



Leicestershire Traded Services

Disciplinary Guidance for Booth Wood Primary School

It will be reviewed in line with LCC updates

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Purpose

This guidance should be used in conjunction with the Disciplinary Policy and Procedure for Schools, Colleges and Academies.

Stage 1 - Initial Discussion Meeting

In cases of misconduct (see [Appendix A](#)), an appropriate manager (usually the employee's line manager) should make initial enquiries about the incident or allegation. This will normally involve a discussion with the employee concerned to find out if there is a simple explanation. It is not usual practice for an employee to be accompanied at this stage. There is no requirement to provide the employee with notice of this meeting as it is part of normal day-to-day management.

The employee should be notified, verbally, of the outcome of the meeting. If notes are made at the meeting then a copy should be provided to the employee. During or following the meeting, the manager will need to consider whether it is necessary to [suspend](#) the employee.

In cases where gross misconduct (see [Appendix B](#)) is alleged, managers may bypass the Initial Discussion Meeting and progress directly to a Formal Investigatory Meeting (Stage 2).

Safeguarding Allegations

Any allegations of misconduct that involve potential safeguarding issues should be dealt with in accordance with Leicestershire's child protection procedures and advice sought from the Council's Allegations Manager (the Local Authority Designated Officer) as soon as the allegation is brought to light.

Criminal Offences

Advice should be sought from HR Services if an employee is charged with or convicted of a criminal offence, particularly if the employee has been issued with a custodial sentence. It may be appropriate to liaise with the Police.

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Suspension

Suspension is not a disciplinary penalty and does not in itself imply any presumption of guilt on the part of the employee. It should only be considered if:

- The employee has been arrested or charged with a serious criminal offence which has an impact upon their position or calls into question their suitability for their job;
- There is a demonstrable concern that the employee or others (e.g. colleagues, pupils) may be placed at risk by the employee remaining in the workplace;
- It is considered that the employee may seek to influence witnesses or the conduct of the investigation.

Suspension should only be imposed after careful consideration which might include consideration being given to adjusting the employee's work as an alternative to suspension. Advice should be sought from HR Services before suspending an employee. Once the decision has been made, it will be necessary for a meeting to be convened with the employee immediately. If the employee is not on site, they should be seen immediately when they are next at work.

Suspending an employee via email, voicemail or text is not considered suitable in any circumstance. Suspension via the phone should only be used in exceptional circumstances (e.g. if there is a safeguarding issue) and should be confirmed in writing to the employee as soon as possible.

In the case of safeguarding issues, theft or other possible criminal offences it may be necessary, as well as suspending the employee, for the Investigating Officer to consider involving the police in their investigation. Advice should be sought from HR Services if it is felt that this measure is necessary.

Preparing for the Suspension Meeting

When preparing to suspend an employee the following should be considered:

- How the suspension will be carried out, i.e. when, where and by whom. It is important to ensure that confidentiality is maintained;
- Who will accompany the employee to collect their personal belongings;
- How other members of staff will be communicated with (bearing in mind the need to maintain confidentiality);
- What property/records should be obtained from the employee before they leave the premises (i.e. laptop, keys, etc);
- Contact arrangements with the suspended employee (the employee's telephone number should be confirmed) including frequency of contact. It may be difficult for the employee's line manager to take on this position as they are likely to be the Investigating Officer, therefore a nominated manager will normally take on this role;
- Contact with other employees following suspension;
- How to escort the employee off the school/college/academy premises.

Conducting the Suspension Meeting

During the suspension meeting, the employee is likely to have a number of queries surrounding the nature of the concerns raised against them. It is important that the meeting does not turn into an investigatory interview and that the Investigating Officer does not engage in detailed conversation regarding the allegations.

