



# **Rowlands Gill Primary School**

## **Disciplinary Policy and Procedure**

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## **Aim**

- 1.1 Discipline is essential for the effective management of Rowlands Gill Primary School's affairs and for the safety and wellbeing of all its employees. The aim of this policy is to help and encourage all employees to achieve and maintain the necessary standards of conduct expected by the School in a manner which treats all employees equally and fairly.

## **2 Definitions**

### 2.1 Discipline

This is the process of ensuring all employees' conduct is in accordance with the School's policies and procedures and is of an acceptable professional standard

## 2.2 Misconduct in Work

An employee's behaviour during their working hours that causes their conduct, professionalism or integrity to be questioned.

## 2.3 Misconduct Outside of Work

An employee's behaviour, including criminal offences, outside of normal working hours likely to impact on the employee's suitability to undertake their duties and responsibilities, and/or is likely to damage the reputation of the School.

## 3 Scope

3.1 This Policy applies to all employees appointed by the Governing Body of the School. In this School, the Governing Body acts as an agent of Gateshead Council in undertaking the functions of the employer.

3.2 The Disciplinary Policy will:

- maintain and improve the standards and quality of professional conduct in this School;
- demonstrate to employees that the Governing Body is acting in the best interests of the School;
- be implemented in a fair, consistent and responsible way;
- provide a method to improve any apparent shortcomings in behaviour; and
- be made available to all employees.

3.3 This Policy applies when an employee's conduct falls below acceptable levels except in the following cases:

- where unsatisfactory performance is due an employee's failure to achieve and maintain acceptable standards of performance, in this situation the School's Capability Policy and Procedure should be followed; or
- where unsatisfactory levels of attendance are affecting performance, in this situation the School's Sickness Absence Management Policy and Procedure should be followed.

## **4 Responsibilities**

### **4.1 The Governing Body will:**

- promote high standards of professional conduct at the School;
- delegate authority to the Finance and Staffing Committee to conduct disciplinary meetings where the Head Teacher is under investigation;
- delegate authority to the Finance and Staffing Committee
- delegate authority to the Head Teacher to conduct disciplinary meetings below the level of potential dismissal where the Head Teacher has not already been part of the disciplinary process;
- delegate authority to the Finance and Staffing Committee to establish an Appeals Committee to conduct appeal meetings against any disciplinary sanction issued;
- abide by all relevant legislation and, in particular, will not discriminate on grounds of race, colour, ethnic origin, religion, belief, gender, marital status, sexual orientation, disability or age with regard to all decisions on recruitment, remuneration and development.

### **4.2 The Finance and Staffing Committee will:**

- only allow those Governors who are not employed to work in the School to take part in disciplinary meetings with employees when required;
- exercise its responsibilities within the constraints of the policy;
- treat information about any employee's disciplinary record as confidential and only divulge information when operationally necessary;
- take account of any advice and guidance from Human Resources with regards to applying the procedure and employment law;
- consult with all employees and their trade union representatives on changes to the policy and procedure;
- minute and report all decisions to the next meeting of the full Governing Body.

### **4.3 The Head Teacher will:**

- ensure that all employees are aware of the standards of conduct expected of them and of the procedures relevant to undertaking their roles in School;
- seek to resolve issues informally, where appropriate before applying the formal procedure;
- seek to ensure that an appropriate investigating officer is appointed, where necessary, unless the Head Teacher is under investigation then this responsibility lies with the Finance and Staffing Committee; and
- advise the employee of the right to be accompanied by a trade union representative or work colleague to any formal meeting.

#### 4.4 The Employee will:

- conduct themselves professionally at all times;
- attend meetings to discuss their conduct when required;
- raise any concerns in relation to the disciplinary process as part of their response at the disciplinary meeting.

## 5 **Review**

5.1 This Disciplinary Policy and Procedure was agreed by the Governing Body of Rowlands Gill Primary School. It will be reviewed annually to take account of any changes to legislation, guidance and advice issued by the Council.

## **Introduction**

1.1. This procedure is concerned with the formal, structured process of considering disciplinary action for matters relating to the conduct of employees at the School. It is not for those situations where the Head Teacher/Line Manager may consider it necessary to give management advice to an employee with regard to their conduct. Management advice, although confirmed in writing, should not be confused with a formal warning as detailed in this procedure.

