



ST MARY'S RC HIGH SCHOOL

STAFF DISCIPLINARY POLICY AND PROCEDURES

Policy owner: Headteacher

Policy approver: Full governing body

Policy approved: 9 July 2020

Review frequency: 3 yearly

Next review date: July 2023

DEFINITIONS

In this Disciplinary Policy and Procedures document (the policy), unless the context otherwise requires, the following expressions shall have the following meanings:

'Chair' means the chair of the governing body appointed from time to time.

'Clerk' means the clerk to the governing body appointed from time to time.

'Companion' means a willing work colleague not involved in the subject matter of the disciplinary proceedings against an employee under the policy, or an accredited representative of a trade union or other professional association of which the employee is a member, who should be available for the periods of time necessary to meet the timescales under the policy.

'Diocesan Schools Commission' means the education service provided by the diocese, which may also be known, or referred to, as the Diocesan Education Service.

'Governing body' means the governing body of the school.

'Governors' means the governors appointed or elected to the governing body of the school, from time to time.

'Headteacher' means the substantive headteacher, who is the person with overall responsibility for the day-to-day management of the school.

'School' means the school or college named at the beginning of the policy and includes all sites upon which the school undertaking is, from time to time, being carried out.

'Vice-chair' means the vice-chair of the governing body elected from time to time.

Misconduct means any action or inaction which contravenes the provisions of the employee's contract of employment, the rules laid down by the governing body and/or any Professional Code of Conduct and Practice. In such cases the policy will apply and the Staff Capability Policy and Procedure may also apply.

1. SCOPE OF PROCEDURE

1.1 This policy applies to you if you are an employee or worker at St Mary's RC High School (the school).

1.2 The purpose of the policy is to provide a structure to address any issues or concerns that the governing body/school may have relating to an employee's conduct.

1.3 An employee is entitled to have access by arrangement to their personal file and to request the deletion of time-expired records in line with the provisions of the General Data Protection Regulation (GDPR).

1.4 The governors delegate their authority in the manner set out in this procedure.

1.5 There may be some occasions where an employee's lack of capability could also be described as lack of competence. The policy and the school's Capability Policy and Procedures may be used concurrently whilst the school endeavours to ascertain if the lack of capability is misconduct or lack of competence.

1.6 There may be occasions where an employee's conduct could relate to their health. The policy may be used concurrently with the school's Sickness Absence Policy and Procedures. In particular, if an employee is absent from the school on sick leave following this policy invoked, the school may use its Sickness Absence Policy and Procedures depending on the specific circumstances.

1.7 There may be occasions, for example in relation to child protection allegations, where this procedure needs to be modified to comply with the requirements of the school's Child Protection and Safeguarding Policies, for example, by allowing the Local Authority Designated Officer to offer advice to governors at appropriate stages.

1.8 In this policy "working day" means any day on which you would ordinarily work if you were a full time employee. In other words "working day" will apply differently to teaching and non-teaching staff. However, part-time and full-time staff will not be treated differently for the purposes of implementing this policy and procedure.

1.9 The school is committed to ensuring respect, objectivity, belief in the dignity of the individual, consistency of treatment and fairness in the operation of this policy. This commitment extends to promoting equality of opportunity and eliminating unlawful discrimination throughout the school community.

1.10 This policy offers opportunities to ensure justice for teachers, support staff and pupils alike and has the potential for the expression of Christian qualities such as honesty, self-knowledge, respect for others and their gifts, recognition of the needs and achievements of others, challenge of self and others, personal growth and openness.

1.11 Relevant information from the appraisal process, including the Appraisal Report, may be taken into account in this policy and/or the school's Capability Policy and Procedure. It should be noted that the Appraisal Policy and Procedure does not form part of this policy or any other policy and procedure.

1.12 The management of unsatisfactory performance and related investigations will be treated in confidence as far as possible by all parties involved at all stages of this policy.

1.13 The School will maintain records of all interviews and reviews which take place under this policy for a period of up to 12 months or longer where necessary and where there is an applicable lawful basis under the GDPR for extending the retention period. All data and evidence collected is to be shared between all relevant parties, where appropriate and where there is an applicable lawful basis under the provisions of the GDPR.

