

Disciplinary Policy - Schools

Policy Purpose

The Disciplinary policy is intended to help and encourage you to maintain the required level of conduct and behaviour.

A certain level of behaviour and conduct is expected from all employees but there may be situations where you do not behave in the expected way.

This policy is designed to ensure that you are treated fairly and consistently where concerns about your conduct have been raised. It provides a clear procedure on the steps the Governing Body, Headteacher, Manager or the appointed representative will take to address such issues and where appropriate, provides an opportunity for you to improve standards moving forward.

The Governing Body, Headteacher, Manager or the appointed representative will always attempt to resolve potential disciplinary matters informally with you, where appropriate, in the first instance. An investigation will be carried out before a decision is made on what action, if any, will be taken.

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1 Overview

- 1.1 The Council, in consultation with recognised trade unions, has agreed this policy for adoption by those employed under the delegated powers of Governing Bodies of schools. Governing Bodies of Community and Voluntary Controlled Schools are required to adopt this policy for all employees within their delegated powers.
- 1.2 Governing Bodies of non-Derby City Council schools, for example Academies, may wish to adopt this policy within their delegated powers.
- 1.3 This policy applies to all Derby City Council school colleagues.
- 1.4 If the employee concerned is a trade union representative, the Branch Secretary/ Senior Trade Union Representative will be notified prior to any investigation.
- 1.5 This policy applies to issues where dismissal is being considered for 'some other substantial reason' or because of a statutory restriction; as defined in Appendix 1.
- 1.6 For details of the appropriate role levels please refer to Role definitions in Appendix 2 and policy guidance.
- 1.7 Please refer to Appendix 3 for a Glossary of Terminology used in this Disciplinary Policy.

2 Roles and responsibilities

All colleagues

- 2.1 The Disciplinary Policy is to encourage improvement where concerns about your conduct have been raised.
- 2.2 The disciplinary process must be confidential. A breach of confidentiality may result in the disciplinary process being used in respect of any breach.
- 2.3 You have a responsibility to observe and co-operate fully with any specified timeframes. In exceptional circumstances, when it is mutually agreeable, the process may continue during non-working days.
- 2.4 You are expected to attend investigation meetings and/or disciplinary hearing as arranged. If you are repeatedly unable or unwilling to attend these meetings, your Governing Body, Headteacher, Manager or the appointed representative will come to a reasonable decision on how to proceed and may conclude that a decision will be made on the evidence available and without your input.
- 2.5 You may be accompanied at any investigation meetings and/or disciplinary hearing by a Companion if you choose, plus any support as required under the Equality Act 2010.

Governing Bodies, Headteachers, Manager and the appointed representative

- 2.6 The Disciplinary Policy is an aid to effectively managing a colleague's conduct and should not be viewed primarily as a means of imposing sanctions.
- 2.7 The Governing Body, Headteacher, Manager or the appointed representative will act promptly when problems with conduct are initially identified.
- 2.8 The Governing Body, Headteacher, Manager or the appointed representative will attempt to resolve any concerns informally, where appropriate, in the first instance.
- 2.9 The Governing Body, Headteacher, Manager or the appointed representative will carry out the disciplinary process without unreasonable delay and notify colleagues of any allegations at the earliest appropriate stage.
- 2.10 With regard to the management of any misconduct from the Headteacher, the Chair of Governors will assume responsibility for the actions described in this policy as being the responsibility of the Headteacher, manager or the appointed representative.

3 Policy aspects

- 3.1 Where there are allegations that appear to involve criminal responsibility or financial irregularities affecting School resources, the Chair of the Governing Body and the Strategic Director of Children and Young People Services must be notified. They will decide whether to refer the matter to the police or take other action in accordance with the School's Financial Procedure rules.
- 3.2 Where the allegations involve Safeguarding Children or Safeguarding Adults, this may result in disciplinary action and it may be necessary to refer the matter to another organisation or professional body, including, for example, but not limited to, Local Authority Designated Officer (LADO), The Disclosure and Barring Service (DBS), Care Quality Commission (CQC), and/or the Teaching Regulation Agency.
- 3.3 Where dismissal is being considered for 'some other substantial reason' or because of statutory restriction, The Governing Body, Headteacher, Manager or the appointed representative, should speak to their HR provider for advice and should follow the process as outlined. This should only be considered in exceptional circumstances. The right to appeal, Section 8, will also apply. A list of what could be considered within this category is listed in Appendix 1.
- 3.4 If you raise a grievance during any stage of the disciplinary process and this relates to the disciplinary matter in question, you must present your grievance as part of your case under the Disciplinary Policy. Raising a grievance will not delay applying the disciplinary process.

