



# Aspire Conduct and Discipline Policy

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## 1. INTRODUCTION

- 1.1 This document sets out the Trust’s policy on conduct and discipline and the procedure to be applied when an employee’s conduct falls below normal or acceptable standards. Its aim is to help and encourage all employees to achieve and maintain the required standards of conduct and to ensure that the Trust is objective, firm, reasonable and consistent in its approach to dealing with employee discipline issues.

## 2. SCOPE

- 2.1 The policy, procedure and Statutory Requirements set out in this document apply to all Teachers on Teachers pay and conditions and Buckinghamshire Council employees employed in schools under the terms of Bucks Pay Employment Conditions but does not apply to:

- (With the exception of incidents relating to safeguarding as set out in the following paragraph 2.2) staff engaged on temporary contracts of less than 6 months in duration
- (With the exception of incidents relating to safeguarding as set out in the following paragraph 2.2) new staff who are still within their probationary period of employment and newly-qualified teachers during their statutory induction period.
- Where the employee has been barred from teaching by the Secretary of State, where the contract would be automatically terminated.
- Where a determination that the employee should no longer work at the Trust is imposed by reason of any other statutory provision (for example lack of physical or mental fitness)

- 2.2 Where conduct problems concern an allegation against a member of staff relating to children or adults who have care and support needs, the guidance in Appendix 1 “Managing Concerns or Allegations against Staff Working with Children or Adults who have Care and Support Needs” must take precedence over this policy and procedure.

2.3 Where conduct problems are identified as having arisen due to lack of capability, they will be addressed through the Trust's capability procedure.

### 3. ROLES AND RESPONSIBILITIES

3.1. The CEO, or Chair of Trustees in the case of the CEO, is responsible for the overall management of standards of conduct within the Trust. The authority to take action under this procedure rests in the CEO or Chair of Trustees. The CEO will nominate those senior employees in the Trust who have the authority to give formal warnings.

### 4. PRINCIPLES

4.1 The policy and procedure contained within this document is founded on the following principles:

- To maintain high standards of conduct within the Trust and to encourage improvement in conduct where shortcomings are identified. This includes 'Personal and Professional Conduct' for Teachers as outlined in Part Two of the Teachers' Standards.
- Where appropriate to address conduct issues without recourse to the formal stages of the disciplinary procedure.
- To ensure that employees facing action under the formal stages of the disciplinary procedure are treated fairly and consistently.
- Not to discriminate against any individual in the application of this policy and procedure on the protected characteristics of age, disability, gender reassignment, marriage and civil partnership, maternity and pregnancy, race, religion or belief, sex, sexual orientation, or other grounds protected in law (e.g. part-time worker status, trade union membership or HIV positive status).
- If employees have any misgivings about either the process or the managers leading it, they should tell us openly so that we can address their concerns. Any meeting recorded without the consent of all those present (covert recordings) will be treated as a conduct matter.

## 5. INFORMAL ACTION

- 5.1 In the course of normal day-to-day management it is anticipated that the employee will be advised of any conduct issues by their manager and counselled about how to correct such issues. This process will generally be regarded as the first step in addressing conduct issues and represents informal action outside of the Trust's formal Conduct and Discipline Policy & Procedure. Informal action is appropriate for low-level misconduct, which is capable of early correction. Where an issue directly concerns an employee's immediate line manager it may be helpful to involve an independent manager, as appropriate, towards informal resolution. Where informal action fails to bring about a remedy, further misconduct is likely to be considered within the formal stages of the Trust's Conduct & Discipline Policy & Procedure and the employee shall be warned of this.

## 6. RULES ON CONDUCT

- 6.1 Examples of acts of misconduct, which are likely to lead to formal action being taken are given in the Toolkit.
- 6.2 Types of offences that are deemed to constitute gross misconduct and are likely to lead to dismissal without notice, or pay in lieu of notice are listed in the Toolkit. The list is not exhaustive and is intended to give only an indication of the nature and type of offence, which will warrant dismissal without notice or pay in lieu of notice.

## 7. CASES OF ALLEGED CRIMINAL ACTIVITY

- 7.1 Buckinghamshire Council reserves the right to suspend any internal investigation pending a police investigation.
- 7.2 If the allegation involves suspected harm to children or adults who have care and support needs, the guidance in Appendix 1 "Managing Concerns or Allegations against

Staff Working with Children or Adults who have Care and Support Needs” must take precedence over this policy and procedure.

- 7.3 If the allegation involves suspected serious financial irregularity or fraud, the Director of Finance and Assets must be informed.

