

DISCIPLINE POLICY FOR STAFF

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1. PURPOSE AND SCOPE

- 1.1 Within this policy 'we' and 'us' means the Federation.
- 1.2 This policy and its associated disciplinary rules [appended in Appendix 1] are intended to help and encourage all employees to achieve and maintain high standards of conduct and job performance. These standards, which are expected of all staff, are set out below and employees must familiarise themselves with them.
- 1.3 This policy does not apply where there are matters of:
- grievance which are dealt with under a separate policy;
 - competency or capability for which there is a separate policy, unless it is clear that the employee is capable of reaching the required standard and has not done so;
 - concern surrounding attendance is handled under the Federation Staff Sickness Management Policy, unless there is good reason to believe that the reason for the absence is not genuine.
- 1.4 A distinction can be, and is, made between 'gross misconduct' and 'misconduct'. However, it is not possible to define every act in advance as being one or the other because the judgement as to which it is will vary according to circumstances.
- 1.5 In addition to offences committed at work, it may sometimes be necessary to apply this procedure and take disciplinary action (to include dismissal) against a member of staff for an offence committed outside of work which makes the member of staff unsuitable for their type of work, or unacceptable to colleagues. If conviction for a criminal act results in a prison or similar custodial sentence, the member of staff may be dismissed on the grounds that they are unable to continue in their job.

2. DEFINITIONS

- 2.1 This policy applies to employees only. It does not apply to agency workers, consultants, or self-employed individuals working for the organisation.
- 2.2 The term 'employee' refers to all members of staff employed to work at the Federation.
- 2.3 The term 'senior leader' refers to any member of the Senior Leadership Team (SLT), delegated by the Executive Principal to deal with a disciplinary matter under these procedures. A senior leader may only make a decision to issue a warning up to and including a final written warning.
- 2.4 If the Executive Principal considers that there is no senior leader to whom they can reasonably delegate a specific disciplinary matter, then the Executive Principal will take the role of the senior leader for that specific case and the role of the 'Executive Principal' under this procedure will be performed by a Federation Trust staff discipline committee consisting of not less than two trustees, none of whom will have had previous involvement in the case.

3. PRINCIPLES

- 3.1 Informal action will be considered to resolve problems where appropriate.
- 3.2 No disciplinary action will be taken against an employee until the case has been fully investigated.
- 3.3 All proceedings will take place without unreasonable delay. Federation holidays will not constitute an unreasonable delay.
- 3.4 No employee will be dismissed for a first breach of the disciplinary policy, except in the case of gross misconduct, when the penalty may be dismissal without notice or payment in lieu of notice.
- 3.5 An employee will have the right to appeal against any formal disciplinary action.
- 3.6 The procedure may be implemented at any stage if the employee's alleged misconduct warrants it.

4. RIGHT TO BE ACCOMPANIED

- 4.1 When attending formal meetings which could result in a written warning or dismissal, employees have a right to be accompanied by a trade union representative or appropriate workplace colleague.
- 4.2 If the chosen companion is unavailable on the scheduled date, a meeting should be rearranged to take place within five school days after the scheduled date. Where there is a request to postpone a hearing for more than five school days because a trade union representative or other companion is not available, the senior leader will consider a postponement if it does not cause unreasonable delay.
- 4.3 The companion should be allowed to put and sum up the employee's case, respond on behalf of the employee to any views expressed at the meeting and confer with the employee during the meeting. The companion does not, however, have the right to answer questions on the employee's behalf, address the meeting if the employee does not wish it or prevent the employer from explaining their case, or prevent any other person at the hearing from making their contribution.

5. INVESTIGATION

- 5.1 The purpose of the investigation is to establish the facts of the case of potential disciplinary matters.
- 5.2 Investigations will be conducted by an investigating officer, usually a senior leader as delegated by the Executive Principal, and will be carried out without unreasonable delay
- 5.3 Where necessary, employees may be invited to an investigation meeting by the senior leader investigating the case.
- 5.4 The amount of investigation required will vary from case to case. It may involve interviewing and taking statements from employees, witnesses and reviewing documentation for instance.
- 5.5 Investigatory meetings are solely for the purpose of fact-finding and no decision on disciplinary action will be taken until after a disciplinary hearing has been held.
- 5.6 There is no statutory right for employees to be accompanied at a formal investigatory meeting. However, employees may be allowed to bring a companion if it helps to overcome any disability, or any difficulty in understanding English.
- 5.7 The senior leader/investigating officer will review the evidence and conclude the investigation in a report detailing the findings, conclusions and recommendations of the investigation.
- 5.8 Potential outcomes could be:
 - No further action will be taken if the senior leader is satisfied that there is no disciplinary case to answer.
 - Minor instances of misconduct may be handled under informal disciplinary procedures as outlined in Section 7 of this policy.
 - If it is decided that there is a formal disciplinary case to answer it will be handled under formal disciplinary procedures as outlined in Section 8 of this policy.