4 Stage 1 – Preliminary Investigation/ Fact Find

- 4.1 Before taking any action under the Disciplinary Policy, your Governing Body, Headteacher, Manager or the appointed representative will usually undertake a preliminary fact find which may include a discussion with you. This will be to gather the basic facts of the case to determine the seriousness of the allegations or if any misconduct took place.
- 4.2 Your Governing Body, Headteacher, Manager or appointed representative will then decide if a conduct issue can be dealt with informally or if the issue should be dealt with formally.

5 Stage 2 – Informal Action

- 5.1 The majority of potential conduct issues can be dealt with through an informal dialogue between you and your Manager. In the first instance the Governing Body, Headteacher, Manager or appointed representative will attempt to resolve potential conduct issues with you informally, where appropriate.
- 5.2 A quiet word is often all that is required to resolve the situation quickly and confidentially and encourage you to improve the required level of conduct.
- 5.3 In some cases of minor misconduct, your Headteacher, Manager or appointed representative may issue you a management concern letter after your discussion with them.
- 5.4 Governing Bodies, Headteachers, Managers or appointed representatives should be cautious that any informal action does not turn into formal disciplinary action. If during the discussion it becomes apparent that the matter may be more serious, the meeting should be adjourned and the Governing Body, Headteacher, Manager or appointed representative should speak to their manager about approaching their HR provider for advice.
- 5.5 If informal action fails to resolve the problem, or if this approach is inappropriate in the circumstances, the formal procedure will be used.

6 Stage 3 – Investigation

- 6.1 An investigation is for your Governing Body, Headteacher, Manager or appointed representative to get a fair and balanced view of the facts of any allegations against you, before deciding whether to proceed to a disciplinary hearing.
- 6.2 The Commissioning Manager will review the preliminary investigation/fact find undertaken to decide if a full investigation is necessary.
- 6.3 If a full investigation is required, then this will be carried out by an Investigating Officer, without unreasonable delay, to establish the facts of the case. In some cases, this will require holding an investigation meeting with you as well as the collation of any evidence.

- 6.4 You may be suspended or placed on alternative duties, with normal earnings, whilst the investigation is conducted.
- 6.5 Following completion of the investigation the Commissioning Manager will review the investigation report and decide if there is a case to answer. At this stage the Commissioning Manager may decide on no action, or informal action or proceed to a disciplinary hearing.

7 Stage 4 – Hearing

- 7.1 The Chair will hold the disciplinary hearing and decide whether or not disciplinary action is required. Any action must be reasonable, fair and proportionate.
- 7.2 You will be invited to the disciplinary hearing in writing and you will be given a minimum of 14 calendar days' notice. You may be accompanied at the hearing by a Companion if you choose, plus any support as required under the Equality Act 2010.
- 7.3 If you choose to be accompanied at the hearing by a Companion, they can, if you wish, explain the key points of your case. You can also confer with them during the hearing. However, they must not answer questions put directly to you or prevent the Chair asking questions or the Commissioning Manager presenting the management statement of case.
- 7.4 You should make every effort to attend hearings as arranged. If you or your Companion cannot attend, you may be offered an alternative date which must be both reasonable and not more than 5 working days of the original date.
- 7.5 The Chair will provide an outcome after hearing the case. Possible outcomes of the disciplinary hearing are:
- No action
 - Informal action
 - First Written Warning
 - Final Written Warning
 - Action Short of Dismissal including final written warning
 - Dismissal
- 7.6 Where misconduct is confirmed, you will usually be issued with a first written warning which will remain in place for 12 months from the date you are notified of the decision. It will then be removed from your record.
- 7.7 If there is an active first written warning on your record and you are involved in further misconduct, the Chair will usually issue you with a final written warning. In serious cases of misconduct, the Chair may issue a final written warning without first issuing a first written warning. In either case, the final written warning remains active for 18 months from the date you are notified of the decision. It will then be removed from your record.
- 7.8 If there is an active final written warning on your record and you are involved in further misconduct, you may be dismissed. You may also be dismissed for a

serious case of misconduct, or if you are involved in gross misconduct.