1.14 All matters of managing disciplinary issues and related investigations will be treated in confidence as far as possible by all parties involved throughout all stages of this policy.

2. INFORMAL ACTION

2.1 Sometimes potential disciplinary issues can be resolved informally in the workplace. This involves drawing the employee's attention to the perceived unsatisfactory conduct.

2.2 Your line manager may give you an informal statement of concern at any time about any conduct or performance falling short of the standard expected and in many cases the right word at the right time and in the right way may be all that is needed.

2.3 A statement of concern may be verbal or recorded in writing and referred to at a later stage to evidence that an informal approach was attempted and the success or failure of such an approach. Written statements of concern will not normally be kept on record for longer than 12 months depending on the circumstances and should not be regarded as disciplinary sanctions.

2.4 Failure to comply with informal action should not, on its own, be used as justification for issuing a higher form of sanction than would otherwise have been imposed under the formal process.

3. SUSPENSION

3.1 In cases where the Investigating Manager considers that it is appropriate the headteacher or the chair may suspend you for a period of up to ten working days.

3.2 Depending on the specific circumstances; the employee should be given the opportunity to attend a suspension meeting to comment on the perceived necessity to suspend within the context of the investigatory purpose before a decision is taken to suspend. The employee may be accompanied by a companion during the suspension meeting, where practicable.

3.3 A record should be kept of the determined purpose of suspension for a period of up to 12 months and of any alternatives to suspension that were considered.

3.4 The headteacher must inform the chair of the suspension or, in the event of suspension by the chair, the Chair must inform the governing body (excluding staff governors).

3.5 This period of suspension may be extended subject to review by the chair every 10 working days. The reason(s) for extending the suspension will be confirmed in writing as soon as reasonably practicable.

3.6 Only the Governing Body may end the suspension.

3.7 Notification of suspension should ideally be undertaken in person but may, where circumstances dictate, be notified to the employee in writing. If notification of suspension is undertaken in person it will be confirmed in writing.

3.8 ACAS suggests that suspension may, whilst investigations are carried out, be appropriate where:

Relationships have broken down;

Gross misconduct is alleged;

There are reasonable concerns that evidence or witnesses could be prejudiced by the employee's presence during the investigation;

There are responsibilities to other parties;

It is necessary for the protection of pupils, staff or property;

The presence at work of the employee under investigation may be an obstacle to a proper investigation.

3.9 Suspension is not intended to be a disciplinary sanction. You will receive full pay and benefits during a period of suspension (unless you are otherwise absent from work due to sickness or other leave and have exhausted the pay entitlements connected to such absence).

3.10 During a period of suspension the school may require that you do not:

attend School at any time (except with the prior agreement of the headteacher or chair);

communicate in any way with parents, pupils or governors except:

with the prior written agreement of the headteacher/chair; or

where, following the investigation, you are called to a formal disciplinary meeting, when you may then approach parents, pupils or governors as potential witnesses but this must be done via the Investigating Manager to avoid any data breach or breach of confidentiality.

discuss the fact of your suspension or the fact, or nature, of the allegations against you with any member of staff except:

with the prior written agreement of the headteacher/chair;

for communication with your companion who is a Trade Union representative;

where you are called to an interview with the Investigating Manager or a Disciplinary Meeting, when you approach a Companion who is a colleague; or

where you are called to a formal Disciplinary Meeting you may approach work colleagues as potential witnesses in support of your case.

3.11 During a period of suspension the school may suspend your access to your email account and to the Managed Learning Environment (MLE)/Virtual Learning Environment (VLE).

3.12 During a period of suspension the school may take such steps as necessary to cover your lessons or other commitments.

3.13 During any period of suspension your contractual duties to the school and to the governing body (whether express or implied) remain in force and enforceable.

4. INVESTIGATING, DISCIPLINARY AND APPEAL MANAGERS

4.1 The table at annex A sets out the persons to be appointed throughout the stages of the disciplinary procedure depending on the person who is the subject of the disciplinary proceedings.

4.2 In cases relating to any alleged gross misconduct that would bring the school into disrepute, particularly in relation to its religious character, the chair may act as Investigating Manager regardless of the level of the employee involved and the Disciplinary Manager may be the governors' Disciplinary Panel.