1.2. Where it is alleged that the conduct of a shop steward or representative of a trade union should be investigated under this procedure, no investigation should take place until the circumstances have been discussed with a full time official from the trade union concerned.

## 2. **Investigation Stage**

2.1. Where a disciplinary matter has arisen as a result of an employee's conduct/actions or failure to act, the Deputy Head Teacher, Assistant Head Teacher or Line Manager should first attempt to establish the facts promptly, taking information in the form of brief statements from witnesses as necessary. All parties should be told of the need to observe strict confidentiality at all times.

2.2. The matter will then be referred to the Head Teacher/ Chair of the Governing Body (where concerns relate to the Head Teacher's conduct) who will determine:

- whether a formal investigation is required and appoint a formal investigating officer;
- or whether the circumstances/facts have been established and no investigating officer is required

- 2.3. At this stage, advice must be sought from Human Resources who will also advise on whether other officers should be consulted.
- 2.4. Where the matter involves, or is thought to involve, irregularities concerning cash, stores or other property of the School, misuse of the School's ICT systems, or any suspected irregularity in the exercise of school functions, the Internal Audit Section of Corporate Resources must be notified immediately.
- 2.5. The investigating officer must not be the person who eventually decides on whether a disciplinary meeting is required. The investigating officer should carry out a thorough investigation in order to try to obtain all the relevant facts and should not make any assumptions. This may include obtaining formal written and signed statements and relevant documentary evidence. It is important to be impartial when identifying which evidence is relevant to the investigation. All corroboration, or contradiction, of the allegations must be recorded.
- 2.6. The information given by witnesses must be in writing and they must be informed that they may be asked to attend and give evidence at a disciplinary meeting. A witness cannot be compelled to attend; however, they need to be made aware that failure to attend may affect the consideration given to their statement and therefore the outcome of the disciplinary process.
- 2.7. In taking formal witness statements, the employee should be informed that they may have a trade union representative or work colleague present and the following should be recorded in the statement:
  - date, time and place of each or any observation or incident;
  - the opportunity and ability of the witness to observe clearly and with accuracy;
  - the circumstantial evidence, such as knowledge of a system, procedure or arrangement, the reason for the presence of the witness and why certain small details are memorable;
  - whether the witness has suffered at the hands of the employee or has any other reason to fabricate, whether from a personal grudge or any other reason;
  - the signature of the witness and date it was signed to confirm the statement as being a true record.
- 2.8. There may be situations where witnesses fear reprisals and wish to remain anonymous or confidentiality has to be preserved for other reasons. The investigating officer must establish why the witness is reluctant to give a written statement and reassure them as to the use and purpose of the statement. In the first instance these statements should be taken without regard to the fact it may subsequently prove necessary to omit or erase certain parts of the statements before submission to others, in order to prevent identification of the witness. If it becomes necessary to reveal the witness's identity the investigating officer will discuss this with the witness prior to any disclosure.

- 2.9. Where it is necessary for the purpose of the investigation to formally meet the employee whose conduct has given cause for concern, they will be informed in writing of:
- the reason for the meeting and the nature of the allegations;
  - the person undertaking the investigation;
  - their requirement to attend;
  - that they can be accompanied by a trade union representative or work colleague and are encouraged to do so.
- 2.10. At the meeting it will be made clear to the employee that this is an investigatory meeting but that the outcome may lead to a disciplinary meeting being held. The employee should be kept informed of the progress of the investigation.
- 2.11. After reviewing all the statements and evidence collected it may be necessary for further investigation to take place to help corroborate the information given.
- 2.12. The investigating officer must provide a full report of their findings and the reasons for their conclusion and recommendations to the Head Teacher/Chair of the Governing Body. The Head Teacher/Chair of the Governing Body will then determine if a disciplinary meeting is required.
- 2.13. If, the Head Teacher/ Chair of the Governing Body determines that no disciplinary meeting is required, the employee will be advised of this in writing and any references to the investigation will be removed from their personal file. However, in safeguarding matters a record must be kept of the allegation(s), the investigation and subsequent outcome. The employee will be provided in writing with a summary of the investigation, a copy of which will be kept on their personal file.