6. SUSPENSION

- 6.1 In some circumstances it may be necessary to suspend the employee from work. The suspension will be for no longer than is necessary to investigate the allegations, and the arrangements will be confirmed in writing. While suspended, the employee should not visit our premises or contact any of our clients, customers, suppliers, contractors, students or staff, unless they have been authorised to do so by the Executive Principal or, in case of the Executive Principal, the Chair of Directors.
- 6.2 Suspension of this kind is not a disciplinary penalty and does not imply that any decision has already been made about the allegations.

7. DISCIPLINARY PROCEDURE (INFORMAL)

7.1 Informal: management advice

- 7.1.1 Management can choose to deal with minor instances of misconduct informally, by way of issuing management advice. It is hoped that, in the vast majority of cases, management advice will resolve any issues and remove the need for further, more formal, disciplinary action.
- 7.1.2 We are not obliged to give notice of management advice discussions.
- 7.1.3 Repeated need to issue management advice to staff would normally lead to the formal stage of the procedure being implemented, in accordance with the policy.
- 7.1.4 There is no appeal against management advice.
- 7.1.5 Although informal, it will be recorded on the employee's personnel record and should be confirmed in a written memorandum. The employee may make written comment on the memorandum if s/he has any objection to the issuing of management advice.
- 7.1.6 Management advice discussions do not have an expiry period, however, they will be viewed in the context of time.

8. DISCIPLINARY PROCEDURE (FORMAL)

8.1 NOTIFICATION OF A HEARING

- 8.1.1 Following any investigation, if it is considered there are grounds for formal disciplinary action, the employee will be required to attend a disciplinary hearing.
- 8.1.2 The employee will be given written notice at least 10 school days in advance to inform them about:
- the date, time and place of the disciplinary hearing,
 - details of the alleged misconduct,
 - the possible consequences of the hearing,
 - the employee's right to be accompanied by a representative of their trade union or a workplace colleague of their choice,
 - their right to call witnesses on their behalf
 - the name and office of any consultant who will be present to advise the Federation,
 - the option to submit evidence they wish to be considered,
 - the procedure that will be followed.

- 8.2 The employee will also be asked whether they require any reasonable adjustments in order to attend the hearing, for example due to a disability or language barrier.
- 8.3 In advance of the hearing, giving the employee a reasonable amount of time to prepare their case based on the information provided, the employee will be provided with:
- a summary of relevant information gathered during the investigation,
 - a copy of any relevant documents which will be used at the disciplinary hearing, and
 - a copy of any relevant witness statements, except where a witness's identity is to be kept confidential.

8.4 DISCIPLINARY HEARING

8.4.1 Disciplinary hearings will be chaired by either a senior leader who has not previously been involved in the disciplinary case, or the Executive Principal (or the staff discipline committee where the Executive Principal is concerned).

8.5 The process of the disciplinary hearing is as follows:

8.5.1 The chair will:

- introduce those present to the employee and explain why they are there,
- introduce and explain the role of the accompanying person, if present.
- explain that the purpose of the meeting is to consider whether disciplinary action should be taken in accordance with this policy,
- explain how the meeting will be conducted.

8.5.2 The investigating officer will give a statement that:

- details the allegation/s,
- outlines the case by going through the evidence that has been gathered.

8.6 The investigating officer may also call witnesses and ask questions.

8.6.1 The employee will be given the opportunity to:

- state their case and answer any allegations that have been made,
- ask questions, present evidence and call witnesses.

8.6.2 Relevant witnesses may attend the hearing, provided there is sufficient advance notice to arrange their attendance.