4.3 NB: In law, only the governing body, as the employer of staff, has the power to terminate employment, so that the governing body will need to ensure that it has delegated this power to the Disciplinary Manager.

5. FORMAL PROCESS

Step 1 - Investigation

5.1 The Investigating Manager will conduct an investigation into the alleged misconduct in a timely manner and without undue delay.

5.2 The Investigating Manager may appoint any other person from within the school or an external third party to assist in the investigation.

5.3 The Investigation Manager will notify you in writing of the fact of the investigation and the allegations made. The investigation may include a face-to-face interview with you but this is not mandatory. In the event of a face-to-face interview you will be notified at

least 5 working days beforehand. You may, if you wish, provide a written statement or response to the Investigating Manager.

5.4 You are required to co-operate fully with the Investigating Manager to ensure that the investigation can be completed as swiftly and thoroughly as possible and, in any event, within a reasonable timeframe.

5.5 At the conclusion of the investigation, the Investigating Manager will produce an Investigation Report setting out, in detail, the allegations made in respect of your conduct, the evidence considered and a recommendation that either:

A Disciplinary Manager be appointed and a Disciplinary Meeting be convened in accordance with Step 2 below; or

There is insufficient evidence to support the allegations of misconduct to proceed in accordance with Step 2 below and no further action will be taken under this policy.

5.6 You will be sent a copy of the Investigation Report as soon as reasonably practicable.

Step 2 – Disciplinary Meeting

5.7 If the Investigation Report contains a recommendation that you must attend a formal disciplinary meeting (the Disciplinary Meeting) with the Disciplinary Manager appointed, the Investigating Manager will write a letter to you within 5 working days of receiving the Investigation Report, inviting you to the Disciplinary Meeting. If dismissal is a possible outcome, this will be stated in the Disciplinary Manager's letter. The letter shall state that any documentation you wish to rely on must be submitted at least 3 days ahead of the Disciplinary Meeting.

5.8 The Disciplinary Meeting shall take place at least 5 working days after the Investigation Report was sent to you in accordance with Paragraph 5.6.

5.9 In advance of, and at the Disciplinary Meeting, the Disciplinary Manager shall consider:

Evidence presented in support of the allegations of misconduct against you;

Evidence presented in defence of the allegations of misconduct against you; and

Where misconduct is admitted, whether in whole or in part, any evidence you have in mitigation.

5.10 The Disciplinary Manager may adjourn the Disciplinary Meeting to allow for further investigations in the light of your evidence and will reconvene the Disciplinary Meeting to give you an opportunity to comment on any further evidence produced by further investigations.

5.11 The Disciplinary Manager will hear oral evidence when it is considered appropriate to do so and where this will help to assist the investigation process. However, the Disciplinary Manager is not required to hear oral evidence and may rely on written evidence.

5.12 If the Disciplinary Manager does decide to hear oral evidence, you will be given an opportunity to comment on it either by (a) attending the meeting or (b) reviewing the notes of that oral evidence after the meeting (if you were not present at the meeting when such oral evidence was given). In the event of (b) you must provide any response to the notes of the oral evidence within 5 working days of receipt of the same.

5.13 Once all the evidence has been considered, the Disciplinary Manager will confirm the outcome of the Disciplinary Meeting in writing to you within 5 working days of the date of the Disciplinary Meeting (the Disciplinary Decision Letter) being either:

the imposition of a formal disciplinary sanction in accordance with Paragraph 6; or

that, on balance, there is insufficient evidence to substantiate the allegations made against you and so the disciplinary proceedings will be terminated and no further action will be taken under this policy.

Step 3 – Appeal

5.14 In the event that you are unsatisfied with the decision of the Disciplinary Manager as set out in the Disciplinary Decision Letter, you can appeal to the Appeal Manager provided that you do so in writing to the clerk within 10 working days of the Disciplinary Decision Letter being sent to you.

5.15 Your appeal letter must clearly set out the grounds of your appeal. This will enable the clerk and the Appeal Manager to determine if the appeal is to be by way of a rehearing of the case or by way of a review of the case.

