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DISCIPLINARY POLICY AND PROCEDURE	
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THE LOXFORD SCHOOL TRUST DISCIPLINARY PROCEDURE FOR SCHOOLS

1. INTRODUCTION

- 1.1 The Board of Directors wish to promote good employee relations and to ensure that at all times staff are treated in a fair and reasonable manner. This procedure has been designed to assist and encourage improvements in individual conduct, attendance and performance (except capability) whilst providing an equitable method of dealing with cases of alleged unacceptable behaviour.
- 1.2 The Board of Directors has a special responsibility to maintain the highest standards of staff conduct. All staff are expected to comply with the Conditions of Service, the Articles of Government and Appropriate Legislation.
- 1.3 Headteachers have the prime responsibility for the day-to-day management and discipline within their Schools and the advice of The Trust will be available to them at any stage in this procedure. This advice should be sought through the appropriate Personnel Adviser and given due consideration.
- 1.4 This procedure will apply to all staff, including Headteachers.
- 1.5 The Board of Directors are required to establish a Disciplinary Committee and an Appeals Committee (usually referred to as Panel A and Panel B). The quorum for both is at least three Governors to be chosen from those appointed by the Board of Directors. No Governor who has had prior involvement in the case should sit on either Committee.
- 1.6 This Procedure should not be used where employment is terminated in circumstances other than serious indiscipline such as:
- a. At the end of a Predetermined Limited or Fixed Term Contract for which an employee has been specifically engaged;

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- b. On the grounds of redundancy;
- c. Where following a period of Probationary Service, dismissal arises from unsuitability for confirmation of Appointment;
- d. On the grounds of Capability due to ill-health;
- e. Temporary staff with less than 6 months continuous service with The Trust.

1.7 A Counselling stage rather than Formal Disciplinary Proceedings is in many cases, particularly in regard to minor breaches of discipline, the most appropriate way to resolve problems.

1.8 Counselling should be a discussion aimed at identifying any shortcomings in conduct and ascertaining any difficulties or problems the employee may be facing. The emphasis should be on finding solutions to identified problems, so that the shortcomings can be remedied. A brief note of any such counselling should be kept by the Headteacher or his/her nominee for reference purposes and a copy should be given to the employee.

2. GENERAL PRINCIPLES

2.1 No Disciplinary Action will be taken against a member of staff until the case has been fully investigated.

2.2 At every stage in the Procedure the employee will be advised of the nature of the complaint and given the opportunity to prepare and present his or her case before any decision is made.

2.3 At all stages the employee will have the right to be assisted by a representative of a Professional Association, Trade Union or another employee of The Trust.

2.4 No employee will be dismissed for a first breach of Discipline except in the case of Gross Misconduct, when the penalty may be dismissal without notice or payment in lieu of notice.

2.5 An employee will have the right to appeal against any disciplinary action taken.

2.6 The procedure may be implemented at any stage if the employees' alleged misconduct warrants such action.

2.7 No Formal Disciplinary Action will be taken against a Union or Staff Representative until the circumstances of the case have been discussed with a full-time Official of that Union.

2.8 In case Disciplinary Action against a Headteacher may be needed, Directors should designate a person to act in the role normally performed by the Headteacher - who could, for example, be the Chair of Governors. All of the provisions of this document will apply, and the early advice of the Director of The Trust and our Legal Representatives, Judicium, will be sought.