- 8.6.3 The investigating officer will then provide a case summary.
- 8.6.4 The employee will then provide a case summary.
- 8.6.5 The chair will then adjourn the hearing in order to reflect and consider all the evidence they have read and heard and consider whether a disciplinary penalty is appropriate. This adjournment also allows for any further checking of any matters raised.
- 8.6.6 Where possible, the hearing will be reconvened and the decision will be given in person, and confirmed in writing including the right of appeal within 5 school days.
- 8.6.7 If this is not possible then the employee will be informed of the decision in writing as soon as possible, and no longer than 5 school days, including the reasons for the decision along with the right of appeal, if relevant.
- 8.6.8 Staff should make every effort to attend a disciplinary hearing. If, for any unavoidable reason, staff or their companion cannot attend at the time specified, they should advise the chair of the meeting, confirming the reasons in writing/by email as soon as possible.
- 8.6.9 Where an employee is persistently unable or unwilling to attend a disciplinary meeting without good cause, the employer should make a decision on the evidence available and may be taken to proceed in their absence.

8.7 DISCIPLINARY HEARING OUTCOMES

- 8.7.1 The senior leader/Executive Principal may conclude that there are insufficient grounds for pursuing disciplinary action, in which case no further action will take place.
- 8.7.2 The senior leader/Executive Principal may also adjourn the meeting if it is decided that further investigation is needed, or that more time is needed in which to consider additional information.
- 8.7.3 If the senior leader/Executive Principal deems the disciplinary case to be a minor incident of misconduct, they may issue management advice as detailed within Section 7 of this policy.
- 8.7.4 If the senior leader/Executive Principal deems that there has been misconduct, a written warning will be issued:
- This will be in writing and set out the nature of the misconduct and the change in behaviour required and the right of appeal.

- The warning will also inform the employee that a final written warning may be considered if there is further misconduct or no sustained satisfactory improvement or change.
- A record of the warning will be kept, but it will be disregarded for disciplinary purposes after 12 months.

8.8 If the offence is sufficiently serious, or if there is further misconduct, a final written warning may be given to the employee.

- This will be in writing and set out the nature of the misconduct and the change in behaviour required and the right of appeal.
- It will also warn that further misconduct or failure to improve may lead to dismissal (or some other action short of dismissal) and the right of appeal.
- A copy of this written warning will be kept but will be disregarded for disciplinary purposes after 18 months, subject to achieving and sustaining satisfactory conduct.

8.8.1 Dismissal or other sanction (formal):

- If there is still further misconduct, the final step in the procedure may be dismissal.
- Some acts, termed gross misconduct, are so serious in themselves or have such serious consequences that they may call for dismissal without notice for a first offence.
- Dismissal decisions can only be made by the Executive Principal (or the staff discipline committee where the Executive Principal is concerned).
- The employee will be informed in writing as soon as possible of the reasons for the dismissal, the date on which the employment contract will end, the appropriate period of notice and whether the notice is to be served or if there will be pay in lieu of notice.
- They will also be informed about their right of appeal to an Appeals Committee of Federation Directors, none of whom will have had any previous involvement in the case. The notice of appeal should be sent to the Clerk to the Directors (clerk@rutlandfederation.com) within 5 school days of receipt of the written decision to dismiss.

8.8.2 In some cases, at our discretion, alternatives to dismissal may be considered. These may be authorised by the Executive Principal (or the staff discipline committee where the Executive Principal is concerned) and will usually be accompanied by a final written warning. Examples include:

- demotion;
- transfer to another department or job;
- a period of suspension without pay;
- loss of seniority;
- reduction in pay;
- loss of future pay increment or bonus;
- loss of overtime.

8.8.3 If some sanction short of dismissal is imposed, the employee will receive details of the complaint, will be warned that it could result in dismissal if there is no satisfactory improvement, and will be advised of the right of appeal.

8.8.4 A copy of the sanction applied will be kept but will be disregarded for disciplinary purposes after 18 months, subject to achievement and sustainment of satisfactory conduct or performance.

9. RIGHT OF APPEAL

9.1 If an employee feels that a decision to dismiss them, or other formal action taken against them, is wrong or unjust, they may appeal in writing against the decision within 5 days of the decision, setting out at the same time the full grounds for appeal.

9.2 The appeal will be heard by the Executive Principal for appeals against sanctions imposed by senior leaders, or by a panel of Federation Trustees for appeals against sanctions imposed by the Executive Principal.