5.16 The Appeal Meeting will normally be held within 20 working days of your appeal letter being received by the clerk. If you are unavailable on the proposed date an alternative date will be offered if possible.

5.17 The Appeal Manager may consider any new evidence produced by you which was not available to the Disciplinary Manager.

5.18 The Appeal Manager may only consider new evidence produced by the Disciplinary Manager if it touches upon your credibility in relation to evidence you have already given or if it rebuts any new evidence produced, or any assertions made, by you in your grounds of appeal.

5.19 The Appeal Manager is not required to hear oral evidence and may rely on written evidence.

5.20 If the Appeal Manager does decide to hear oral evidence, you will be given an opportunity to comment on it either by (a) attending the meeting or (b) reviewing the notes of that oral evidence after the meeting (if you were not present at the meeting where such oral evidence was given). In the event of (b) you must provide any response to the notes of the oral evidence within 5 working days of receipt of the same.

5.21 The Appeal Manager will confirm the outcome of the Appeal Meeting in writing to you within 5 working days of the date of the Appeal Meeting. The decision of the Appeal

Manager is final and there will be no further right of appeal. The outcomes of the Appeal Meeting are:

- (a) the Appeal Manager may uphold the decision of the Disciplinary Manager;
- (b) the Appeal Manager may uphold your appeal and overturn the decision of the Disciplinary Manager; or
- (c) the Appeal Manager may impose a lesser sanction.

6. FORMAL SANCTIONS

6.1 The Disciplinary Manager may impose the following sanctions:

A First Written Warning

6.2 A First Written Warning will remain live for 12 months from the date that the Disciplinary Manager's written decision was sent to you.

6.3 For a first disciplinary offence (ignoring any informal action), a First Written Warning would be the normal response.

A Final Written Warning

6.4 A Final Written Warning will remain live for 24 months from the date that the Disciplinary Manager's written decision was sent to you.

6.5 A Final Written Warning would normally be given for a second disciplinary offence committed or discovered during the currency of a live First Written Warning (even if that First Written Warning related to a different type of misconduct, if appropriate in the circumstances).

6.6 A Final Written Warning could be given for serious misconduct regardless of previous disciplinary history if the conduct is sufficiently serious.

Dismissal on notice

6.7 Dismissal on contractual notice may be given for a disciplinary offence (other than an act of gross misconduct) committed or discovered during the currency of a live Final Written Warning (even if the Final Written Warning related to a different type of misconduct, if appropriate in the circumstances).

6.8 For the avoidance of doubt, the notice period commences immediately and does not await the outcome of any appeal.

6.9 In the event that your employment is terminated in accordance with this paragraph:

If your contract of employment contains a garden leave clause the governing body may exercise that clause so that you are not required to attend the school during the notice period but remain employed and so bound by the terms of your contract of employment until the expiry of the notice period; or

If your contract of employment contains a payment in lieu of notice clause the governing body may exercise that clause to bring your contract to an end with immediate effect.

Dismissal without notice or termination payment

6.10 Dismissal without notice or termination payment (also known as Summary Dismissal) will only occur if you have committed an act of gross misconduct or otherwise have destroyed the trust and confidence required between an employee and their employer, in this case between you and the governing body.

6.11 For the avoidance of doubt your dismissal takes effect immediately and does not await the outcome of any appeal.

6.12 The following is a non-exhaustive list of matters which the school considers may amount to gross misconduct:

Making any sexual or romantic contact with any pupil whatever the age of the pupil;

Conduct giving rise to any Child Protection issue including, but not limited to, a change in your DBS status during the course of your employment;

Unlawfully restraining a pupil;

Supplying your personal contact details to a pupil without express authorisation from the headteacher;

Interacting with a pupil online out of school hours other than through the Managed Learning Environment;

Bullying;

Conduct incompatible with, or prejudicial to, the religious character of the school or the precepts or tenets of the Catholic Church;

Conduct that is likely to bring the school or the church into disrepute;

Failure to disclose your DBS status/submit to a DBS check where requested to do so by the headteacher and/or the governing body;

A serious breach of any relevant code of conduct or professional standards;

Theft of any school property;

Malicious or wilful damage to any school property;

Knowingly or recklessly falsifying, or knowingly or recklessly causing falsification of, any documents whether for personal gain or not;