At the suspension meeting the employee should be advised:

- Why they have been suspended (i.e. outline the nature of the allegations but not specifics);
- That suspension is viewed as a neutral act and does not pre-determine the outcome of the investigation;
- That the suspension will be on full pay (providing that they maintain contact throughout their suspension and make themselves available for meetings);
- That they should not enter the school/college/academy premises without prior permission;
- That colleagues and possibly parents will need to be informed of their absence and that it is proposed to advise them that the absence is due to personal reasons;
- That they should not discuss/involve/engage with or contact work colleagues, pupils or others about the case. (If the employee wishes to call a witness, contact should be made via their representative. If they do not have a representative, contact should be made via their line manager).
- That they will be invited to attend a Formal Investigatory Meeting and given the opportunity to put forward their version of events / explain their conduct.
- That they should be available to be contacted or attend meetings during their normal working hours. Therefore, if applicable, prior to taking any leave it will be necessary to gain authorisation from their line manager;
- That Trade Union representation and welfare advice is available and should be sought if required;
- That any sickness during the period of their suspension must continue to be reported in line with the School/College/Academy's sickness absence reporting procedures;
- That the investigation will be conducted as swiftly as possible and they will be kept updated on how the matter is progressing;
- That they are required to return any property belonging to the School / College / Academy which may be required during their suspension (e.g. Premises Officer who has the only set of keys for the building);
- That they will receive written confirmation of the suspension meeting.

The employee is able to be accompanied at the meeting if they wish and should be made aware of this at the beginning of the meeting. If the Investigating Officer is aware that the employee is a member of a union it may be appropriate for them to make contact with the union prior to the meeting to check if someone would be available to offer support to the employee either during the meeting or immediately afterwards. The detail of the concerns should not be divulged to the union representative in order to ensure the employee's privacy is maintained. The meeting should not be delayed if no-one is available to accompany the employee.

The Investigating Officer should confirm to the employee the reason for, and terms of, the suspension in writing as soon as possible after the meeting. A template letter is attached at [Appendix C](#). It is recommended that the duration of suspensions are kept to a minimum and that employees are kept updated on progress of the investigation on a regular basis.

Lifting the Suspension

During the course of the investigation it may become apparent that it is no longer necessary for the employee to be suspended from work. In such cases, the Investigating Officer should contact the employee as soon as possible to advise them of this and to arrange their return to work. A template letter is attached at [Appendix D](#).

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Investigation

The Investigating Officer

Investigations will normally be conducted by the employee's line manager. The Head Teacher/Principal should only be the Investigating Officer in circumstances where they will not be given delegated responsibility for making any decisions about a potential dismissal or other sanction.

The role of the Investigating Officer is to collect relevant evidence, including that which is favourable to the employee and make a determination on the allegations based on the evidence. They should not be involved in making a decision on the disciplinary outcome (but will be expected at the end of their investigation to make a recommendation on next steps). In small schools/colleges/academies this is not always possible, in which case, an external investigator may be commissioned, particularly where there are more serious allegations. This may also be advisable where there is a need to investigate a more complex case or where tight time constraints apply. HR Services are available to undertake investigations on request.

Collecting Evidence

In addition to interviewing witnesses, the Investigating Officer should collect any documentation that is relevant to the allegations raised. As a matter of course the employee's personal file should be accessed and a copy of the employee's job description obtained. The Investigating Officer should consider any previous disciplinary warnings the employee may have on file.

The types of documents/information required will vary depending on the case but may include:

- Files and documents
- Policies and procedures
- CCTV footage*
- Computer records*
- Training records

- Written complaints
- Witness statements
- Custom and practice

***Use of Electronic and Surveillance Equipment**

As part of the contract of employment, provision is made for information gathered from various types of electronic surveillance equipment to be accessed and, where appropriate, be used as evidence in a disciplinary investigation. The following principles should be observed by the Investigating Officer when requesting, gathering and using such information:

- The use of any records should be reasonable and proportionate to the issue under investigation;
- Only records which are to be specifically referred to at a disciplinary hearing should be included in the pack of evidence issued by the Investigating Officer;
- Records collated should be kept secure and destroyed at the conclusion of the case (which needs to allow time for an appeal, Employment Tribunal or civil claim);
- Care should be taken to act within the confines of relevant legislation and not inappropriately infringe on the employee's rights. Further advice is available from HR Services.

Interviewing Witnesses

The Investigating Officer should arrange to meet individually with any witnesses. At the meeting it is not necessary to inform the witness of the full facts of the case, the intention of the meeting is to discover what they have witnessed and obtain any information that may assist in the investigation. The Investigating Officer should prepare in advance a list of questions for each witness so that they are clear about what issues they wish to discuss. As the meeting evolves it may be necessary for supplementary questions to be asked if further explanation or understanding is required. If a witness statement was produced immediately following the event, the Investigating Officer should refer to this when questioning the witness.

