

DISCIPLINARY POLICY

This policy and attached procedures do not form part of the contract of employment.

PRINCIPLES

1. To promote the highest standards of conduct by the employee both at and away from work.
2. To ensure employees take reasonable care of the health and safety of themselves, their colleagues, pupils and third parties.
3. To ensure employees comply with reasonable management instructions.
4. To ensure that all employees act at all times in good faith and in the best interests of Christ Church Cathedral School (the School).
5. To treat all employees fairly and make them aware of the procedures that will be followed in the event that they fail to achieve and maintain the standards of conduct expected by the School.
6. To ensure that any disciplinary issues are raised and dealt with promptly by management and there is not unreasonable delay in meetings, decisions and confirmation of decisions.
7. To deal with disciplinary matters sensitively and with due respect for the privacy of the individuals involved. All members of staff must treat as confidential any information communicated to them in connection with an investigation or disciplinary matter.

PROCEDURE

General

Disciplinary measures are necessary to support the School's rules and to promote the best possible standards of conduct and behaviour.

If the employee has any difficulty at any stage of the procedure because of a disability s/he should discuss the situation with the investigating officer, Disciplinary Panel, Appeal Panel (see below), or his/her line manager, as soon as possible.

The employee must not make electronic recordings of any meetings or hearings conducted under this procedure.

Flexibility

There may be occasions when it is not reasonable or appropriate for the School to follow every step in this procedure. In these circumstances it may be appropriate for the School to change or omit parts of the procedure. However, the School will follow a fair and effective procedure in the event that disciplinary action is necessary and will provide guidance and support as is appropriate.

The time limits referred to or set in accordance with this procedure may be varied by the School.

The School may amend this procedure from time to time and will notify staff of any such changes.

Scope of this policy

This procedure does not apply to cases involving genuine sickness absence, redundancies, incompetence, incapability or other poor performance unless they are attributable to the employee's wilful disinclination to carry out duties efficiently or effectively.

There may be circumstances when it is appropriate for the School to take disciplinary action against an employee based on misconduct that has occurred outside of normal school hours. Employees must ensure that they uphold high professional standards at all times and do not do anything which may affect their suitability to work with pupils, or adversely affect the School's, or the teaching profession's, reputation, or which may affect the School's relationship with third parties, including pupils and parents.

Informal resolution

Minor conduct issues can often be resolved informally between employees and their line manager. These discussions will be held in private, and without undue delay, whenever there is a cause for concern. Where appropriate, a note of any such informal discussions may be placed on an employee's personnel file but will be ignored for the purposes of any future formal hearings. In some cases a verbal warning will be given which will also not form part of the employee's disciplinary records for the purposes of determining any future penalty under this procedure. Formal steps will be taken under this procedure if the matter is not resolved, or if informal discussion is not appropriate (for example because of the seriousness of the allegation).

Criminal charges

Where the employee's conduct is the subject of a criminal investigation, charge or conviction, the School will investigate the facts fully before deciding whether to take formal disciplinary action. The School will not usually wait for the outcome of any prosecution before deciding what action, if any, to take. Where the employee is unable to, or the employee has been advised not to attend an investigatory or disciplinary hearing, or say anything about a pending criminal matter, the School may take decisions about the appropriate action to take based on the evidence.

A criminal investigation, charge or conviction relating to conduct outside work may be treated as a disciplinary matter if the School consider it is relevant to the employee's employment and/or has potential safeguarding implications.

Formal resolution

Suspension

In some cases the School may need to suspend the employee from work. The suspension will be for no longer than is necessary to investigate the allegations. The School will confirm the arrangements to the employee in writing. Whilst suspended an employee should not visit the School or contact any pupil, parent, member of staff, governor, or anyone otherwise professionally connected with the School.

Suspension is not a disciplinary penalty and does not imply that any decision has already been made about the allegations. Employees will continue to receive their full salary and benefits during the period of suspension.

Investigation

No action will be taken until the matter has been investigated to the satisfaction of the School. This will usually include gathering relevant documentary evidence and interviewing witnesses as appropriate. All employees are required to co-operate fully and promptly in any investigation.

The investigation will be carried out by a senior member of staff appointed by the School (“the Investigating Officer”) who will be separate from any member of the Disciplinary Panel.

As part of the investigation the Investigating Officer may (if considered appropriate) undertake an interview with the employee subject to disciplinary action. At such interview, the employee will be advised of the nature of the complaint. The employee will be given the opportunity to state his/her case.