3. FORMAL STAGES

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- 3.1 Notice in writing of an intention to consider Disciplinary Action will be given to the employee by the Headteacher, setting a date for a Disciplinary Hearing, providing the employee with a copy of this Disciplinary Procedure and the details of the complaint. At least ten school days' notice will be given to enable the employee to prepare a case in answer (all references to School days in this procedure shall relate to the 195 days that Teachers are required to work in the School year). The employee will be advised of the right to be accompanied (by a representative of a Professional Association, Trade Union or another employee of The Trust) and will be encouraged and advised to make sure he/she is so accompanied. Copies of any statements to be considered at the hearing should be circulated in advance.
- 3.2 A senior member of staff will carry out sufficient investigation to enable him/her to come to a clear view about the facts of the case. An employee should be given five school days' notice of Formal Investigation Meetings and the right to representation.
- 3.3 The outcome of the Disciplinary Hearing, should it be decided that Disciplinary Action should be taken, might be any kind of Warning, Oral, Written or Final Written, as is deemed appropriate. The severity of the action taken will relate to the gravity of the misconduct, and before reaching a decision, account will need to be taken of all appropriate factors.
- 3.4 In very serious cases, the Headteacher may deem that the appropriate Disciplinary Action is dismissal. In such cases, the Director (or their Representative) will be invited to offer advice and to attend where he/she considers it appropriate.
- 3.5 The Headteacher will inform the Chair of Directors, Chair of Governors and CEO of any formal Disciplinary Action taken, without giving details of the case.
- 3.6 Details of Disciplinary Proceedings and Outcomes should remain confidential to those who need to be involved.
- 3.7 The possible Outcomes of a Disciplinary Hearing are Oral Warning, Written Warning, Final Written Warning, Dismissal or No Sanction.

4. DISCIPLINARY ACTION

4.1 Oral Warning

- 4.1.1 An Oral Warning is the lowest level of Formal Warning. This may follow a failure of counselling, or be appropriate where the misconduct is of a minor nature. An Oral Warning may be given only following the holding of a Disciplinary Hearing. The employee will be advised of the reason for the warning and that if there is no improvement the next stage could be a Formal Written Warning. A brief note indicating that an oral warning has been given, and including the employee's observations, will be provided to the employee. It will refer to the employee's right to appeal. A copy will be kept in the employee's personal file and will be disregarded for disciplinary purposes normally after six months satisfactory service but in any case after no more than two years.

4.2 Written Warning

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- 4.2.1 Where Counselling or previous Oral Warning(s) have proved ineffective, or the misconduct is of a more serious nature, following a Disciplinary Hearing a Written Warning may be given to the employee.
- a. The letter detailing the Warning and its expiry date (normally 1-2 years, but in any case no more than 3) will be signed by the Headteacher. It will give details of the complaint and the improvement required, if appropriate, within a given time.
 - b. The letter will also point out that the likely consequences of further Misconduct would be further Disciplinary Action which could lead to Dismissal.
 - c. The letter will refer to the employee's Right of Appeal.
 - d. A copy of the letter will be sent to the employee's Representative and the Director the Trust and our Legal Representatives, Judicium.
 - e. A further copy of the letter will be kept in the employee's file.
 - f. These letters will not be used for Disciplinary Procedure purposes or referred to in references after the expiry date.
- 4.2.2 A further similar or a different, but similarly serious, breach of discipline may result in a further Written Warning which may be given instead of a Final Warning according to the circumstances. This will normally be within 1 – 2 years, but in any case within no more than 3 years.

4.3 Final Written Warning

- 4.3.1 Where the Written Warning has proved ineffective, or the misconduct is of a more serious nature, following a Disciplinary Hearing, a Final Written Warning may be given.
- a. Prior to the Hearing, the Director of The Trust will be advised of the circumstances and asked to attend to offer advice or pass to our Legal Representation Judicium.
 - b. The letter detailing the nature of the Warning and its expiry date will be signed by the Headteacher taking the decision. It will give details of the complaint and the improvement required within a given time. It will also point out that the likely consequence of any further misconduct will be dismissal. The letter will refer to the employee's right of appeal.
 - c. Copies of the letter will be sent to the employee's Representative and the Director of The Trust and our Legal Representation, Judicium.
 - d. A further copy of the letter will be kept in the employee's Personal File. The Headteacher has the right to specify the period of the warning (not normally to exceed 3 years), and exceptionally, in circumstances where the Misconduct is verging on Gross Misconduct, the Final Written Warning may be retained

indefinitely and any recurrence of Serious Misconduct will lead to Dismissal Proceedings.

4.4 Dismissal

Version A

The Board of Directors has delegated Dismissal decisions to the Headteacher who shall hold a Hearing as outlined below before reaching any decision to dismiss an employee. The employee shall have the Right of Appeal to the Governor's Appeals Committee (see paragraph 6 below). In cases where the Headteacher has been directly involved in the events leading to dismissal or is the subject of Disciplinary Proceedings, the case will be heard by the Governors Disciplinary Committee.