During the meeting the Investigating Officer should:

- Acknowledge that they appreciate it may be difficult for the employee to provide information about a work colleague and thank them for attending the meeting;
- Introduce the people present and explain their role;
- Explain the purpose of the meeting;
- Advise that breaks can be taken as necessary;
- Advise that a written record of the meeting / witness statement will be taken and sent to them for verification. They will be asked to sign and return one copy;
- Use open questions to gain a broad picture (e.g. what happened next?);
- Reiterate the importance of maintaining confidentiality;

- Inform the witness that if the case proceeds to a disciplinary hearing they may be required to attend and that the notes of their meeting / witness statement will be used as evidence.

Concluding the Investigation

The investigation is complete once the Investigating Officer has interviewed the employee / any witnesses and has obtained sufficient evidence on which to base a decision as to whether or not there is a case to be answered. The Investigating Officer will need to consider all of the relevant evidence, including that provided by the employee, and take a balanced view as to whether the allegations against the employee are founded. The standard of proof for any investigation and any subsequent disciplinary hearing will need to be “on the balance of probabilities”.

The Investigating Officer should produce a report outlining their findings and a recommendation on next steps. As a copy of the report should be included in any disciplinary hearing paperwork, it is important that the report is well structured and clearly defines the background, methods of investigation, and summarises the key points. An example investigation report format can be found at [Appendix G](#).

Where the responsibility for hearing the case is delegated to the Head Teacher/Principal, another appropriate manager (e.g. another member of the leadership team) should take on the role of deciding, based on the contents of the investigation report, what action should be taken and whether the case should proceed to a formal Disciplinary Hearing. Once a decision has been made, the employee should be advised of the outcome in writing as soon as possible by the Investigating Officer. A template letter to advise the employee that no further action will be taken or the issue will be addressed informally is attached at [Appendix F](#).

If the decision is made to proceed to a disciplinary hearing, the employee should be advised of the allegations in the letter inviting them to the disciplinary hearing. A template letter is attached at [Appendix J](#).

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Stage 2 - Formal Investigatory Meeting

The purpose of this meeting is to establish the facts and allow the employee to respond to the incident / concerns and evidence.

The Formal Investigatory Meeting will be conducted by the [Investigating Officer](#) who will usually be the employee’s line manager. The employee should be informed in writing of the requirement to attend the meeting giving at least 5 working days notice. It should be held on a day and time when the employee normally works so that it does not interfere with childcare and other commitments.

The letter should outline that there are concerns / serious concerns regarding the employee’s conduct but not contain specifics. It must include the employee’s right to be accompanied at the meeting by a work colleague or Trade Union representative. A template letter is attached at [Appendix E](#).

At the meeting the Investigating Officer will:

- Explain the purpose of the meeting and their role as Investigating Officer;
- Ensure that the employee is clear on the concerns being raised;
- Ask the employee to respond to the concerns against them;
- Obtain details of any witnesses that will need to be interviewed following the employee's evidence;
- Obtain copies of any documentary evidence that the employee wishes to provide;
- Warn the employee that the matter may result in a formal disciplinary hearing at which they will have the right to be accompanied by a work colleague or Trade Union representative.

The employee should be provided with a copy of the notes from the meeting as soon as possible and asked to confirm that they are an accurate record.

If not already carried out at the initial stage (Stage 1), the Investigating Officer will need to consider whether or not it is necessary to [suspend](#) the employee.

No formal disciplinary action will be taken until the matter has been fully investigated and, only if the matter is deemed to be serious then, a formal disciplinary hearing held.

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Stage 3 - Disciplinary Hearing

If the outcome of the investigation is that formal disciplinary action should be taken, a Disciplinary Hearing will be convened to consider the case.

Documentation

The Investigating Officer will write to the employee to notify them of the details of the hearing giving them a minimum of 10 working days notice. The letter should include:

- The date, time and venue of the disciplinary hearing;
- A clear statement of the allegations;
- The employee's right to be represented at the meeting by a work colleague or Trade Union representative;
- Details of any witnesses that will be attending;

A template letter is attached at [Appendix J](#). **A copy of any evidence that will be relied on at the hearing must also be enclosed.** This should include:

- Brief details of the employee's role and their employment with the School/College/Academy (include a copy of the employee's job description);
- A copy of the investigation report (including copies of all signed meeting notes and statements);
- Copies of relevant policies and procedures.