## 8. FORMAL STAGES OF THE DISCIPLINARY PROCEDURE AND DISCIPLINARY SANCTIONS

- 8.1 The Trust also reserves the right to take a range of actions in addition to formal warnings or as an alternative to more serious disciplinary action depending on the circumstances of the case. Such actions may include withholding annual pay increments or other pay supplements, demotion for a specified or unspecified period or transfer to an alternative job or location with or without a reduction in the contractual rate of pay.

- 8.2 The formal stages of the Disciplinary procedure are based upon a graduated system of warnings with more serious sanctions being applied where poor conduct is repeated or the employee fails to heed previous warnings. The stages are listed below. The seriousness of the offence may result in stages in the process being missed out. An employee will not normally be dismissed for a first breach of discipline. However, in cases of gross misconduct an employee may be dismissed without having had any prior formal warnings as to their behaviour / conduct:

Stage 1 – First Written Warning

Stage 2 – Final Written Warning

Stage 3 – Dismissal

- 8.3 Any warning applied is regarded as live and kept on the employee’s personal file for a specified period of time (please see the Conduct & Discipline Schools’ Toolkit for Managers for further guidance).

- 8.4 Where the same type of misconduct becomes a pattern, which is repeated every time a warning ceases to be live, previous warnings may be taken into account and may result in gross misconduct. The significance of the recurring issues need to be taken into account when deciding if it should be treated as gross misconduct and advice from HR must be sought.
- 8.5 Where the sanction is dismissal this may either be dismissal with notice or in cases of gross misconduct dismissal without notice or pay in lieu of notice.

## 9. SUSPENSION

- 9.1 An employee may be suspended from duty on full pay at any time in any of the circumstances described below:
- Where the Trust has grounds to suspect that the employee is guilty of gross misconduct or
  - Where there is a real risk that the employee's continued presence at their place of work may interfere with a disciplinary investigation being undertaken or
  - Where the continued presence of the employee at their place of work might be detrimental to their health or
  - Any combination of the above
  - Where suspension relates to a safeguarding allegation, the guidance in Appendix 1 "Managing Concerns or Allegations against Staff Working with Children or Adults who have Care and Support Needs" must take precedence over this policy and procedure
- 9.2 Alternatives to suspension may be agreed pending the results of a preliminary investigation and a decision on whether to suspend. These alternatives will normally only be used in the short term, not more than one week, and include:
- Permitting the employee to work from home

- Work at an alternative location or in an alternative role
- Work in a more closely supervised environment
- Management leave

9.3 Suspension does not constitute part of the formal disciplinary procedure. However, failure to observe the terms of suspension, detailed in Paragraph 9.4 of this document, will constitute a disciplinary offence.

9.4 During the period of suspension, unless otherwise informed the employee is:

- Prohibited from attending their place of work other than for the purposes of attending investigatory interviews or attending a disciplinary hearing.
- Prohibited from contacting any pupil, parent, employee of the Trust or officer of the Council other than their representative or contact. This prohibition does not prevent the employee from having social contact with their colleagues outside of the work place, provided the disciplinary issues that are the cause of the suspension are not discussed.
- Prohibited from undertaking alternative employment with another employer.
- Obligated to co-operate with the disciplinary investigation including any request to furnish or identify documents and attend meetings.
- Obligated to ensure that they are, and remain, contactable during normal working hours.

9.5 Suspension will be for the shortest time possible. However, suspension will usually continue until either it is decided not to proceed with a disciplinary hearing against the employee or the disciplinary hearing has taken place and the employee has been informed of the outcome of it. In cases where it is anticipated that the employee will be suspended for a period exceeding three calendar months there shall be a review at monthly intervals to determine whether it is necessary for the employee to remain suspended.

## 10. INVESTIGATIONS

- 10.1 In most cases an investigation will be required to establish whether or not there is a case for the employee to answer at a formal disciplinary hearing. Where an investigation takes place, the Trust will aim to conduct it promptly and without unnecessary delay. However, the nature, scale and duration of any disciplinary investigation will depend on the seriousness and complexity of the misconduct being investigated.
- 10.2 Investigations relating to safeguarding allegations must be made with reference to Appendix 1 “Managing Concerns or Allegations against Staff Working with Children or Adults who have Care and Support Needs”.
- 10.3 The Trust may, at the CEO’s discretion, continue with the Conduct and Discipline process regardless of a resignation. Each case will be considered on a case by case basis.
- 10.4 The person with responsibility for the investigation is the Investigating Officer. The Investigating Officer may also undertake the role of Presenting Officer during the hearing. The function of the Investigating Officer is to:
- Ascertain the facts and circumstances surrounding the allegation or allegations of misconduct
  - Ascertain the employee’s initial response to the allegation
  - Compile a report containing a written summary of their findings
  - Form a view as to whether there is a case to answer at a formal disciplinary hearing

## 11. MUTUAL AGREEMENT PROCESS (ONLY APPLICABLE IN EXCEPTIONAL CIRCUMSTANCES)

11.1 On rare occasions in a misconduct case, the employee may accept that they are at fault. Following HR Advice and with both parties agreement, the employee may waive their right to a disciplinary hearing and accept an agreed sanction under the Mutual Agreement process. In these circumstances, following an investigation, management may issue a first written warning outside of a disciplinary hearing. Should the employee decide to accept a warning without a disciplinary hearing, they will retain the right of appeal. Further details are available in the Toolkit.

