

# Kilnhurst Primary School

## Staff Conduct, Discipline and Grievance Policy

### Introduction

The Governing Body is committed to ensuring that all staff at the school should be treated in a consistent, fair and sensitive manner. This approach requires that the Governors should specify those aspects of misconduct which may warrant consideration under the terms of the School's disciplinary procedure.

It is expected that, wherever possible, problems of indiscipline will initially be dealt with through informal counselling. Where such counselling has not led to the desired improvement or the matter is sufficiently serious to warrant immediate formal action, the disciplinary procedure will be operated.

### Disciplinary Issues

The lists below are those considered the focus of this policy. They are not exclusive or exhaustive and there may be other matters which are sufficiently serious to warrant categorization and consideration as either 'misconduct' or 'gross misconduct'. 'Gross misconduct' occurs when the actions complained of are such that it is not feasible to tolerate the continued attendance of the employee at the place of work whilst the matter is being investigated.

For the purpose of the disciplinary procedure, the terms 'misconduct' and 'gross misconduct' are also taken to include 'negligence' and 'gross negligence' where the occurrence amounts to a breach of contract.

### Definitions

**Misconduct** which may warrant action under the appropriate stage of the disciplinary procedure includes:

1. Poor timekeeping or persistent lateness.
2. Unauthorized absence from work.
3. Unauthorized use of the school facilities including the Internet.
4. Wilful failure to comply with a reasonable instruction from a member of senior leadership
5. Persistent minor breaches of health and safety requirements.
6. Foul or abusive language.
7. Sexual or racial harassment which is not sufficiently serious to fall into the category of 'gross misconduct'.

**Gross misconduct** which due to its nature may lead to suspension from post prior to consideration of dismissal includes:

1. Unauthorized removal of school property.
2. Serious sexual or racial harassment.
3. Offences of dishonesty.
4. Serious breaches of health and safety requirements.
5. Sexual offences.
6. Serious criminal offences which undermine the employee's ability to perform his/her job.
7. Sexual misconduct at work.
8. Persistent wilful failure to comply with a reasonable instruction from a member of senior leadership.

9. Fighting.
10. Physical assault.
11. Actions which bring the school into serious disrepute.
12. Drunkenness.
13. Falsification of time sheets, subsistence and expenses claims etc.
14. Theft.
15. Malicious damage to the school's property.

Issues relating to the use of the Staff Discipline Policy and the terms 'misconduct', 'gross misconduct', 'negligence' and 'gross negligence' may sometimes relate to complaints against staff and the separate Complaints procedure document may need to be read in conjunction with this policy.

### **Grievance**

This grievance procedure is intended to provide the means by which an individual employee who has a grievance about his/her employment can seek to resolve it as swiftly and as close to the point of origin as possible. Where the grievance cannot be resolved by a senior member of staff or the Head, the procedure provides for a formal hearing involving governors. A grievance is a complaint by an employee about any aspect of his/her employment, e.g. nature or range of duties, conditions of service, relationships with other staff.

The grievance must be one that lies within the powers of the management of the school to resolve, e.g. it cannot be about matters determined by national legislation.

A grievance is not available in addition to or in substitution for the right of hearing and appeal established under other staffing procedures (e.g. disciplinary action or redundancy selection).

Employees' grievances will be treated seriously and will be resolved as quickly as possible.

Employees have the right to raise the grievance at a higher level. In certain cases it may be necessary for information or advice to be sought from others outside the school and this may delay the timescale for resolution. At any stage of the procedure the Head and/or Governors may wish to refer to the LA for guidance to

bring about a resolution outside of a formal hearing. Such attempts are without prejudice to the position of both parties in the procedure. At all stages staff involved are entitled to be accompanied by a professional 'friend'. During the formal procedures witnesses may be called and questioned by either side.

### **Procedure**

#### **Stage 1 Informal Consideration**

Where the employee has a grievance which involves another member of staff, s/he should first of all seek to resolve it by a direct approach to the person(s) concerned.