### **3. Suspension**

- 3.1. After an initial investigation of the facts, or the occurrence of a particular incident, it may be necessary for an employee to be suspended from work and not allowed to attend the School whilst investigations commence or continue.
- 3.2. Before considering suspension, and dependent upon the circumstances, every effort must be made to relocate the employee to another location on the School site and/or undertake other duties.
- 3.3. Suspension is not disciplinary action and should only be considered where:
- the possibility of dismissal on the grounds of alleged gross misconduct may arise;
  - there are grounds for doubt as to the suitability of the employee to continue at work pending certain criminal investigations or proceedings;
  - the safety of the employee or other people at work could be affected by their continuing presence in School; or,

- it is in the interests of the employee or the School for them not to be present at the workplace whilst the investigation is undertaken.
- 3.4. Where it is considered necessary to suspend an employee, they will be required to attend a meeting and informed of the reason(s). The employee will be advised that they can be accompanied by a trade union representative or work colleague. Whilst every effort will be made to accommodate this, in certain circumstances this may not be possible.
- 3.5. An employee should only be suspended by the Head Teacher or Chair of the Governing Body, after consultation with Human Resources. Where an employee is suspended such action shall be reported to the Council's Director who has the responsibility for Gateshead's schools. This reporting will be made via Human Resources.
- 3.6. It is accepted that outside normal working hours it may be necessary for other levels of management to suspend employees and to do so without consultation, but this must only be done when it is considered absolutely necessary and matters reported as soon as possible to the Head Teacher or Chair of the Governing Body and Human Resources.
- 3.7. During the period of suspension the employee will receive full pay. This will be an average of the last 12 weeks' pay, to incorporate any contractual overtime and other contractual allowances.
- 3.8. When a decision to suspend an employee is taken this will be confirmed in writing to the employee by the Head Teacher or Chair of the Governing Body.
- 3.9. The letter should include the following:
- the reason(s) for the suspension;
  - the likely length of the suspension and when this will be reviewed;
  - that suspension does not constitute disciplinary action;
  - that the employee must not attend School premises unless required to;
  - that there must be no communication with work colleagues (including forms of social media) about the matter;
  - that there must be no accessing their School e-mail account or School systems;
  - the name and contact details of an employee in School who will be the point of contact for the employee throughout the investigation process;
  - information regarding how to access the Local Authority's counselling service; and
  - that the employee should be contactable and be prepared to attend any meeting arranged.
- 3.10. The letter should be hand-delivered or sent by recorded delivery and a copy enclosed for the employee's trade union representative or work colleague.
- 3.11. At the conclusion of the investigation it may be decided that no disciplinary meeting is required and the suspension will be terminated. The employee will be advised of

this in writing and any references to the investigation and their suspension will be removed from their personal file. However, in safeguarding matters a record must be kept of the allegation, the investigation, the suspension and subsequent outcome. The employee will be provided in writing with a summary of the investigation, a copy of which will be kept on their personal file.

- 3.12. At the conclusion of the investigation it may be decided that there should be no disciplinary meeting but that the employee will be issued with management advice with regards to their conduct and the standard of conduct expected in the future.

#### **4. Disciplinary Meeting**

- 4.1. If it is decided that the matter will be referred to a disciplinary meeting the employee will be informed in writing that they will be required to attend a disciplinary meeting on a specified date and time. Unless the School and the employee agree otherwise, at least 5 working days notice of such a meeting should be given. If this date is not suitable for the employee or the trade union representative or work colleague they must offer an alternative date which is within 5 working days of the original date.

- 4.2. The employee must be informed in the disciplinary meeting letter of:

- the subject matter/allegation(s) made;
- all relevant evidence from the investigation that is to be relied upon, including the investigating officer's report;
- their potential dismissal, only if it is a possible outcome should the allegations be proven;
- the requirement to forward to the Head Teacher/Chair of the Finance and Staffing Committee conducting the meeting, any documents upon which they intend to rely on, 1 working day prior to the date of the meeting;
- their right to call any necessary witnesses and to give sufficient notice to allow their attendance;
- the right to be accompanied at the meeting by a trade union representative or work colleague; and
- the fact that the disciplinary meeting will proceed as scheduled where the employee has chosen not to attend.