Completion of investigation

On completion of the investigation, the Investigating Officer will draw up a report for consideration by a nominated officer (who will be a member of the Senior Management Team, or Governing Committee of the School,) who will decide if there is a potential case to answer.

If the School deems that there is a potential case to answer in respect of the complaint or issues arising, a disciplinary hearing will be arranged.

If, after investigating the matter, it appears that there are no reasonable grounds for complaint, the employee will be informed and, if suspended, the employee will return to work as normal.

DISCIPLINARY HEARING

Disciplinary Panel

In the event that a disciplinary hearing is necessary, the matter will be heard by a Disciplinary Panel to be appointed by the School. This will usually involve the Headmaster and a member of the Senior Management Team. In cases of alleged gross misconduct the disciplinary panel will be composed of at least two Governors. The investigating officer shall not be a member of the Disciplinary Panel.

Invitation to the disciplinary hearing

A written invitation of the disciplinary hearing will be sent to the employee. This will inform the employee of the date, time and location of the disciplinary hearing. The hearing will be held as soon as reasonably practicable but the employee will be given a reasonable amount of time to prepare their case.

It will also set out:

1. the allegations against the employee;
2. the basis for those allegations;
3. the likely range of consequences if the School decides after the hearing that the allegations are well founded.

The School will inform the employee of his or her statutory right to be accompanied by a colleague or trade union representative at the disciplinary hearing.

The School will include the following where appropriate:

1. a summary of relevant information gathered during the investigation;
2. a copy of any relevant documents which will be used at the disciplinary hearing; and
3. a copy of any relevant witness statements, except where a witness's identity is to be kept confidential, in which case the School will give the employee as much information as possible while maintaining confidentiality.

The employee shall notify the Disciplinary Panel on receipt of the invitation to the disciplinary hearing (or as soon as reasonably practicable) of any additional evidence that he would like to be obtained and/or taken into account.

Any request to obtain additional documentation should provide as much information as possible about where the documentation is likely to be located, or obtained, by the School.

Any request to obtain additional witness statements should clarify who the employee would like the Investigating Officer to speak to and his/her connection with the alleged acts.

The School will take reasonable steps to obtain such evidence provided that sufficient notice is given by the employee and the School deems that in all the circumstances it is appropriate to obtain such evidence.

Failure to attend hearings

If there is any reason why the employee or their companion is unable to attend the disciplinary hearing at the stated time or location, they must notify the School as soon as possible. The School will make reasonable attempts to re-arrange the hearing.

If employees fail to attend hearings without good reason, or are persistently unable to do so, the School may have to take a decision based on the available evidence.

The hearing

The hearing will be conducted by the Disciplinary Panel. The Disciplinary Panel will go through the allegations against the employee and the evidence that has been gathered. The Investigating Officer will be present at the hearing and will be asked to present the investigation report and supporting material.

The employee and his/her companion (a colleague or trades union official) and the Disciplinary Panel will be entitled to question the Investigating Officer.

The employee will be entitled to give any explanation and present evidence of their own. The employee may be subject to questioning by those in attendance at the disciplinary hearing.

Companions accompanying an employee may make representations and ask questions; however they will not be permitted to respond to questions on the employee's behalf. The employee may confer privately with her/his companion at any time during the hearing.

Adjournment

The Disciplinary Panel may adjourn the proceedings at any stage if this appears necessary or desirable (for example re-interviewing witnesses based on new points raised by the employee at the hearing).

If adjourning for the purpose of enabling further information to be obtained, the Disciplinary Panel will specify the nature of that information. The employee will have a reasonable opportunity to consider any new information obtained before the hearing is reconvened.

Any adjournment will normally be for a stated period.

Decision making

On completion of the hearing, the Disciplinary Panel will retire to consider the decision. Neither the Investigating Officer, nor the employee nor the employee's representatives will be allowed to take part in, nor be present during, the Disciplinary Panel's deliberations.

Communication of decision

When the Disciplinary Panel has made a decision this will be communicated to the employee in writing as soon as practicable. If the allegation is upheld, the employee will be informed of the action to be taken and, where appropriate, of the right to appeal against the decision.

Where possible the Disciplinary Panel will also explain this information to the employee in person.

Outcome

Employees will not usually be dismissed for a first act of misconduct unless the School decides that it amounts to gross misconduct or the employee has not yet completed his/her probationary period. Examples of acts which the School considers may amount to misconduct or gross misconduct are listed at the end of this policy.

