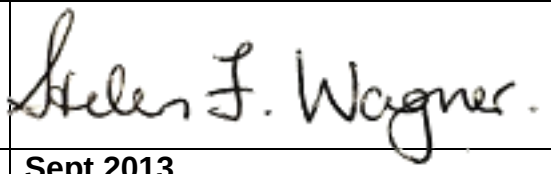
- The parties to the case will withdraw from the hearing and the Appeal Committee Panel will consider the evidence and make a decision.

- The decision will normally be announced orally as soon as possible following the conclusion of the hearing and the decision, together with the reasons, will normally be confirmed in writing within 5 working days of the hearing.

- If the decision is to substitute a different level of discipline or to reinstate the member of staff, the letter must set out clearly the terms of the reinstatement or of the disciplinary sanction.

ASSOCIATED DOCUMENTS

- Council's Policy on Whistleblowing and the Public Interest Disclosure Act 1998.
- The Safeguarding Vulnerable Groups Act 2006

Head Teacher: **C Wright**	
Chair of Governors: **H Wagner**	
Date adopted by Governors	**Sept 2013**
Planned review date	**Sept 2018**