## 12. NOTIFICATION TO ATTEND A DISCIPLINARY HEARING

12.1 Where a formal disciplinary hearing is to take place, the employee will receive written notification from the Hearing Officer at least 7 working days in advance of the requirement to attend a disciplinary hearing. The letter will advise the employee of the following:

- The location, date and time of the proposed disciplinary hearing
- Details of the disciplinary allegations which the employee is to face
- Whether dismissal is being contemplated as a sanction
- Their right to be accompanied
- The identity of the Hearing Officer and, where appropriate, the supporting panel of governors
- The requirement for the employee to confirm in writing that they are attending, at least 5 working days before the disciplinary hearing, providing all relevant documentation and confirming the names of their employee representative and any witnesses that are likely to be called.

12.2 The employee is under a duty to take all reasonable steps to attend the hearing. The disciplinary hearing may proceed in the employee's absence when all of the following conditions are met:

- The employee has either failed to attend two disciplinary hearings (or failed to respond to two previous notifications to attend a disciplinary hearing).
- The employee is on notice that the disciplinary hearing may proceed in their absence.
- The employee has been informed of the opportunity to provide a written statement setting out their defence to the allegations.

12.3 If the disciplinary hearing could potentially lead to dismissal the Council will also be informed and given the opportunity to attend, in accordance with the attached Schedule of Statutory Requirements relating to Dismissals.

### **13. RIGHT TO BE ACCOMPANIED**

13.1 At any disciplinary hearing or appeal hearing the employee has the right to be accompanied by a representative of their choice. The representative may be an accredited union representative or work colleague but not a friend, family member or legal representative.

13.2 In exceptional circumstances the manager may at their discretion allow the employee to bring a companion who is not a colleague or trade union representative where this will help overcome a particular difficulty caused by disability, or where the employee has a difficulty understanding English.

13.3 Exceptionally, an employee is entitled to legal representation at a disciplinary hearing or appeal hearing. This is only applicable in circumstances where the decision of the disciplinary hearing may result in the employee being referred to an external body, as a result of which the employee may lose the right to practice their profession.

- 13.4 Employees should be aware that their personal information including possible sensitive information will be shared with their nominated representative unless permission to do so is formally withheld.

#### **14. GRIEVANCES DURING THE COURSE OF THE DISCIPLINARY PROCESS**

- 14.1 Where, during the course of the disciplinary process the employee raises a grievance about any aspect of the disciplinary process, e.g. the fact the employee has been suspended, that disciplinary action is being taken against them, the procedure being applied, or any of the individuals involved in the disciplinary process, the employee's grievance will be dealt with as part of the disciplinary hearing and will not be treated as a separate grievance under the Trust's grievance procedure.

#### **15. DISCIPLINARY HEARINGS**

- 15.1 The disciplinary hearing will be chaired by the CEO/Chairman for alleged misconduct. If dismissal is a possible outcome, the CEO/Chairman will be supported by a Trustee. The employee will be given the opportunity to outline their case in response to the allegations. Refer to paragraph 15 of the Schools' Conduct and Discipline Toolkit for Managers for guidance on the format of the hearing.
- 15.2 It is the Trust's policy not to allow recordings of disciplinary or appeal hearings.
- 15.3 The Trustee/CEO is required to notify the Council in any case where dismissal is a possible outcome and the Council has the right to be represented at a dismissal hearing.

#### **16. CONFIRMATION OF THE OUTCOME OF THE DISCIPLINARY HEARING**

- 16.1 Whether or not the employee has been informed of the outcome of the disciplinary hearing orally at its conclusion, the employee will be notified of the outcome of the disciplinary hearing in writing. Written notification will normally be within 5 working days of the date of the hearing and will include:

- The reasons for upholding any allegation of misconduct
- The details of any disciplinary sanction applied
- If the disciplinary sanction is by way of warning, the nature and type of the warning and the date of its expiry
- A warning as to the consequence of further offences of a similar or different nature
- Any specific requirements for future conduct
- Any specific requirements in respect of training to be undertaken
- If the disciplinary sanction is dismissal, the reason(s) for dismissal
- Any right of Appeal, giving the name of the person to whom the appeal should be addressed

16.2 If the disciplinary sanction is dismissal, the Local Authority will also be informed in writing, at the same time as the employee, in accordance with the attached Schedule of Statutory Requirements relating to Dismissals.

