

Mountjoy School

Disciplinary Policy

December 2021



This is a Dorset Council Policy.

Reviewed by Resources Committee: December 2021

Date of next review: December 2022

Signed Name

Mountjoy School

Disciplinary policy

To be read in conjunction with the disciplinary procedure and guidance documents.

1. Introduction

- 1.1. The school values good standards of conduct and expects all employees to adhere to all school's standards, including the code of conduct and additionally for teachers, Teachers Standards*. This disciplinary policy will be applied when an employee's conduct is alleged to have fallen below the required standards.
- 1.2. This policy is based upon the ACAS code of practice, incorporates relevant legislation and should be read in conjunction with the disciplinary procedure and guidance documents. It has been agreed following consultation with recognised trade unions, has been adopted by the Governing Body and forms part of the employment contract.

2. Purpose

- 2.1 This policy aims to support and encourage all employees to maintain the required standards of conduct and to ensure misconduct is addressed. It provides a consistent and fair approach to dealing with discipline issues, taking account of the principles of natural justice. It is not, however, intended to replace or restrict the normal day to day management and supervision of employees.

3. Scope

- 3.1. This document applies to all employees of the school except support staff within their period of probationary service (see **probationary policy**).
- 3.2. Any alleged misconduct which falls within the scope of the **management of allegations policy** requires the school to comply with additional child protection requirements as set out in that policy.
- 3.3. **Criminal offences outside of work**
 - 3.3.1. If an employee is charged or convicted of a criminal offence outside of work this will not necessarily be considered as a reason for disciplinary action in itself; consideration will be given to the facts of the case, relevance and effect of the charge/conviction on the employee's position.
 - 3.3.2. Any disciplinary process may be put on hold, or may take place simultaneously to or proceed ahead of the outcome of any external process, where it is reasonable to do so and would not prejudice an external case. It is not always necessary to await the outcome of any court hearing before deciding on disciplinary action.
- 3.4 **Action against Trade Union representatives**
 - 3.4.1 The normal standards of conduct are expected of an employee representative of a recognised Trade Union/Professional Association. The normal disciplinary procedure will apply. However, disciplinary action will not be taken against such officials until the circumstances of the case have been discussed with the full-time representative or branch official of the Union/Association concerned.

** Teachers standards defined in Annex 1 School Teachers Pay and Conditions Document*

4. Responsibilities

4.1 Manager

- 4.1.1. Ensure all employees are aware of the disciplinary policy, required standards and the consequences of breaching them
- 4.1.2. Deal with disciplinary matters as promptly and reasonably as possible
- 4.1.3. Act consistently and fairly
- 4.1.4. Ensure any necessary investigations are carried out to establish the facts of the case
- 4.1.5. Ensure employees are informed of the basis of the problem and provide an opportunity to respond before any decisions are made.

4.2. **Employee**

- 4.2.1 Ensure they are aware of and maintain required standards
- 4.2.2 Arrange their own representation, including making any information available to their representative and arrange their own witnesses
- 4.2.3 Should not unreasonably delay the process.

5. **Definition**

- 5.1. **Misconduct:** Conduct by an employee falling short of the school's standards. A non-exhaustive list of examples is at **appendix A** indicating how seriously offences are normally regarded; offences will be considered more serious if repeated.
- 5.2. **Gross misconduct:** Considered to be conduct falling so far below the standards required that it can be regarded as a fundamental breach of contract. Such acts or omissions can lead to a summary dismissal for a first offence. A non-exhaustive list of examples is at **appendix A**.

6. **Key principles**

- 6.1. The Governing Body and Head teacher are responsible for the overall management of standards in the school/academy.
- 6.2. All disciplinary matters will be treated with confidentiality. Any breaches of confidentiality relating to disciplinary issues will be treated as disciplinary allegations in their own right.
- 6.3. The school recognises that involvement in the disciplinary process can be difficult and will make every effort to deal with issues without undue delay and will make staff aware of support available.
- 6.4. At all stages employees will be encouraged to contact their trade union representatives for advice. Employees have the right to be accompanied at formal disciplinary meetings (except the Initial Meeting) by a trade union representative or work colleague, but not by a practising lawyer.
- 6.5. Where appropriate, issues will be addressed on an informal basis, except for more serious allegations or where previous informal warnings/advice has been ineffective.
- 6.6. At every stage, employees will be made aware of the nature of the allegations made against them and have an opportunity to state their case before any decisions are made. No formal disciplinary action will be taken before the case has been fully investigated and a hearing taken place. Employees will be provided with evidence prior to a hearing.
- 6.7. The panel at any hearing or appeal will have had no prior involvement or conflict of interest.