The usual penalties for misconduct are set out below. No formal penalty should be imposed by the School without a hearing. The required level of authority set out below should be obtained before any penalty is given.

The School aims to treat all employees fairly and consistently. A penalty imposed on another employee for similar misconduct will usually be taken into account but should not be treated as a precedent. Each case will be considered on its own merits.

Stage 1 – First written warning	A first written warning will usually be appropriate for a first act of misconduct where there are no other active written warnings on the employee’s record.
Stage 2 – Final written warning	A final written warning will usually be appropriate for: <ul style="list-style-type: none"> • misconduct where there is already an active written warning on an employee’s disciplinary record; or • misconduct that the School considers sufficiently serious to warrant a final written warning even though there are no other active warnings on the employee’s record.
Stage 3 – Dismissal	Dismissal will usually be appropriate for: <ul style="list-style-type: none"> • misconduct during an employee’s probationary period • further misconduct where there is an active final written warning on the employee’s record; • any gross misconduct whether or not there are active warnings on the employee’s disciplinary record. Gross misconduct will usually result in immediate dismissal without notice or payment in lieu of notice (summary dismissal). Examples of gross misconduct are set out below.

In the case of reoccurrence, at each stage, the disciplinary procedure above will be followed. When considering the appropriate sanction, the Disciplinary Panel in any subsequent hearing will consider any active warnings on the employee’s file, and whether they relate to conduct of the same or a similar nature.

Employees must be aware that a failure to heed disciplinary warnings may result in their dismissal.

Mitigation

The School may take account of mitigating factors, including a member of staff’s length of service and previous disciplinary record, and to vary these procedures accordingly.

Alternatives to dismissal

In some cases the School may, at its discretion, consider alternatives to dismissal. These may be authorised by the Governor’s Disciplinary Panel. They will usually be accompanied by a final written warning and may include:

1. demotion;
2. transfer to another department or role;
3. a period of suspension without pay;
4. loss of seniority;
5. reduction in pay.

Disciplinary authority

The previous section is based on the following authority being required to impose various levels of disciplinary penalty. However, this shall not prevent a person of higher or lower level of seniority approving such penalty on behalf of the School, in the event of a person(s) of the appropriate level not being available, and awaiting their availability would cause undue delay.

Formal oral warning	Headmaster
Written warning	Headmaster
Final written warning	Headmaster
Dismissal	Governors' Disciplinary Panel

Duration of warnings

1. Formal oral warning

A formal oral warning will normally be disregarded after a six month period.

2. Written warning

A written warning will normally be disregarded after a twelve month period.

3. Final written warning

A final written warning will normally be disregarded after a twelve month period.

After the active period, and subject to the School's data protection obligations, the warning will remain on the employee's personnel file but will be disregarded in deciding the outcome of future disciplinary proceedings.

RIGHT OF APPEAL

An employee shall have the right to appeal against any penalty imposed by the Disciplinary Panel.

Appeal

Any notice of appeal must be sent to the Headmaster within 5 working days of the employee being notified of the disciplinary sanction. The notice of appeal shall contain a written account of the employee's grounds of their appeal.

On receipt of a notice of appeal, the Headmaster shall arrange a hearing before the Appeal Panel. Such hearing is to take place as soon as reasonably practicable.

Appeal Panel

The Appeal Panel shall not include the Investigatory Officer, nor any member of the Disciplinary Panel and shall comprise at least two Governors.

Appeal procedure

Unless the employee is notified that the School exercises its discretion to undergo a complete re-hearing of the disciplinary stage, the appeal shall be limited to the employee's grounds of appeal.

The procedure at the appeal hearing shall mirror the procedure for the Disciplinary hearing, in so far as the employee shall receive an invitation to the appeal hearing, shall have the right to inform the Appeal Panel of any new evidence that he wishes to have taken into account, shall have a reasonable opportunity to prepare his/her case for the appeal hearing and shall have the right to be accompanied at the appeal hearing.

If the employee raises any new matters in their appeal the School may need to adjourn to carry out further investigation. If new evidence is obtained, the employee will be given the opportunity to consider the new evidence before the appeal hearing or reconvened appeal hearing.

Appeal outcome

The Appeal Panel will be entitled to:

- confirm the original decision;
- revoke the original decision;
- substitute a different sanction.

The employee will be informed of the outcome as soon as possible after the appeal panel has reached their decision. Where possible the decision will also be conveyed to the employee in person.