- 4.3. The letter and the documentation that will be used at the meeting should be hand-delivered or sent by recorded delivery. A copy of the letter and the documentation should be enclosed for the employee's trade union representative or work colleague.

- 4.4. Where an employee is unable to attend the meeting they may nominate their trade union representative or work colleague to present their response to the allegations and any supporting documentation on their behalf. Alternatively the employee may submit their response in writing to the chair of the meeting. On these occasions a decision will be made on the evidence available.

- 4.5. The disciplinary meeting will be held by the Head Teacher/ Finance and Staffing Committee who will be advised by Human Resources. It will be the Head Teacher's /Chair of the Finance and Staffing Committee's responsibility to explain the purpose of the meeting, identify those in attendance and how the meeting will be conducted.
- 4.6. At the disciplinary meeting the investigating officer must state the allegations made against the employee and present their report first, using any statements, documentary evidence and witnesses as are considered necessary.
- 4.7. The employee and/or their trade union representative/work colleague must be able to ask questions of the investigating officer and call those witnesses who have provided statements for clarification of their statements. The investigating officer may then question the witnesses. The investigating officer and witnesses may be questioned by the Head Teacher/Finance and Staffing Committee and any advisers present.
- 4.8. Where a witness is unwilling to attend or there is a genuine fear of reprisal if they attend the disciplinary meeting the Head Teacher / Chair of the Finance and Staffing Committee will interview the witness separately and satisfy themselves as to what weight is to be given to the information. The factors that would be taken into account would include:
  - the seriousness of the allegation(s) raised;
  - the credibility of the concern;
  - the likelihood of confirming the allegation from other sources.
- 4.9. The employee must then be given the opportunity to respond to the allegations made against them. If the employee or their representative raise any particular and relevant issue with a statement from a witness who is not in attendance, it may be desirable to adjourn for the Head Teacher/Finance and Staffing Committee to make further inquiries of the witness. The employee then may be questioned by the investigating officer, Head Teacher/Finance and Staffing Committee and any advisers present.
- 4.10. Once all the information has been presented and examined, both parties must be given the opportunity to summarise their main points to ensure nothing has been missed. The employee must finally be asked if they have anything further to say.
- 4.11. The employee and their representative and the investigating officer will leave the room but usually will remain in the School to await the decision which should be communicated to them orally. If it is not practicable or sensible for them to remain in School during management's deliberations, then they may be asked to return to hear the decision at a later time or by telephone if requested.
- 4.12. The Head Teacher / Finance and Staffing Committee, advised by Human Resources, will then decide in private whether all or any of the allegation(s) are proven or not. The decision must be reached on a balance of probabilities and must be taken in

light of all the available evidence, both written and oral, and with appropriate weight given to any corroboration of the evidence. If disciplinary action is justified the level of sanction to be applied must be determined taking into account any mitigating factors.

- 4.13. It is particularly important that full and careful notes are taken during the disciplinary meeting and the Head Teacher/Finance and Staffing Committee will identify a separate person to take the necessary notes to allow the other parties to concentrate fully on the discussions.

## **5. Disciplinary Action**

- 5.1. If the Head Teacher / Finance and Staffing Committee finds that disciplinary action is justified the employee will be advised of this, and the outcome and reasons will be confirmed in writing. The employee will also be advised of the right of appeal.
- 5.2. The following are the various levels of disciplinary sanction. Their use will vary depending upon the nature and seriousness of the offence(s) and whether the employee already has any current warnings on record. The normal practice will be to progress through written warning, final written warning to dismissal with notice where there has been a failure to improve after the issuing of previous warnings.
- 5.3. The levels of sanctions do not have to be followed in strict order and there may be circumstances where a sanction may need to be repeated/extended or result in dismissal after a written warning.

### Written Warning

- 5.4. When it is decided that the employee's behaviour amounts to misconduct the employee should receive a written warning. A record of the written warning will be kept on the employee's personal file, but it should be disregarded for disciplinary purposes after 6 months if no further misconduct occurs.

### Final Written Warning

- 5.5. If the employee currently has a written warning about conduct then a final written warning may be given. This may also be the decision where a first offence of misconduct is deemed to be of a serious nature. A record of the final written warning will be kept on the employee's personal file but it will be disregarded for disciplinary purposes after 12 months (or longer in exceptional circumstances) if no further misconduct occurs. The Head Teacher / Finance and Staffing Committee must first consult with Human Resources before any extension is agreed.