- 6.8. Decisions will be taken only by those with the authority to do so and the scheme of delegated authority is at **appendix B**.
- 6.9. Outcomes will reflect what is reasonable, based on the balance of probability and taking into account the seriousness of the allegation/s, circumstances (including mitigations), impact on the school/academy, any precedents and the employee's record of employment (including any current warnings on record).
- 6.10. Employees will not usually be dismissed for a first disciplinary offence, except in cases of gross misconduct.
- 6.11. Employees have the right of appeal against any formal disciplinary action

7. Suspension

- 7.1 Suspension from duty on full pay may be necessary at any time in serious cases, where it would be detrimental to allow employees to remain at work pending completion of an investigation/disciplinary hearing, either due to the potential risk to the employee, pupils, colleagues, others, or to the investigation. Suspension is not automatic and consideration will be given to alternatives.
- 7.2 The period of suspension will be as short as possible and reviewed regularly.
- 7.3 Suspension is a neutral act and is not a disciplinary sanction.

8. Management leave

- 8.1 In some cases, where urgent action is required, it may be necessary for an employee to take a short period of management leave on full pay ahead of any decision on how to proceed, including whether it is appropriate to suspend.
- 8.2 This is a neutral act and not a disciplinary sanction. It is not recorded as suspension or annual leave.

9. Records

- 9.1 Accurate records should be made at all stages and held in accordance with Data Protection requirements. Summary notes will be taken of all disciplinary meetings/hearings and the employee will be provided with a copy.
- 9.2 Recording of meetings using audio/video equipment will not be permitted usually, unless there are exceptional reasons and subject to prior agreement of all parties.
- 9.3 The school will notify the relevant authorities eg DBS, NCTL when an employee is dismissed for misconduct or resigns in cases where they would have been dismissed/dismissal considered for misconduct otherwise.

10. Equality

- 10.1 The disciplinary policy and procedure will be applied in accordance with the school's equality policy to ensure employees are not discriminated against. Reasonable adjustments will be considered where appropriate.

11. Link to other policies/procedures

- 11.1 If a grievance is raised during the disciplinary process, consideration will be given to whether it will be treated separately under the dispute resolution procedure. Where it is linked to the disciplinary issues it may be considered alongside the disciplinary process – see *disciplinary procedure 11.3*
- 11.2 Matters of capability will be dealt with under the capability policy or medical incapability, in accordance with the attendance management policy.
- 11.3 If an employee resigns and a formal disciplinary process has been initiated, the process may continue at the manager's discretion. The position will be reflected in any subsequent reference request/referral to relevant authorities.
- 11.4 A list of policies/procedures linked to the disciplinary policy can be found at **appendix C** and should be read in conjunction with this policy.

Appendix A – Examples of misconduct and gross misconduct

The Head teacher and/or Governing body will need to use sound judgement, with the advice of their HR Advisor as appropriate, to determine whether an act or omission constitutes misconduct or gross misconduct.

Misconduct

Ordinary misconduct is defined as behaviour or action that warrants disciplinary action (rather than dismissal) where it is a first offence. The following sets out examples of misconduct which are likely to lead to formal action being taken under the disciplinary procedure although it should not be regarded as exhaustive (in some instances, items listed under misconduct may be of such an extreme nature to amount to gross misconduct):-

- a) Failure to comply with a reasonable management instruction;
- b) Act(s) of minor insubordination;
- c) Failure to observe the local authority's and/or school's standing orders, financial or other operational regulations;
- d) Failure to observe local authority/school policies;
- e) Disregard of specific departmental rules and working procedures;
- f) Negligence in the performance of duties;
- g) Failure to provide a duty of care in the performance of role;
- h) Breach of Health & Safety rules and requirements including any act or omission;
- i) Poor-time keeping;
- j) Unjustifiable absence from work;
- k) Misuse of school property and equipment including misuse of email, fax or internet facilities;
- l) Failure to follow the school's sickness notification procedures and certification requirements;
- m) Inappropriate actions during a period of sick leave likely to inhibit recovery or a return to health;
- n) Improper use/disclosure of information obtained in the school's employment;
- o) Abusive or inappropriate behaviour toward pupils, parents, fellow employees or members of the public;
- p) Minor acts considered contrary to the safeguarding of children;
- q) Acts in breach of a teacher's professional duties.
- r) Failure to report female genital mutilation in accordance with 'mandatory reporting of female genital mutilation'
- s) Failure to fulfil duties in relation to the 'prevent duty' including failure to refer to the Channel programme or undertake 'prevent' awareness training.
- t) Acts outside of working hours which are incompatible or inconsistent with their duties to the school or which are likely to bring discredit upon or lead to loss of confidence by the school.