Version B

The Board of Directors has not delegated dismissal decisions to the Headteacher but will appoint a panel of at least three Governors who will hear the case for dismissal. The employee shall have the Right of Appeal to the Governor's Appeals Committee (see paragraph 6 below). The case will be presented by the Headteacher unless he/she has been directly involved in the events leading to dismissal or is the subject of the Disciplinary Proceedings (when the Headteacher is the subject of the proceedings the case will usually be presented by the Chair of Governors and heard by the Governors Disciplinary Committee).

The Loxford School Trust has adopted Version A.

4.5 Disciplinary Hearings

Disciplinary Hearings will follow the procedure outlined below:

The Headteacher/Chair/Chairman of the Panel will:

1. Introduce those present and explain their role.
2. Explain the purpose of the Hearing.
3. Explain how the Hearing will be conducted.
4. State precisely what the complaint is.
5. Ask the Presenting Officer to detail the case by presenting the evidence and calling witnesses, if appropriate.
6. Give the employee and/or their representative the opportunity to question the witnesses and any evidence presented.
7. Ask any questions of the witnesses and Investigating Officer.
8. Give the employee and/or their Representative the opportunity to state his / her case, present evidence and call witnesses. Encourage the employee to explain any relevant mitigating circumstances which exist.
9. Give the Presenting Officer the opportunity to question witnesses and any evidence presented.
10. Ask any further questions necessary to establish the facts and clarify any points of doubt.
11. Give the Presenting Officer the opportunity to sum up their case.

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12. Give the employee and/or their Representative the opportunity to sum up their case.
13. Adjourn the Hearing to give proper consideration to the matters raised before reaching a decision. In certain circumstances further information may need to be gathered, in which case this should be undertaken as quickly as possible and the Hearing reconvened to consider any new evidence before a decision is reached.
14. The decision will be communicated to all parties and confirmed in writing, giving the reasons for the decision.

5. SUSPENSION

- 5.1 Suspension is a neutral act and not a form of Disciplinary Action and all employees will receive full pay during their period of suspension (irrespective of the final outcome).
- 5.2 Where allegations of Gross Misconduct are made, a Headteacher should, if judging it appropriate, suspend the employee concerned while investigations are carried out and a Disciplinary Hearing is arranged.
- 5.3 In cases where serious misconduct is alleged, a Headteacher may suspend the employee concerned pending a Disciplinary Hearing, while appropriate investigations are carried out.
- 5.4 The employee will be told in precise terms that he/she is suspended on full pay and that the suspension will be for as short a period as possible.
- 5.5 A letter confirming the suspension and signed by the Headteacher will be sent to the employee.
- 5.6 Any suspended employee who desires access to the School premises for the purpose of preparing his/her case, must seek permission from the Headteacher, and in the case of a Headteacher, from The Chair of Governors. Such access may be reasonably restricted or denied, but a decision should be given within one working day.
- 5.7 Suspension can only be ended by the Governing Board.

6. APPEALS AGAINST DISCIPLINARY ACTION

- 6.1 An employee may appeal against any Disciplinary Action taken against him/her by giving notice in writing within 5 school days (or 10 school days in the case of dismissal) to the Clerk to the Governing Board, who will convene a meeting of the Appeal Committee as soon as reasonably practicable (and normally within 15 School days) and inform all concerned of the date, time and place of the Hearing at least 10 School days beforehand.
- 6.2 At an Appeal Hearing, the Appellant and the Headteacher shall each be entitled to appear and to be assisted, (by a Representative of a Professional Association, Trade Union or their Legal Representative). The Appeals Committee shall be guided generally by the Procedure for Hearings when conducting Hearings (see paragraph 4.6 for the procedure to be followed).
- 6.3 The function of the Appeal Committee is to ratify, nullify or reduce the severity of the Disciplinary Action taken by the Headteacher. The Appeal Committee is empowered to have its comments recorded alongside any warning it ratifies, nullifies or reduces.