If the matter cannot be resolved in this way the employee should then request an interview with a senior leader or the Head, as appropriate. Wherever possible, the interview should take place within one week of the request being made. The senior leader or Head will arrange to investigate the grievance and seek to resolve it in consultation with any other member(s) of staff involved.

Where the grievance is against the Head or governing body, the employee should discuss the matter with the Head before proceeding to stage 3. Informal consideration by the Chair of Governors may precede a formal hearing.

Where an employee has a grievance with the governing body that does not involve any other member of staff within the school, he/she should advise or consult with the Headteacher before making an approach to the Chair of Governors.

## **Stage 2 Consideration by Head (or nominated senior leader)**

Where the matter cannot be resolved by informal discussion, the employee will be requested to set out his/her grievance in writing to the Headteacher and the matter will be further investigated by the Head or a nominated senior member of staff. If appropriate there may be formal interviews with any staff affected in order to reach a decision.

All parties will be given the opportunity to state his/her/ their case either orally or in writing. By mutual agreement the Chair of Governors, professional association/trades union or LA officers may be consulted. A decision will be given by or on behalf of the Head as soon as possible after receipt of the written grievance.

This should be within one week, wherever practical to do so.

## **Stage 3 Formal Hearing by Governors Panel**

Where the outcome remains unacceptable to the employee, formal written notice of the grievance must be sent to the Chair of Governors (Appendix 1), with a copy to the Head and any other member(s) of staff directly concerned. This letter should:

1. give full details of the grievance, together with any supporting documentation;
2. give details of the steps already taken to resolve the issue; and
3. state the resolution that is being sought.

The Chair of Governors will invite the Head and any other member(s) of staff involved in the grievance to make a written response, together with a panel of at least three Governors, not previously involved in the case. The hearing should take place as soon as possible after the written grievance and responses have been received but a minimum of one week's notice should be given to the parties concerned. All documentation should be made available to the governors' panel in advance of their hearing. The employee raising the grievance and any other member(s) of staff directly

involved must also be provided with copies of all the documentation to be considered and they may attend the hearing and be accompanied and/or requested to attend. The governors' panel, in seeking to resolve the grievance, may adjourn the hearing or defer its decision if this is considered appropriate to promote conciliation or to obtain further information or guidance. The decision of the governors' panel will be confirmed in writing within three working days of the hearing taking place.

## **Stage 4 Appeal**

Any party to the grievance may appeal in writing to the Chair of the Governors within one week of receiving written notification of the decision. Such an appeal is a re-hearing of the grievance. The notice of appeal should set out the reasons, with a copy to the Head and any other member(s) of staff concerned. Whilst new evidence on the same grievance may be permitted any new grievance/s cannot be added to the proceedings. The appeal hearing will be conducted by the governing body's nominated appeals panel. (At least the same number of Governors as at the previous hearing) All documents already submitted together with any further documentation shall be available for consideration. At least one week's notice of the arrangements for the appeal hearing will be given to all parties concerned.

The appeal panel's decision will be confirmed in writing within three working days.

This decision will be final.

## Hearing a Grievance at Stage 3 or 4

### The Panel's Proceedings

At stages 3 and 4, the Panel will need to elect a Chair. The following is the usual and fair way to proceed.

- Step 1** Let the individual or representative explain the grievance, introducing witnesses, where necessary.
- Step 2** If there is an individual who is the target of the grievance, allow this individual or representative to ask any relevant and pertinent questions of the aggrieved party and witnesses. Governors may also ask questions at this point.
- Step 3** Where there is an individual who is the target of the grievance, allow him/her to make a statement in response, introducing witnesses where necessary.
- Step 4** Let the aggrieved party ask any relevant and pertinent questions arising from Step 3. Governors may also ask questions at this point.
- Step 5** The Chair and members of the panel ask any remaining questions of clarification.
- Step 6** The parties may make closing statements, the aggrieved person or representative speaking second.
- Step 7** The Chair summarises the major points raised and confirms them with the parties.
- Step 8** The parties withdraw but can be recalled if the panel requires clarification.
- Step 9** The panel's decision is conveyed orally to both parties and confirmed in writing within three working days. The panel may, particularly after a lengthy hearing, adjourn and reconvene at another time to consider and present its decision, but written confirmation within three working days of reaching a decision applies.