- 7.9 If the Chair finds that you have committed an act of gross misconduct, you will usually be dismissed without warning, without notice and without payment in lieu of notice. This is known as summary dismissal.
- 7.10 In exceptional circumstances, where the misconduct warrants dismissal but there are mitigating circumstances, action short of dismissal may be considered as an alternative to dismissal. This may include transferring you to alternative employment or reducing your seniority or level of responsibility. This may result in a reduction in pay and/or a change to your terms and conditions. If you do not agree to this, then you may be dismissed with notice or with payment in lieu of notice.
- 7.11 If dismissal is the outcome in cases of 'some other substantial reason' or 'statutory restrictions'; you will usually be dismissed with notice or with payment in lieu of notice.

8 Appeal

- 8.1 You have the right to appeal the outcome of a disciplinary hearing. Use the appeal e-form available on Schools' Information Portal or the paper copy in your outcome letter. Further details on the appeals process can be found in the [Appeals Policy](#) and the [appeals pages](#) on Schools' Information Portal.
- 8.2 This is the final stage of the Schools Disciplinary Policy; you do not have any further internal right to appeal.

9 Support and guidance

- 9.1 A full description of the process including guidance, supportive information and documentation can be found on the Schools' Information Portal at:

[Disciplinary Guidance](#)

Other related guidance, policies and websites can be found at:

[Bullying, harassment, victimisation and discrimination - Schools' Information Portal \(derby.gov.uk\)](#)
[Colleague support - your Employee Assistance Programme - Schools' Information Portal \(derby.gov.uk\)](#)
[Health and wellbeing - Schools' Information Portal \(derby.gov.uk\)](#)
[Health and Safety's code of conduct - Schools' Information Portal \(derby.gov.uk\)](#)
[Grievances - Schools' Information Portal \(derby.gov.uk\)](#)

Colleagues without access to this information can ask their Manager for a printed copy.

Disciplinary Rules

Introduction

As a public sector employer, the School must maintain, and is entitled to expect the highest standards of conduct from you.

It is unlikely that any set of rules will cover all possible disciplinary issues, but the information in this appendix contains guidance on the categories of misconduct and examples of acts that Governing Bodies, Headteachers, Managers or appointed representatives will normally treat as gross misconduct, or some other substantial reason or statutory restrictions.

Misconduct - is when your inappropriate behaviour or action breaks the workplace rules; this could include your actions outside of the workplace. The following list gives examples of what Governing Bodies, Headteachers, Managers or appointed representatives would normally regard as misconduct (but not gross misconduct). This list is not exhaustive and should be referred to as a guide.

- Minor breaches of the School's policy, for example, Health & Safety, Employee Code of Conduct, Information Security Policy, IT Policies, GDPR (data protection) violations etc.
- Minor breaches of the Equality Act 2010
- Minor breaches of any relevant code of conduct, professional standards or statutory guidance
- Minor breaches of unauthorised use of, or damage to, School property
- Absence from work that has not been authorised
- Poor attendance and timekeeping
- Refusing to follow reasonable management instructions, where it is not serious enough to be gross misconduct
- Minor breaches of confidentiality
- Unauthorised use or misuse of technology
- Using obscene language or otherwise behaving offensively
- Being careless when carrying out your duties
- Wasting time during your contracted working hours
- Smoking in areas where smoking is not allowed.

Gross misconduct - is defined as conduct so serious that it justifies dismissal. This is because the significance of the act affects the contractual relationship between you and the School. The following list gives examples of what Governing Bodies, Headteachers, Managers or appointed representatives would normally regard as gross misconduct. This list is not exhaustive and should be referred to as a guide.

- Serious breaches of the Equality Act 2010
- Serious breaches of any relevant code of conduct, professional standards or statutory guidance
- Bullying or physical violence
- Fraud, theft, or any act of dishonesty, including deliberate fraudulent benefit claims
- Serious breaches of unauthorised use of, or damage to, School property
- Serious safeguarding contraventions