## 17. RIGHT OF APPEAL

17.1 An employee may appeal against a decision to issue them with any level of disciplinary sanction, i.e. first written warning, final written warning or dismissal.

17.2 An employee seeking to appeal must do so within 10 working days' of the date of written notification of the decision. The employee should send their letter of appeal together with the grounds of appeal to the Warning Appeal Panel or Staff Dismissal Appeal Committee, named in the letter confirming the outcome of the hearing

17.3 Once an appeal has been received in writing, an appeal hearing will normally be convened promptly, allowing at least 10 working days written notice of the hearing.

17.4 An appeal against a first or final written warning will be considered by the Warning Appeal Panel.

- 17.5 An appeal against a decision to dismiss will be heard by the Staff Dismissal Appeal Committee
- 17.6 Where the grounds of appeal are based on the severity of the disciplinary sanction alone, the role of the appeal panel shall be to conduct a review of the case.
- 17.7 Where the grounds of the appeal are broader than an appeal against the sanction, the role of the appeal panel shall be to conduct a re-hearing of the evidence and submissions made when the initial decision was taken, plus to consider all matters raised which are related to that decision whether or not they were known to the CEO/Chairman at the time the initial decision was made.

## 18. FURTHER GUIDANCE

- 18.1 Further guidance is contained in the relevant toolkits listed below, for all parties involved during the Conduct and Discipline process:
- Conduct and Discipline Toolkit
  - Safeguarding Toolkit
- 18.2 The Toolkits are updated on a regular basis. The CEO/Headteacher should ensure that they refer to the most up to date copy on Schoolsweb and not a previous printed version.
- 18.3 Formal advice and guidance is available from the HR Service Desk or your HR Provider.

## SCHEDULE OF STATUTORY REQUIREMENTS

### BASED ON SCHOOL STAFFING REGULATIONS (ENGLAND) 2003

#### 1. POTENTIAL DISMISSALS

Type of School	Legal Employer	Right to attend hearing where dismissal is potential outcome	Letter confirming dismissal to be written by
Controlled	Local Authority	Local Authority must attend hearing*	Local Authority**
Voluntary Controlled	Local Authority	As above*	As above**
Nursery	Local Authority	As above*	As above**
Foundation	Governing Body	Local Authority may attend hearing*	Governing Body but Local Authority can be asked to provide letter on their behalf**
Voluntary Aided	Governing Body	As above*	As above**

\* Where any Conduct & Discipline hearing is convened that could potentially lead to dismissal, the Local Authority (Human Resources Team) must be informed and given the opportunity to attend. The Local Authority representative in attendance will give advice that must be listened to and given full consideration by the Disciplinary Panel.

\*\* The Panel/CEO/Headteacher will write to the employee and the Local Authority, at the same time, to confirm the outcome of the hearing. Where the decision is to dismiss, the Local Authority, when required or requested to do so, will write the formal dismissal letter within 14 days of the instruction from the trust. The Local Authority is required to notify the Secretary of State for Education whenever an employee in a school/trust is dismissed on grounds of misconduct, or resigns in circumstances, which would have led to their dismissal, or consideration of their dismissal, on those

grounds, if they had not resigned. The Secretary of State/Disclosure and Barring Service are able to bar a person from employment as a teacher and/or from any work involving regular contact with children, to place restrictions on such employment, to suspend a person from teaching for up to 2 years (with or without conditions), to issue a reprimand or to issue a warning about future conduct.

Governing Bodies are free to choose whether or not to collaborate/work jointly with Governing Bodies of other schools, in their arrangements for dismissal.

## 2. HEADTEACHER'S PERFORMANCE

The Local Authority has a duty to make a written report to the Chair of Trustees if it has a serious concern about the performance of the CEO.

## 3. SUSPENSION

Both the Trustees and the CEO have the power to suspend employees at the trust but only the Trustees can lift the suspension.

<b>Type of School</b>	<b>Suspension imposed or lifted by Chairman of Governors, acting on behalf of Governing Body</b>	<b>Suspension imposed by CEO/Headteacher</b>
Community	Must immediately inform the CEO/Headteacher and the Chief Education Officer (or representative)	Must immediately inform the Chair of Trustees and the Chief Education Officer (or representative)
Voluntary Controlled	As above	As above
Nursery	As above	As above
Voluntary Aided	Recommended to inform the Chief Education Officer (or representative) and Diocesan Director of Education (or representative)	Recommended to inform the Chief Education Officer (or representative) and Diocesan Director of Education (or representative)

Foundation	Recommended to inform the Chief Education Officer (or representative)	Recommended to inform the Chief Education Officer (or representative)
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