### OVERLAPPING DISCIPLINARY AND GRIEVANCE ISSUES

An employee may raise a grievance after disciplinary proceedings have started against him/her. The Chair of the Disciplinary Procedure should consider suspending the disciplinary case for a short period – no more than one week – to consider the implications of the grievance on the disciplinary. If the grievance has been raised before the appeal stage of the disciplinary procedure and the matters of grievance are linked to those of the disciplinary, then the grievance should be considered within the disciplinary procedure. If the grievance concerns matters that are unrelated to the disciplinary, then a separate process under the grievance procedure will need to start. In almost all cases, the grievance should be considered after the completion of the disciplinary. The exception here would be where there is a long delay in the progress of the disciplinary- perhaps because police proceedings are awaited.

### GRIEVANCES BROUGHT BY EX-EMPLOYEES

8.1 A grievance may be identified in a resignation letter or in an exit interview or questionnaire or in a separate written submission after the employment has ended. Employees must raise their grievance within 30 calendar days of their final contractual working day.

8.2 In each case, the employee or ex-employee must be asked, by letter, whether he or she wishes to pursue the grievance and must be given the choice of following the standard 3-step procedure or the modified 2-step procedure as set out below.

8.3 It is for the ex-employee to decide whether to follow the 3-step procedure or to accept the modified 2-step procedure.

8.4 The 3-step procedure is:

**STEP 1** The ex-employee sets out the grievance in writing to the Headteacher or Chair of Governors within 30 calendar days of their final contractual working day.

**STEP 2** A meeting is arranged with the ex-employee, who may be accompanied by his/her trade union or professional association representative or former work colleague and no one else to consider the grievance. The decision of this meeting and the right of appeal is notified in writing to the ex-employee.

**STEP 3** If required, an appeal to a panel of governors is arranged, the decision of which is communicated in writing to the ex-employee. There is no further right of appeal.

If the ex-employee accepts the modified 2-step procedure, the sequence is:

**STEP 1** The ex-employee sets out the grievance in writing to the Headteacher or Chair of Governors within 30 calendar days of their final contractual working day.

**STEP 2** The Headteacher or Chair of Governors responds in writing within 28 calendar days of the receipt of the grievance notification.

**If an employee leaves employment whilst his/her grievance is in progress, the Headteacher must write to the employee (or, by now, ex-employee) to ask whether he/she wishes to continue with consideration of the grievance. The options to be presented to the employee are:**

- a) to complete the procedure that has already started, provided that the procedure has passed Stage 2, or
- b) to follow the 3-step procedure, if the grievance has not yet reached the formal Stage 1, or
- c) to follow the modified 2-step procedure if the grievance has not yet reached the formal Stage 1.

**APPENDIX 1 – NOTICE OF GRIEVANCE**

**NOTICE OF GRIEVANCE**

**EMPLOYEE’S NOTIFICATION OF GRIEVANCE**

This form should be used to submit a grievance in accordance with Stage 2 of the formal Grievance Procedure, adopted by the Governing Body of your school.

You and your trade union representative should complete the form and hand it to your Headteacher, the person against whom the grievance is being brought and the Chair of Governors. You are advised to keep a copy.

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1.

Name: .....

School: .....

Post held: .....

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2. Describe briefly (continue overleaf if necessary)

2.1 The nature of your grievance.

2.2 When did you first raise your grievance, and with whom?

2.3 What action has been taken on your grievance at the informal stage?

2.4 What resolution are you seeking?

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3. Has your trade union or professional association representative been informed? YES/NO

If YES            a) do you wish the representative to receive correspondence? YES / NO

                                         b) please identify the representative and where he/she may be contacted

Signed: ..... Date: .....