9.3 The employee will be informed in writing of the time and date of the appeal hearing, which should be held without unreasonable delay.

9.4 If the employee is appealing against dismissal, the date on which dismissal takes effect will not be delayed pending the outcome of the appeal. However, if the appeal is successful the employee will be reinstated with no loss of continuity or pay.

9.5 At least 5 school days in advance of the meeting, the employee will be reminded in writing about:

- the date, time and place of the meeting;
- their right to be accompanied by a representative of their trade union or a workplace colleague of their choice;
- the titles of enclosed copies of any documents to be used at the meeting;
- names of any witnesses to be called;
- their right to call witnesses on their behalf;
- the name and office of any adviser who will be present at the meeting.
- whether they require any reasonable adjustments in order to attend the hearing, for example due to a disability or language barrier.

9.6 The process of the appeal hearing is to:

- introduce those present to each other, explaining their presence if necessary,
- explain the purpose of the meeting, how it will be conducted, and the powers the people hearing the appeal have,
- ask the employee why they are appealing,
- invite the Executive Principal/senior leader to present the case for making the original decision,
- ask questions of witnesses,
- pay particular attention to any new evidence that has been introduced, and ensure the employee has the opportunity to comment on it.

9.7 Once the relevant issues have been explored, the employee will then provide a summary, and then the Executive Principal/senior leader will then provide a case summary.

9.8 The Chair will then call an adjournment to consider the decision which may either be revoked or upheld, or the chair may substitute a different penalty.

9.9 Where possible, the hearing will be reconvened and the decision will be given in person, and confirmed in writing.

9.10 If this is not possible then the employee will be informed in writing of the final decision as soon as possible, usually within one week of the appeal hearing.

9.11 There will be no further right of appeal.

10. TRADE UNION OFFICIALS

- 10.1 Although normal disciplinary standards must apply to the conduct of a trade union official as an employee, we will endeavour to discuss the circumstances of the case with the relevant full-time trade union officer before taking disciplinary action.

11. CONFIDENTIALITY

- 11.1 The proceedings of the disciplinary procedure shall remain confidential to the parties concerned. Our aim is to deal with disciplinary matters sensitively and with respect for the privacy of any individuals involved. All employees must treat as confidential any information communicated to them in connection with an investigation or disciplinary matter.
- 11.2 Employees and anyone accompanying them (including witnesses) must not make electronic recordings of any meetings or hearings conducted under this procedure.

12. GRIEVANCES ARISING DURING THE PROCEDURE

- 12.1 Where an employee has a grievance against the way the senior leader/Executive Principal has conducted the procedure, it will normally be dealt with under the appeals process set out in Section 9 of this policy. However, in very exceptional circumstances, where the behaviour of the senior leader/Executive Principal is the cause of the grievance, it may be appropriate to suspend this procedure for a short period until the grievance has been considered, or both the grievance and disciplinary will be dealt with concurrently.

13. DISCIPLINARY RULES: GROSS MISCONDUCT

- 13.1 Gross misconduct is a serious breach of contract and includes misconduct which, in our opinion, is likely to prejudice the running of our schools or our reputation or irreparably damage the working relationship and trust between us. This may include misconduct committed outside of work. Gross misconduct will normally lead to dismissal without notice or pay in lieu of notice (summary dismissal).
- 13.2 Any employee suspected of committing an act of gross misconduct, as indicated in the list below, may be suspended with full pay pending investigation; the suspension will not be considered a disciplinary action.
- 13.3 The disciplinary procedure will be followed in all cases. The list of examples below is not intended to be exclusive or exhaustive, and offences of a similar gravity will receive the same treatment.