Ordering any goods or services on behalf of the School from a supplier in which you or a relative have a personal interest (whether financial or not) without declaring that interest and without the permission of the governors' Resources Committee;

Dishonesty;

Violence to any person;

Abusive, threatening or offensive language or behaviour to any person;

Unlawful discrimination or harassment;

Disclosing the contents of any live examination paper or assessment in advance to any pupil or parent;

Concealing any actual or attempted cheating by any pupil or colleague;

Attending work or undertaking duties whilst under the influence of alcohol or unlawful drugs;

Misuse of the School's ICT (including internet and email access and any social networking policy) to view or distribute obscene, pornographic, defamatory or otherwise unacceptable material;

Breaching the confidentiality, data protection or privacy obligations surrounding the school, a parent, pupil, colleague or governor;

Covert recording of any meetings without the knowledge or consent of all persons present;

Serious breach of health and safety procedures;

Serious negligence (whether or not leading to any actual loss);

Criminal activity during the course of employment;

Making a false malicious or vexatious allegation against the school, a parent, pupil, colleague or governor.

6.13 In all cases where the formal sanction involves dismissal, the Disciplinary Manager will recommend to the Governing Body that your employment is terminated in accordance with your contract of employment (where appropriate) and the Governing Body will take steps to terminate your employment.

Voluntary demotion as an alternative to higher formal sanction

6.14 There may be a situation where the Disciplinary Manager considers that a recent promotion or job change has been a contributory factor in your misconduct.

6.15 Where paragraph 6.14 applies, the Disciplinary Manager may offer you the option of taking a voluntary demotion as an alternative to a higher formal sanction. Any such offer shall be made in writing.

7. GOVERNORS' PANELS

7.1 Governors' Disciplinary and Appeal Panels shall comprise three non-staff governors not previously involved in the matter and shall not comprise the chair or vice-chair unless there are insufficient numbers of non-staff governors not previously involved in the matter, in which case the chair and/or vice-chair may be appointed to a Governors' Disciplinary or Appeal Panel.

7.2 In the event that there are insufficient numbers of Governors available to participate in a Governors' Disciplinary or Appeal Panel, the governing body may appoint associate members to solely participate in the appropriate panel on the recommendation of the Diocesan Schools Commission.

8. COMPANION

8.1 If you are the subject of disciplinary allegations leading to a meeting with the Investigation Manager, the Disciplinary Manager or the Appeal Manager, you may be accompanied at such interview or meeting by a companion.

8.2 You must let the relevant manager know who your companion will be at least one working day before the relevant interview or meeting.

8.3 If you have any particular reasonable need, for example, because you have a disability, you can also be accompanied by a suitable helper.

8.4 Your Companion can address the relevant interview or meeting in order to:

put your case;

sum up your case;

respond on your behalf to any view expressed at the relevant interview or meeting;
and

ask questions on your behalf.

8.4 Your Companion can also confer with you during the relevant interview or meeting.

8.5 Your Companion has no right to:

answer questions on your behalf;

address the relevant interview or meeting if you do not wish it; or

prevent you from explaining your case.

8.6 Where you have identified your companion and they have confirmed in writing to the relevant manager that they cannot attend the date or time set for the relevant interview or meeting, the relevant person will postpone the meeting for a period not in excess of five working days from the date set by the school to a date or time agreed with your companion provided that it is reasonable in all the circumstances. Should your companion

subsequently be unable to attend the rearranged date, the meeting may be held in their absence or written representations will be accepted.

9. TIMING OF INTERVIEW MEETINGS

9.1 Interviews or meetings under this procedure may:

need to be held when you were timetabled to teach;

exceptionally be held during planning, preparation and administration time if this does not impact on lesson preparation;

be held after the end of the school day;

not be held on days on which you would not ordinarily work;

be extended by agreement between the parties if the time limits cannot be met for any justifiable reason.

10. VENUE FOR INTERVIEWS OR MEETINGS

10.1 If the allegations are sensitive the relevant manager may hold the interview or meeting off the school site.

11. ASSISTANCE

11.1 In any case concerning the religious character of the school, the Diocesan Schools Commission must be notified immediately the school becomes aware of the allegations and it may be represented at any relevant interview or meeting to advise the Investigating Manager, Disciplinary Manager or Appeal Manager.