An example disciplinary hearing folder contents list can be found at [Appendix H](#).

At the disciplinary hearing the Investigating Officer will be required to present a 'statement of case'. This should include information relating to the individual's employment, what the allegations are and how they came about, details of the investigation and its findings. Attached at [Appendix I](#) is an example statement of case format which the Investigating Officer may find useful as a basis for their presentation.

In advance of the hearing, the Investigating Officer should also try to predict the questions which the employee and panel/delegated person may ask and prepare the answers. If witnesses are due to attend in support of the management case, questions the Investigating Officer wishes to ask of them should be prepared in advance. A note-taker should also be arranged for the hearing.

The hearing should be held on a day and time when the employee normally works so that it does not interfere with childcare or other commitments. Whenever possible the date should be arranged in consultation with the employee and their representative. Where an employee's chosen representative is unable to attend on the arranged date of the hearing the employee can suggest an alternative within 5 working days of the original date.

It is important that the employee is made aware that if they fail to attend on the given (or rearranged) date without an acceptable reason, the hearing may go ahead in their absence. In these circumstances, the panel or delegated person are advised to contact HR Services for advice before progressing with the hearing.

Where an employee is not able to attend due to ill health it may be necessary, depending on the length of and reason for the absence, to postpone the hearing. In such cases, the panel or delegated person are advised to contact HR Services for advice as it may be appropriate to make a referral to Occupational Health regarding the employee's fitness to attend a hearing.

The letter to the employee must also request that if they intend to refer to any documentation at the hearing, a copy of this must be sent to the panel or delegated person at least 5 working days before the date of the hearing. The panel or delegated person should ensure that copies are provided to the manager who will be presenting the case and if applicable, the other panel members.

Witnesses

It is the responsibility of the Presenting Officer to ensure that witnesses (if required) are invited to attend the hearing.

Likewise, it is the employee's responsibility to give advance notice that they intend relevant witnesses to be invited (if required) to support their case at the hearing.

Witnesses should only be present at the hearing whilst questions are being asked of them by the employee/representative, Presenting Officer and panel members.

Conduct of the Hearing

1. The panel or delegated person will introduce those present and outline the procedure to be followed. An employee who is not accompanied will be reminded of their right to representation by a work colleague or Trade Union representative.
2. The manager presenting the case (i.e. the Presenting Officer) will outline their statement of case. They should refer to documents circulated beforehand to evidence their views.
3. If applicable, the Presenting Officer will invite management's witnesses (one by one) to the Hearing. The witness will be questioned initially by the Presenting Officer, then the employee and/or their representative may question the witness followed by questions from the panel.
4. The Presenting Officer will conclude their statement of case.
5. The employee and/or their representative may question the Presenting Officer on their case presentation.
6. The panel or delegated person may question the Presenting Officer on their case presentation.
7. The employee and/or their representative will outline their case. They may refer to documents circulated beforehand.
8. If applicable, the employee or their representative will invite the employee's witnesses (one by one) to the Hearing. The witness will be questioned initially by the employee and / or their representative, then the Presenting Officer may question the witness followed by questions from the panel.
9. The employee and/or their representative will conclude their case.
10. The Presenting Officer may question the employee and their representative on their case presentation (the employee's representative is not able to answer questions on their behalf).
11. The panel or delegated person may question the employee and their representative on their case presentation (the employee's representative is not able to answer questions on their behalf).
12. The Presenting Officer will have the opportunity to sum up the case against the employee. No new evidence can be included at this point.
13. The employee and/or their representative will have the opportunity to sum up their case. No new evidence can be included at this point.

14. The Presenting Officer, the employee and their representative will leave the room so that the panel or delegated person can deliberate.
15. Having deliberated on the matters placed before them, the panel or delegated person will reach their decision and then recall and advise those attending the hearing of the outcome.

Potential Outcomes

For each allegation the panel or delegated person will first need to decide whether each allegation is founded or not. They will then need to consider an appropriate sanction. The following options are available to the panel or delegated person dependent on the seriousness of the offence. Examples of actions / behaviours / attitudes which may constitute gross misconduct and misconduct are shown in [Appendix A](#) and [Appendix B](#).