Gross misconduct

Gross misconduct is considered to be conduct or behaviour that may be considered as a fundamental breach of contract. Only acts of gross misconduct will lead to a dismissal for a first offence. Again, it is not possible to define all acts which could be classified as gross misconduct, for the disciplinary action taken by the school and the penalty applied will ultimately be determined by the circumstances of the incident. In general, the following types of offences are deemed to constitute gross misconduct and are likely to lead to dismissal without notice, or pay in lieu of notice:-

- a) Serious acts of insubordination;
- b) Serious breaches of financial regulations or other operational regulations;
- c) Gross negligence in the performance of duties;
- d) Theft or attempted theft from the school, its employees or members of the public or other acts of dishonesty;
- e) Dishonest or improper use of information obtained in the local authority's and/or school's employment;
- f) Serious breach of duty regarding disclosure of confidential information;
- g) Serious breach of safe working practices and health and safety rules which endangers the health and safety of an individual, other employees, or members of the public and/or exposes the local authority/school to claims against it;
- h) Serious breach or failure to provide safe working environment for children and young people;
- i) Being under the influence of drugs or alcohol on school premises for other than medical reasons in circumstances where it could constitute a health and safety hazard or where it would be in breach of a position or responsibility and trust;
- j) Buying, selling or offering drugs on school premises;
- k) Offering alcohol to pupils;
- l) Fraud;
- m) Falsification of information, for example, exam results, qualifications or other relevant personal details in seeking and obtaining employment or promotion; information contained in time sheets, overtime claims, invoices, accounts, records or medical certificates;
- n) Violent, offensive, abusive, neglectful or indecent behaviour;
- o) Bullying, harassment or victimisation;
- p) Unlawful acts of discrimination within the workplace on the grounds of race, sex, sexual orientation, age, disability, religious belief or trade union membership;
- q) Unauthorised removal of and/or serious misuse of and/or deliberate damage to local authority/school property and equipment including misuse of email, fax or internet facilities;
- r) Improper use or attempted use of an employee's official position for their own private advantage or for the private advantage of some other person or third party;
- s) Serious acts outside of working hours which are incompatible or inconsistent with their duties to the school or which are likely to bring discredit upon or lead to loss of confidence by the school;
- t) A serious breach of the school's policies relating to the use of information technology;

- u) Conduct that is seriously contrary to the school's code of conduct for employees;
- v) Criminal offences and cautions outside of work, including reprimands, final warnings or penalty notices (see section 5 - criminal offences and cautions outside of work);
- w) Acts considered to be seriously contrary to the safeguarding of children;
- x) Failure to register with the Independent Safeguarding Authority;
- y) Serious failure to report female genital mutilation in accordance with 'mandatory reporting of female genital mutilation'
- z) Serious failure to fulfil duties in relation to the 'prevent duty' including failure to refer to the Channel programme or undertake 'prevent' awareness training.
- aa) Any other action(s) which fundamentally breach the relationship of trust and confidence which exists between the school and employee.
- bb) Aiding and abetting any of the above;

Appendix B

Scheme of delegation - <Name of school/academy> Authority to act under the formal procedure (minimum level of authority)

Action/role	For action against all employees (except HT/EHT)	For action against Head teacher/Head of School	For action against Executive Head teacher
Suspension			
Lifting suspension			
Investigating Officer			
Presenting Officer <i>i.e. determine case to answer & present management case at hearing</i>			
Presiding Officer <i>i.e. hear case at hearing (except cases of gross misconduct or live final written warning)</i>			
Presiding Officer <i>i.e. hear case at hearing (in cases of gross misconduct or live final written warning)</i>			
Presiding Officer (Appeal) <i>i.e. hear appeal (except dismissal cases)</i>			
Presiding Officer (Appeal) <i>i.e. hear appeal (in cases of dismissal)</i>			

Date reviewed:

APPENDIX C

POLICIES AND OTHER DOCUMENTS TO BE CONSIDERED AND READ IN CONJUNCTION WITH THE DISCIPLINARY POLICY (Listed in alphabetical order)

Policy/procedure/guidance
Allegations of abuse against staff and volunteers
Child protection policy** Code of conduct
Data protection policy Dispute resolution policy
Drugs and alcohol policy
Equal opportunities policy
E-safety/internet use/ social networking /ICT policies
Guidance for safer working practice* national guidance for those working with children and young people in education settings.
Health and safety policy
Intimate care
Keeping Children Safe in Education - DfE statutory guidance
Mandatory Reporting of Female Genital Mutilation procedural information*
Use of Positive Force
Prevent Duty Guidance*
School Record Keeping Policy NCTL -Teacher misconduct – Disciplinary procedures for the teaching profession
Whistleblowing Policy

*It is expected that staff will adhere to the statutory duties and/or best practice outlined within these documents as applicable to their role and responsibilities.

**The child protection policy is available from the Safeguarding and Standards Team. Please contact sasteam@dorsetcc.gcsx.gov.uk for further details.