- Serious negligence or carelessness, this can be a serious failure to achieve the standard of skill and care expected from you and the impact this has on your employment.
- Serious health and safety breaches or deliberate acts endangering health and safety
- Serious breach of GDPR (data protection) legislation or data protection policy
- Unauthorised access, disclosure, or other use of confidential or personal information
- Causing loss, damage or injury through serious negligence
- Unlawful harassment or discrimination, including hate crime
- Knowingly accessing websites containing offensive, obscene or pornographic material
- Making any sexual or romantic contact with any pupil, whatever the age of the pupil
- Serious misuse of School technology and/or equipment
- Deliberately accessing or circulating inappropriate material
- Disclosing the contents of any live examination paper or assessment in advance to any pupil or parent
- Concealing any actual or attempted cheating by any pupil or colleague, including participating or concealing any actual or attempted exam misconduct
- Serious insubordination or refusal to obey reasonable management instructions
- Serious breaches of the Employee Code of Conduct
- Serious breaches of trust
- Serious breaches of confidentiality
- Taking, being in possession of or being under the influence of alcohol, illegal drugs or other substance abuse
- Significant abuses of official position
- Engaging in behaviour that may bring the School into serious disrepute.

Some other Substantial Reason (SOSR) for Dismissal – The following list gives examples of what Governing Bodies, Headteachers, Managers or appointed representatives would normally regard as SOSR. This list is not exhaustive and should be referred to as a guide.

- Business reorganisation
- Refusal to accept changes to terms and conditions (dismissal and re-engagement)
- Personality clashes/ relationship breakdown
- Expiry of a limited term contract
- Reputational risk
- Third party pressure
- Protection from competition/ conflict with business interests
- Replacement employees – section 106 of the Employment Rights Act 1996 (for example, posts for maternity cover)

Statutory Restriction is defined as a circumstance where it is no longer possible to employ you because of a law, provision or regulation which prevents you from carrying on in the same job. The following list gives examples of what Governing Bodies, Headteachers, Managers or appointed representatives would normally regard as Statutory Restriction. This list is not exhaustive and should be referred to as a guide.

- Loss of driving licence
- Immigration status, i.e., an expiry of a work permit/visa
- Failing to obtain or maintain minimum qualification required for the role

- Charged with or convicted of a criminal offence that impacts the contract of employment

The categories are neither exclusive nor exhaustive, and dismissal on the grounds of gross misconduct could therefore occur for acts of a similar level of seriousness that are not referred to, where the contractual relationship between the School and the employee has broken down.

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Role definitions

In this policy, unless the context otherwise requires, the following expressions will have the following meanings:

‘Appointed representative’ means a person who has been delegated to undertake Disciplinary management tasks.

‘Chair of Governors’ means the Chair of the Governing Body as elected.

‘Governing Body’ means the governing body of the school in accordance with the Instrument of Government.

‘Headteacher’ means the most senior teacher or leader in the school who is responsible for leadership and the day to day running of the school.

‘Manager’ means the person that you report to.

‘Commissioning Manager’ means a headteacher or manager responsible for process co-ordination and compliance. They will be responsible for the decision-making on an investigation outcome and will also be responsible for presenting the management statement of case at a hearing.

‘Companion’ means a work colleague, a trade union official, or a workplace trade union representative who’s certified or trained in acting as a Companion.

‘Investigating Officer’ means a suitable person appointed to this process role.

‘Chair of Hearing’ or ‘the Chair’ means a suitable headteacher/manager/governor appointed to this process role.

‘Chair of the Appeal’ means a suitable manager/governor at the required decision-making level appointed to this role.

Glossary

In this policy, unless the context otherwise requires, the following terms will have the following meanings:

‘School’ means the school or academy named at the beginning of this Disciplinary Policy and includes all sites.

‘Working day’ / ‘school working day’ means any day on which a school-based colleague is contracted to work

‘Your working day’ means the day/s that you are contracted to work.

‘Allegation’ means a claim or assertion that a School colleague has done something illegal or wrong, without proof

‘Behaviour’ means the way in which a School colleague acts or conducts themselves, especially towards others

‘Calendar days’ means consecutive days including Saturdays and Sundays

‘Confidentiality’ means keeping a matter private and not disclosing information to other people, other than your companion

‘Conduct’ means the manner in which a School colleague behaves, especially in a particular place or situation

‘Equality Act 2010’ legally protects you from discrimination in the workplace and in the wider society. It sets out the different ways in which it’s unlawful to treat someone

‘Management concern letter’ means a letter issued by your manager, outlining the discussion held and any improvements required from you

‘Non-working day’ means any day on which School colleagues are not available for work or are not contracted to work; for example due to part time, shift or working patterns