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7. DISMISSAL HEARINGS

- 7.1 Where the decision is made that an employee should be dismissed this decision will be reported to the next meeting of the full Governing Board.
- 7.2 Dismissal will normally be with notice but where Gross Misconduct is found, it may be summary. (Gross Misconduct is defined as serious enough to constitute a fundamental breach of the Contract).
- 7.3 Governing Boards are advised that in order to avoid possible cases of unfair treatment or discrimination, they should seek advice and assistance at all times from our Legal Representative Judicium on the operation of Disciplinary Procedures. Judicium will be advised whenever a Written Warning is issued to an employee under this procedure, and the Director of the Trust or his/her representative shall be entitled to attend all meetings of Disciplinary or Appeals Hearings.

ATTACHMENT TO DISCIPLINARY PROCEDURE

DISCIPLINARY RULES

1. Disciplinary Rules set Standards of Conduct at work and it is important that employees know what Standards of Conduct are expected of them so as not to undermine Supervisory Control and/or impair the effective exercise of the Schools Duties and Responsibilities.
2. **It is unlikely that any set of Disciplinary Rules can cover all circumstances that may arise, and the examples detailed are not intended to be either exhaustive or exclusive.** Moreover, the Rules required may vary according to particular circumstances. In drawing up the Rules, the aim has been to specify as clearly and concisely as possible, those necessary for the efficient and safe performance of work and for the maintenance of satisfactory relations between employees and the School.
3. The Rules, which apply to staff employed in the School, give guidance on how various types of behaviour are to be treated, so that each individual is aware of the consequences of unsatisfactory conduct. Breaches of Disciplinary Rules will render employees liable to Disciplinary Action, but the form of Disciplinary Action taken will vary depending on:-
 - a. The seriousness and nature of the offence;
 - b. The employees previous record;
 - c. Mitigating circumstances; and
 - d. In some instances - the nature of the job.

In considering individual offences, assessment of the question of degree is a key element in deciding upon the action to taken. It is important to the understanding of Disciplinary Matters, to appreciate, for example, that many misdemeanours, which would normally result in a Warning, could in extreme circumstances warrant Summary Dismissal.

Note:

Subject to the above, the rules are defined by reference in the following to types of Action, Misconduct, Offence etc. and the Disciplinary measure that their commission or non-commission may incur.

4. EXAMPLES OF ACTION WHICH MAY MERIT WARNINGS

General Conduct

Insubordination by word, act or demeanour.

Abuse of authority in relation to a colleague or a member of the public.

Rudeness towards or conduct likely to cause harm or offence to a parent, member of the public or a fellow employee.

Refusal to comply with appropriate standards of appearance and/or personal hygiene acceptable to Management.

Behaviour at work likely to offend decency.

Failure to wear the appropriate uniform provided by the School.

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Sleeping on Duty.

Absences and Time keeping

Unauthorised absence from Duty.

Failure to notify Line Manager of absence from Duty and reason including non-attendance at an approved Course of Training.

Failure to provide a Medical Certificate as required by the appropriate Sick Leave Procedures.

Persistent lateness.

Persistent absenteeism.

Neglect of Duty

Failure to discharge obligations in accordance with a Statute or Contract of Employment.

Negligent or inadequate Standards of Work.

Health and Safety

Failure to wear the appropriate protective clothing provided by the School for particular duties.

Failure to comply with the Accident Reporting Procedure(s).

Failure to follow Safety Instructions and Codes of Practice and Safety Policy Statements issued from to time by the School, the Council and Service Establishments.

Failure to comply with Hygiene Requirements.

5. EXAMPLES OF ACTION WHICH MAY MERIT A FINAL WARNING IN THE ABSENCE OF PREVIOUS WARNINGS, OR DEPENDING ON THE CIRCUMSTANCES, DISMISSAL WITH NOTICE

Conduct

Failure to obey a lawful and reasonable instruction, including deliberate failure to observe any Operational Regulations and Rules of the School.

Dangerous or reckless behaviour involving risk of injury to other persons or oneself.

Being under the influence of drugs, including alcohol, during working hours, so that performance of Duties is detrimentally affected.