### Alternative employment short of dismissal

- 5.6. Where there has been a very serious offence of misconduct by the employee such that they cannot remain in their post and which would warrant dismissal, but for

some mitigating factors, the Head Teacher/Finance and Staffing Committee may consider alternative employment within the School.

- 5.7. Alternative employment is dependent on a suitable alternative post being available immediately and the employee agreeing to the transfer. Suitable alternative employment may include a post at a lower grade than the employee's current post. Pay protection arrangements do not apply where alternative employment is provided as an alternative to dismissal. If alternative employment is found, a Final Written Warning will also be issued. A record of the alternative employment and Final Written Warning will be kept on the employee's personal file for a period of 12 months. If alternative employment is not possible then the employee will be dismissed.

#### Dismissal with Notice or with Pay in Lieu of Notice

- 5.8. Where an employee currently has a final written warning and a further act of misconduct occurs they may be dismissed with notice or dismissed immediately with pay in lieu of their notice period depending on the particular circumstances. This may also be the decision where a first offence of misconduct is deemed to be of a very serious nature. A record of the dismissal will be kept on the employee's personal file.

#### Gross Misconduct - Dismissal without Notice

- 5.9. Where offence(s) amount to misconduct of a most serious nature/gross misconduct employees may be summarily dismissed from their employment without receiving notice or pay in lieu of their notice period. A record of the dismissal will be kept on the employee's personal file.
- 5.10. Gross misconduct will lead to summary dismissal and examples of offences which may lead to this include:
- unauthorised removal, malicious damage or serious misuse of School property or name;
  - offences of dishonesty (including falsification of official records);
  - physical violence or bullying;
  - falsification of time sheets, subsistence, expenses claims or record systems;
  - theft or fraud;
  - serious misuse of the internet or email or accessing Internet sites containing offensive or obscene material;
  - serious breach of health and safety rules;
  - serious breach of professional conduct;
  - unlawful discrimination or harassment;
  - sexual offences;
  - serious inability at School brought on by alcohol or illegal drugs;
  - or serious misconduct outside of work or serious criminal offences.

- 5.11. This list is neither exhaustive nor exclusive and there may be other offences of similar seriousness in addition to these which could constitute gross misconduct. Therefore this list must only be regarded as illustrative.
- 5.12. Where the School has, as a result of the employee's misconduct, suffered a quantifiable financial loss, the School will take legal action to pursue recovery after dismissal.

#### Dismissal for Some Other Substantial Reason (SOSR)

- 5.13. Dismissal for some other substantial reason will only be applicable in those exceptional cases where the dismissal does not fall squarely under the four fair reasons for dismissal – conduct, capability, illegality and redundancy. It does not necessarily follow misconduct and may be applicable in other situations for example:
- a serious and irretrievable breakdown in relationships including those with third parties with whom the School works;
  - serious reputational damage to the School;
  - or breach of trust and confidence and/ or conflict of interest.
- 5.14. A decision to dismiss will be taken by the Head Teacher/ Finance and Staffing Committee after consultation with a representative of Human Resources.

### **6. Confirming Disciplinary Action in Writing**

- 6.1. Following a decision to take any disciplinary action, including dismissal, the employee will be informed in writing of the following:
- the details of the offence(s) stating the grounds for and the level of sanction issued;
  - that they may be liable to further disciplinary action and sanctions if they commit further offences;
  - the duration of the disciplinary sanction and its expiry date;
  - where alternative employment is offered, the nature of this employment;
  - the right of appeal.
- 6.2. The letter should be hand-delivered or sent by recorded delivery and a copy enclosed for the employee's trade union representative or work colleague.
- 6.3. If, at the conclusion of a disciplinary meeting, it is decided that no disciplinary action is to be taken, the employee will have this confirmed to them in writing and all written references to it will be deleted from their personal file. However, in safeguarding matters a record must be kept of the allegation(s), the investigation, any suspension and subsequent outcome. The employee will be provided in writing with a summary of the information, a copy of which will be kept on their personal file.