There will be no right of appeal from the decision of the Appeal Panel.

Employment status

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

NCTL referral

The school is under an obligation to consider making a referral to the National College for Teaching and Leadership (NCTL) where a teacher has been dismissed and a prohibition order may be appropriate. Further guidance is published on the NCTL website.

EXAMPLES OF CONDUCT WARRANTING DISCIPLINARY ACTION

Misconduct

The following are examples of matters that will normally be regarded as misconduct, which will be dealt with by the School under the disciplinary policy:

- Minor breaches of the School's policies, including but not limited to a failure to abide by the general health and safety rules and procedures;
- Minor breaches of the employee's contract including but not limited to a failure to:
 - a. devote the whole of the employee's time, attention and abilities to the School's business and its affairs during normal working hours; and
 - b. carry out reasonable management instructions, in less significant matters;
- Smoking in designated non-smoking areas;
- Unauthorised consumption of alcohol on the premises, or consumption of alcohol four hours or less before commencing work;
- Poor timekeeping;
- Negligence in the performance of the employee's duties or willful production of work of a poor quality;
- Rudeness towards other members of the School, visitors, members of the public or other staff, objectionable or insulting behaviour, harassment, bullying or bad language;
- Unauthorised or excessive personal use of the School's telephone, e-mail and Internet systems, whether accessed by way of a School device or otherwise;
- Unauthorised use or negligent damage or loss of the School's property; and/ or a failure to report immediately any damage to property or premises s/he has caused;

- Use of School vehicles without approval or the private use of a School vehicle without authorisation;
- Failure to report any incident whilst driving a School vehicle, whether or not personal injury or vehicle damage occurs; and
- Carrying unauthorised goods or passengers in a School vehicle or the use of a School vehicle for personal gain.

This list is intended as a guide and is not exhaustive.

GROSS MISCONDUCT

Gross misconduct is a serious breach of contract and includes misconduct which, in the School's opinion, is likely to prejudice the School or its reputation or irreparably damage the working relationship and trust between the School and the employee. Gross misconduct will be dealt with under the procedure set out above and will normally lead to dismissal without notice, or pay in lieu of notice (summary dismissal). The following are examples of matters that will normally be regarded as gross misconduct, which will be dealt with by the School under the disciplinary policy:

- Any action detrimental to the safeguarding of children whether committed at or outside work;
- Dishonest, indecent, violent (including actual or threatened violence or behaviour which provokes violence) or dangerous or offensive behaviour whether committed at or outside work;
- Conviction for a criminal offence that in the School's opinion may affect the employee's suitability to work with pupils, the School's reputation, or its relationship with third parties, including pupils and parents or otherwise affects the employee's suitability to work for the School;
- Deliberately accessing internet sites containing pornographic, offensive or obscene material;
- Theft, or fraud, including but not limited to:
 - unauthorised removal, misuse of, or deliberate damage to, School property, computers and computer software, whether belonging to the School, another staff member, or a third party; and/or
 - deliberate falsification of any records (including but not limited to time sheets, absence records, or fabrication of expense claims, in respect of themselves or any fellow staff member);
- Serious neglect of duties, serious gross breach of the employee's contract of employment or gross insubordination and/or continuing refusal to carry out legitimate instructions;
- Bullying or unlawful discrimination or harassment;
- Serious incapacity or poor performance at work caused by intoxicants or illegal drugs;
- Possession, supply (including attempted supply) or use of illicit drugs;

- Undertaking private work on the premises during working hours without express permission;
- Taking part in activities which bring the School's reputation into disrepute, or otherwise result in adverse publicity to the School, (whether committed at or outside work) or which cause the School to lose faith in the employee's integrity;
- Destruction/sabotage of the School's buildings and or any property on the School's premises, whether owned by the School or a third party or interference with or misuse of any equipment for use at work that may cause harm;
- Serious breaches of health and safety rules or food safety rules which endanger the safety or well-being of staff, or any other person;
- Knowingly breaching statutory rules concerning the employee's work;
- Serious breach of confidence or unauthorised use, processing or disclosure of personal data contrary to the School's data protection policy;
- Giving false information as to qualifications or entitlement to work (including immigration status) in order to gain employment or other benefits;
- Making a disclosure of false or misleading information under the School's whistleblowing policy, for personal gain or in bad faith; or otherwise making untrue allegations in bad faith against a colleague.

This list is intended as a guide and is not exhaustive.

Reviewed by SMT 31 August 2015