- **No Further Action Necessary**

There may be instances where the outcome of the hearing is that there is no case to answer (i.e. there is no finding on the disciplinary charge or the findings are so insignificant). In these circumstances the case will be dismissed without any further formal action against the employee although the panel may wish to make recommendations (e.g. training).

- **First Written Warning**

For less serious breaches of discipline a First Written Warning may be issued. The employee will be given a letter confirming the warning including confirmation of any improvement required and the consequences should the required standard not be achieved. A record of this will be kept on file for a period of 6 months from the date of the disciplinary hearing after which time it will be disregarded and destroyed, unless covered by the safeguarding children legislation.

- **Final Written Warning**

In cases where there has been a further act of misconduct related to a previous warning, or where the misconduct is sufficiently serious, a Final Written Warning may be issued. The employee will be given a letter confirming the warning including confirmation of the improvement required and the consequences of their future conduct not meeting the required standards. A record of this will be kept on file for a period of 12 months from the date of the disciplinary hearing after which time it will be disregarded and destroyed, unless covered by the safeguarding children legislation.

- **Dismissal**

Except for cases of gross misconduct, an employee should not usually be dismissed for a first breach of discipline. Employees should be dismissed with notice except in the case of gross misconduct where the employee will be dismissed without notice. Schools have the option to pay in lieu of notice, if this is deemed to be appropriate.

The disciplinary sanctions outlined will normally be followed sequentially in the order shown above. However, offences of a serious nature may be brought into the procedure at any level if an earlier sanction would not be appropriate or severe enough to deal with the issue.

Notification of the Outcome

The outcome of the hearing should be confirmed in writing as soon as possible. A template letter can be found at [Appendix K](#). The letter should include details of the employee's right to appeal against the decision. A copy of the notes from the hearing should also be provided.

If the employee has been dismissed, the letter should include the reason for the dismissal and the date this is effective from.

Local Authority Schools must also notify the Local Authority of the dismissal. The Local Authority will then write to the employee to terminate their employment within 14 working days of the date of notification.

Case Referral

Where an employee is dismissed for misconduct or resigns prior to the completion of the disciplinary process, the Investigating Officer or panel/delegated person should consider making the appropriate referral to the National College for Teaching and Leadership (for teachers only). The referral should be completed on the Department for Education (DfE) website and submitted to the National College for Teaching and Leadership.

Safeguarding Allegations

Details of allegations (including warnings) that are connected to the safeguarding of children should be retained on an employee's personal file until the individual has reached normal retirement age or for a period of 10 years from the date of the allegation if that is longer. Information which relates to allegations that were found to be malicious should not be retained.

When allegations are in any way connected to the safeguarding of children, then a referral must be made to the Disclosure & Barring Service (DBS). The Referral Form is available on the DBS website and all available supporting evidence should be supplied alongside the completed form.

If misconduct and safeguarding are both involved, a referral should be made to both the DBS and the DfE. HR Services are available on request to support the referral process.

Right of Appeal

The employee has the right to appeal against all disciplinary sanctions and must be advised of this right in the hearing outcome letter. Any appeal must be submitted in

writing by the employee to the delegated person/panel within 5 working days of receiving notification of the outcome. The appeal will be held in line with the [Appeal Policy for Schools, Colleges and Academies](#).

Template letters for inviting an employee to an Appeal Hearing and confirming the outcome can be found at [Appendix M](#) and [Appendix N](#).

Grievances Raised During the Disciplinary Process

The Grievance Policy should not be used to appeal against disciplinary decisions or complain about the disciplinary process itself. Any such issues should be raised in the course of the disciplinary or as part of an appeal under the Appeal Procedure. Where a grievance is raised in the course of a disciplinary case, consideration will be given as to whether the disciplinary process should be suspended to allow for the completion of the grievance process. Any such decision will depend on the circumstances of each case and the nature of the grievances raised.

Where the disciplinary process is suspended, there may be a number of possible outcomes from this including:

- Other formal action, such as a disciplinary, against another employee/manager;
- Instigation of other separate investigations, which should not prevent the current issue from being progressed wherever possible; and/or
- Another manager is brought in to deal with the disciplinary case.

This list is not exhaustive and will depend on the findings of any grievance.

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