- 13.4 Dishonesty associated with place of work or job being undertaken:
 - 13.4.1 Theft of property belonging to us, an employee or student.
 - 13.4.2 Deliberate falsification of timesheets or expenses claims for pecuniary advantage.
 - 13.4.3 Demanding or accepting monies or other considerations as a bribe for the use of our property or the provision of our services or the showing of favour on behalf of us.
 - 13.4.4 Falsification of any information given on an application form for a post to gain advantage, whether pecuniary or otherwise.
 - 13.4.5 Failure to disclose criminal convictions not exempt under the terms of the Rehabilitation of Offenders Act, 1974.
 - 13.4.6 Falsification of registration of students for pecuniary gain.
- 13.5 Deliberate refusal to carry out a reasonable, lawful and safe instruction or the normal agreed defined duties of the post.
- 13.6 Gross negligence in failing to attend to or carry out the agreed duties of the post.
- 13.7 Wilfully ignoring responsibilities or instructions, thus placing other employees or students in danger, e.g. ignoring handling instructions or safety regulations in respect of radioactive materials.
- 13.8 Being unfit to perform duties associated with the post as a result of taking drugs, other than in accordance with medical advice, or taking alcohol.
- 13.9 Wilful unauthorised disclosure of information (classified as confidential), by employees who, in the course of their duties, have access to such information which, by its release, could be harmful to the Federation, other employees or students.
- 13.10 Acts of violence or vandalism in the course of employment:
 - 13.10.1 Malicious damage to our, contractors', other employees' or students' property.
 - 13.10.2 Actual physical violence towards any member of the Federation community, or other members of the public.

- 13.11 Sexual misconduct at work:
 - 13.11.1 Sexual misconduct whether criminal or not.
 - 13.11.2 Sexual relations with students.
 - 13.11.3 Inappropriate relations with students.
 - 13.11.4 Abuse of trust.
- 13.12 Deliberately accessing internet sites containing pornographic, offensive or obscene material on site and/or using our equipment to do so.
- 13.13 Bullying, discrimination, harassment or victimisation.
- 13.14 Bringing the Federation into serious disrepute.
- 13.15 Discrimination, whether unlawful or not, in the course of duty against other employees, students or members of the public on the grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.
- 13.16 Off-duty misconduct:
 - 13.16.1 an act of criminal sexual misconduct by an employee who, in the course of duty, has contact with students and others for whom we have a duty of care;
 - 13.16.2 drug offences committed by employees whose job brings them into contact with young people;
 - 13.16.3 sexual misconduct whether criminal or not;
 - 13.16.4 sexual relations with students.
- 13.17 Serious insubordination.
- 13.18 A serious breach of confidence.
- 13.19 A serious breach of health and safety rules.
- 13.20 Causing loss, damage or injury through serious negligence.
- 13.21 A serious breach of the Federation's Safeguarding Policy or legislation.

14. DISCIPLINARY RULES: MISCONDUCT

- 14.1 Misconduct is of a degree less serious than that which would warrant immediate suspension from duty for a first offence but which could nevertheless lead to dismissal if it recurred.
- 14.2 The list of examples below is not intended to be exclusive or exhaustive, and offences of a similar gravity will receive the same treatment.
- 14.3 Absenteeism and lateness, for example:
- 14.3.1 failure to remain at the place of work during normal working hours without permission or sufficient cause for absence;
 - 14.3.2 frequent failure to attend work punctually;
 - 14.3.3 failure to notify us immediately or as soon as is reasonably practicable when absence is due to sickness;
 - 14.3.4 failure to provide medical certificates in accordance with the conditions of service and the Federation Sickness Management Policy.
- 14.4 Dishonesty - petty wrongs, for example:
- 14.4.1 making unauthorised private telephone calls and/or sending personal mail at the establishment's expense;
 - 14.4.2 failure to report any loss or damage to any property issued to or by the employee in connection with their employment.

Neglect of duty, for example:

- 14.4.3 failure to adopt safe working practices or to use protective equipment where required by law or management;
- 14.4.4 negligent use of our property in such a way as is likely to cause serious damage or loss;
- 14.4.5 failure to discharge without sufficient cause the obligations which statute, or the contract of employment, places on the member of staff;
- 14.4.6 insubordination;
- 14.4.7 failure to exercise proper control or supervision of students.

- 14.5 Abusive behaviour or offensive language which arises directly out of or in connection with work and which is directed at colleagues, Directors, students or members of the public.
- 14.6 Victimisation of other employees in the course of duty.
- 14.7 Unlawful discrimination against other employees, students or members of the public in the course of duty.
- 14.8 Discrimination, whether unlawful or not, in the course of duty against other employees, students or members of the public on the grounds of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, and sexual orientation.
- 14.9 Undertaking additional employment outside normal working hours which would be detrimental to the work to be performed as one of our employees.
- 14.10 A breach of Federation safeguarding policy or legislation.