## **7. Expiry of Warnings**

- 7.1. In most cases the concern with an employee's conduct which led to the sanction will have been an isolated incident which has been appropriately dealt with by the procedure and the sanction will have been effective in gaining the necessary improvement.
- 7.2. In most cases, therefore, warnings should not be referred to for disciplinary purposes after the following time periods:
- Written Warning                      6 months
  - Final Written Warning              12 months
- 7.3. Employees will be notified in the disciplinary action letter that the Final Written Warning will be disregarded after 12 months but that it may, in exceptional circumstances, be kept on record for a longer period. The Head Teacher / Finance and Staffing Committee must first consult with Human Resources before any extension is agreed. An employee has a right of appeal against the decision to extend a final written warning beyond the 12 month period.

## **8. Right of Appeal**

- 8.1. An employee has the right of appeal to the Appeal's Committee of the Governing Body. The letter of appeal must be sent to the Chair of the Governing Body within 10 working days of receipt of the letter confirming the formal disciplinary action taken. The employee should state in the letter the reason for the appeal.
- 8.2. The Chair of the Governing Body will, within 5 working days of receipt, acknowledge the appeal letter and arrange a meeting of the Appeal's Committee of the Governing Body as soon as is reasonably practicable. The Appeal's Committee will be made up of 3 or more Governors who have had no previous involvement in the disciplinary process.
- 8.3. At least 10 working days prior to the appeal, the employee will be informed in writing of the date, time and location of the appeal and their right to be accompanied by a trade union representative or work colleague. If this date is not suitable for the employee or the trade union representative or work colleague they must offer an alternative date which is within 5 working days of the original date.
- 8.4. At least 5 working days prior to the appeal, all relevant documentary evidence to be used at the appeal by both parties, including, if applicable, a chronology of events and minutes of the disciplinary meeting, should be exchanged. Two copies of the documentation will be given to the employee, one for themselves and one to pass on to their trade union representative/work colleague. Arrangements for this exchange will be included in the letter confirming the date of appeal.
- 8.5. At the appeal the Head Teacher/Chair of the Finance and Staffing Committee will present the information, giving the background to and the reasons for the decision

and include documentation as previously provided to the employee. The employee (or their trade union representative or work colleague) will have the opportunity to ask questions of the Head Teacher/ Chair of the Finance and Staffing Committee. Members of the Appeal's Committee and their advisers may also ask questions.

- 8.6. The employee (or their trade union representative or work colleague) will put forward their information, including documentation as previously provided for the Appeal's Committee. The Head Teacher/ Chair of the Finance and Staffing Committee will have the opportunity to ask questions of the employee. Members of the Appeal's Committee and their advisers may also ask questions. The Chair of the Finance and Staffing Committee and the employee (or their trade union representative or work colleague) must then sum up their presentations.
- 8.7. The Head Teacher/ Chair of the Finance and Staffing Committee, employee and their trade union representative or work colleague will then withdraw whilst the Appeal's Committee considers the information presented, assisted by Human Resources.
- 8.8. If the Appeal's Committee need to recall the Head Teacher/ Chair of the Finance and Staffing Committee or the employee (or their trade union representative or work colleague) to clarify matters on which they are uncertain, then both parties are to return notwithstanding only one may be required to comment on the point requiring clarification.
- 8.9. The decision of the Appeal's Committee should be given orally in the presence of both the employee (or their trade union representative or work colleague) and Head Teacher/ Chair of the Finance and Staffing Committee, where practicable, and will be confirmed in writing.
- 8.10. The appeal is conducted as a review of the original decision. However, in exceptional circumstances, where it is agreed that there has been some procedural irregularity or flaw in the process, the Appeal's Committee may consider any such representations and if thought appropriate, proceed with the case by way of a rehearing. The appeal will be reconvened at the earliest possible date thereafter.
- 8.11. If, after an appeal:
  - any disciplinary action is reconsidered and a lower sanction is determined as more appropriate, the employee will be notified in writing of this decision;
  - any disciplinary action is withdrawn, all written references to it will be deleted from the employee's personal file and the employee notified in writing accordingly. However, in safeguarding matters a record must be kept of the allegation, the investigation, any suspension and subsequent outcome. The employee will be provided with a summary of the information in writing which will be kept on their personal file; or,
  - the decision to dismiss is confirmed, the Governing Body must notify the employee and Council in writing of the decision to dismiss.