11.2 In all cases involving any disciplinary sanction in relation to the headteacher or to a school senior leader, or to potential or actual dismissal of any other member of staff, the Diocesan Schools Commission and/or the Local Authority may send a representative to advise the Disciplinary Manager or Appeal Manager.

12. TRADE UNION OFFICERS

12.1 The school notes and adopts the ACAS Code of Practice's statement "Where disciplinary action is being considered against an employee who is a trade union representative the normal disciplinary procedure should be followed. Depending on the circumstances, however, it is advisable to discuss the matter at an early stage with an official employed by the union, after obtaining the employee's agreement."

13. REFERRALS

13.1 Where a teacher is dismissed for serious misconduct (or may have been dismissed for serious misconduct if the teacher had not resigned) the school must consider whether to refer the circumstances to the Department of Education and Teaching Regulation Agency under section 141D of the Education Act 2002 which came into force on 1 April 2012.

13.2 Where a person working within the school (whether a teacher or not) is dismissed or would have been dismissed if they had not resigned because that person committed conduct:

which endangered a child or was likely to endanger a child;

which, if repeated against or in relation to a child, would endanger that child or would be likely to endanger him;

involving sexual material relating to children (including possession of such material);

involving sexually explicit images depicting violence against human beings (including possession of such images);

of a sexual nature involving a child;


the School must refer that person to the Disclosure & Barring Service ("DBS") under section 35 of the Safeguarding Vulnerable Groups Act 2006.

14. REVIEW OF THIS PROCEDURE

14.1 This policy is derived from the policy and procedure drafted by the Catholic Education Service for use in Catholic voluntary-aided schools and academies in England following consultation with trade unions.

14.2 This policy is to be reviewed every three years.

This policy and procedures document was approved at the meeting of the full governing body held on 9 July 2020. It is subject to 3-yearly review.

Signed:  pp
minutes of FGB meeting 9/7/20 refer

Annex:

A. Table depicting persons to be appointed throughout stages of disciplinary procedure.

B. Timescale to be followed during progress of a disciplinary matter. **To be completed when policy reviewed in July 2023.** FGB minutes 9 Jul 20 refer.

ANNEX A TO STAFF DISCIPLINARY POLICY AND PROCEDURES

1. Table depicting persons to be appointed throughout stages of disciplinary procedure.

| Employee Level | Investigating Manager | Disciplinary Manager | Appeal Manager |
|--|--|--|---|
| Headteacher | Chair or a non-staff governor (other than the vice-chair) nominated by the chair | Governors' Disciplinary Panel appointed by the vice-chair | Governors' Appeal Panel appointed by the vice-chair |
| Other Senior Leaders and School Bursar | Headteacher | Chair or a non-staff governor (other than the vice-chair) nominated by the chair | Governors' Appeal Panel appointed by the vice-chair |
| Other teaching staff | A member of leadership team (other than headteacher) appointed by the headteacher, or in the event that (1) above cannot be complied with, (2) a person appointed by the headteacher | Headteacher or In cases where there is a real risk of dismissal, the chair or a non-staff governor (other than the vice-chair) nominated by the chair. (*) | Governors' Appeal Panel appointed by the chair |
| Other support staff | A person appointed by the headteacher | Headteacher Or In cases where there is a real risk of dismissal, the chair or a non-staff governor (other than the vice-chair) nominated by the chair. (*) | Governors' Appeal Panel appointed by the chair |

(*) In the case of disciplinary action involving other teaching staff or other support staff, the headteacher should be appointed as Disciplinary Manager. However, if there is a real risk that in the event of the allegations being proven, a member of other teaching staff or other support staff could be dismissed, the chair of governors or a non-staff governor appointed by the chair (other than the vice-chair) must act as the Disciplinary Manager. Where the governing body amends the table above, it will need to ensure that it has appropriately delegated its power to dismiss.

ANNEX B TO STAFF DISCIPLINARY POLICY AND PROCEDURES

2. Timescale to be followed during progress of a disciplinary matter. To be completed when policy reviewed in July 2023.