Acceptance of gifts or gratuities (where an employee is offered a gift or gratuity this must be reported to the Headteacher). In this particular area there needs to be a good deal of common sense and reasonableness, and it will be left to the Headteachers discretion in each case, having regard to all the circumstances. However, as an example it is not expected that inexpensive promotional tokens (e.g. pencils, calendars etc.) would come within this category.

Failure to hand lost property to an appropriate member of staff.

Conduct Prejudicial to the School's interest whether:-

- a. Committed at work; or
- b. Committed outside working hours, having regard to the nature of the offence, the Duties of the employee's Post and any damage to the reputation and integrity of the School.

Deliberate Misuse and Falsification of Information

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Failure to disclose a conviction for a Criminal Offence (unless under the terms of the Rehabilitation of Offenders Act 1974 the conviction is “spent”), and the post is not exempt.

Falsification of any information used in support of or pursuant to an application for a post with the School, including failure to disclose any known relationship with a Governor or Senior Member of the School’s staff.

Making false and/or deliberately misleading statements, whether verbally or in writing, in respect of Official business.

Failing within a reasonable period of time to report any matter which it is a duty to report.

Deliberate destruction or damage to any Documents required for the purposes of the School.

Unauthorised disclosure of confidential information relating to the Business of the School, its employees, or the public with whom it has dealings.

Private Work

Undertaking private work during hours when contracted to work for the School - this includes unpaid Voluntary Work, unless it has been approved. Engaging in employment, including self-employment, during Off-Duty hours when such employment conflicts with, or is detrimental to the interest of the School or in any way weakens public confidence in the conduct of the School. Private work which might involve any dealings with the School must be disclosed and can only be undertaken with the Headteachers approval.

6. EXAMPLES OF ACTION WHICH MAY MERIT SUMMARY DISMISSAL (GROSS MISCONDUCT)

Some offences may, if substantiated, be treated as Gross Misconduct, and in such cases Dismissal without notice is the appropriate form of Disciplinary Action.

Gross Misconduct is defined as Misconduct of such a nature that the School is justified in no longer tolerating the continued presence at work of the employee who commits such an offence. Having regard to the nature of the offence, the Duties of the employee’s post, and any damage to the reputation and integrity of the School, Gross Misconduct can include acts committed outside working hours as well as those committed at work.

The following are types of offences which may be deemed Gross Misconduct and lead to Summary Dismissal without any previous Written or Verbal Warnings having been given.

Dishonesty

Improper use of an employee's position for private gain or the private gain of some other person, including soliciting or accepting bribes.

Misrepresentation as to status, qualification, experience and health.

Deliberate falsification of Time Sheets, Bonus Sheets, Claim Forms, Sickness Self-certification forms, etc.

Theft or misappropriation of, or malicious damage to, property of School, parents, pupils or other employees.

Theft or misappropriation of School materials or equipment.

Misconduct

Fighting with or physical assault on fellow employees, Supervisors or members of the public, including maltreatment of pupils of the School or Educational Establishment.

Sexual Offences and/or Sexual Misconduct, including misuse of the Internet

Non-compliance with a Safety Code such as to endanger life or cause injury.

Malicious damage to School property and causing waste, loss or damage to School property.

Discrimination

Discrimination against an employee of the School or Authority or a pupil or member of the public on grounds of marital status, sex, colour, race, creed, disability, nationality or ethnic origin. Racial and/or sexual harassment.

Improper Use of Equipment etc.

Unauthorised use of School vehicles, whether during or outside the working day.

Unauthorised use of any School equipment and/or facilities for private purposes.

Use of School labour for private purposes.

Use of wasted School materials and/or equipment without express authority.

Unauthorised interference with a computer (e.g. misuse of a password to gain entry to a computer for the purpose of extracting information to which the employee is not entitled and /or deliberate corruption of computer records).

Neglect of Duty

Gross Negligence and / or Dereliction of Duty.

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Note:

In case of fraud or financial irregularities Headteachers are reminded of their particular responsibilities under Paragraph G20 of the Accounting Regulations and of the need to consult the Chief Finance Officer.