



This policy applies to all schools in CDAT

Staff Discipline Procedure

1. Introduction

- 1.1 This document forms the Trust's discipline procedure for staff employed at all the schools in the Trust, currently Charles Darwin School and Biggin Hill Primary School. The Trust reserves the right to vary or amend its disciplinary policy and procedures depending on the particular circumstances of the case.
- 1.2 The procedures are intended to support the maintenance of the highest professional standards amongst those employed by the Trust and to ensure fairness and consistency in the treatment of individuals.
- 1.3 They have been written in consultation with the Headteachers and employee representatives.
- 1.4 This document is not gender specific. Any words considered as gender specific should be interpreted as applying to all genders.
- 1.5 All members of staff have full access to the following documentation:
 - Staff Discipline and Grievance procedures
 - Articles of Association for Charles Darwin Academy Trust

Access can be gained via the Headteacher at each school or the Personnel and Administration Manager at Charles Darwin School.

- 1.6 Advice on the interpretation of procedures is available from the Headteacher, or Personnel and Administration Manager.
- 1.7 Governors are formally involved in the proceedings at the appeal stage and, in some circumstances, at the initial hearing. A group of three Governors or Trustees will be formed as required. Those who have been involved in the original hearing cannot take part in a subsequent appeal panel
- 1.8 Reference in the documentation to Headteacher or "line manager" includes personal representatives as appropriate. References to "manager" refer to "line manager".
- 1.9 All correspondence with school Governors or Trustees should be by way of the Clerk to Governors for the Governing Body or in the case of the Trust Board, the Company Secretary.

1.10 Reference to "line manager" is normally to be interpreted as the person to whom the member of staff is responsible according to their job description.

2. **Purpose and Scope**

2.1 This procedure is designed to help and encourage all staff employed under the Articles of Government to achieve and maintain good standards of conduct, attendance and job performance. Every reasonable effort will be made to ensure that any action taken under these procedures will be fair and proportionate and that all employees are given the opportunity to state their case. It is however necessary to recognise that where improvements are not possible dismissal may result.

2.2 The disciplinary procedure is designed to cover those cases where a member of staff's work conduct, attendance (other than for reasons of illness or injury) and/or performance is so significantly below the required standards that formal disciplinary action is judged necessary.

2.3 Informal procedures cover normal day to day supervision where a manager may have to discuss with a member of staff instances of poor performance. The discussion may result in offering specific training, mentoring, or other assistance to help the member of staff to reach the required standards. As part of this process or normal supervision, a manager may have to give an oral caution to a member of staff.

2.4 When supervision, training and counselling have failed to produce satisfactory conduct, or are considered to be inappropriate in the circumstances of the case, the formal disciplinary procedure should be used. The manager must make it clear to the member of staff when the formal procedure is being used, as distinct from informal procedures.

2.5 If disciplinary action is being considered against a Headteacher then the Chair of the Trust will initiate the hearings.

3. **Informal**

3.1 Before commencing formal disciplinary action the manager should consider whether counselling accompanied, where appropriate, by the provision of training and advice, would be a more satisfactory method of dealing with a particular problem. This approach should take the form of constructive discussion(s) aimed at pointing out any shortcomings in the member of staff's attendance, conduct or performance and encouraging improvement. The emphasis should be on finding ways in which the member of staff can remedy any shortcomings and on the provision of any training or other assistance which it is considered would facilitate the required improvement.

3.2 The manager should at all times ensure that the member of staff is aware of the improvement required, how performance, attendance or conduct will be reviewed and over what period of time.

3.3 The member of staff should also be made fully aware that failure to reach the required standard will result in formal disciplinary proceedings. A note of any counselling should be kept for reference purposes together with any written instructions given to staff.

4. **Representation**

4.1 Members of staff have the right to be represented at all formal stages of the disciplinary procedure. They may be represented by a member of a recognised trade union or another person of their choice. The name(s) of any representatives should be made known to the Clerk at least 2 full working days prior to the hearing.

4.2 If the subject of a formal disciplinary hearing is a union official then the appropriate Branch Secretary, (or a full time official of the Union if the member of staff concerned is the Branch Secretary) shall also be notified of the hearing.

5. **Formal Stage - Investigation**

5.1 When a disciplinary matter arises which may require formal disciplinary action the following procedure is adopted.

5.2 The manager should inform the member of staff of the alleged breach of discipline and of the fact that an investigation under the formal disciplinary procedure will be undertaken.

5.3 The manager must establish the facts promptly and normally within ten working days, taking into account the statements of any available witnesses. A statement may also be requested from the member of staff being disciplined.

5.4 When the facts are established a report must be given to the Headteacher. The manager may recommend whether formal disciplinary action is considered to be appropriate. It is the responsibility of the Headteacher to decide whether to hold a formal hearing.

5.5 In certain circumstances the Headteacher may request that a Governors' Staff Discipline Panel conduct the hearing (e.g. need for a hearing whilst a previous disciplinary letter is on file). If dismissal is a possible outcome the Headteacher should request a Governors' Staff Discipline Panel conduct the hearing.

5.6 Consideration should be given by the Headteacher to the need to suspend the member of staff during the investigation. (See 11.1/11.6)

6. **Formal Stage - Hearing**

6.1 The Headteacher must normally decide within ten working days of the report whether or not to hold a hearing and inform the member of staff accordingly. In the unusual case of a delayed decision, for example an incomplete report, the subject of the report must be informed in writing of the delay, and its reason, within the original ten day period.

6.2 The Headteacher must give the member of staff at least five working days written notice of the hearing. The letter should:

- instruct the member of staff to attend a formal hearing;
- contain a written statement of the allegations against the member of staff;
- contain details (including wherever possible copies) of any relevant documents to be submitted to the hearing in the presentation of the case;
- advise the member of staff that the hearing forms part of the formal disciplinary procedures;
- advise the member of staff of his rights of representation.

If gross misconduct is alleged, the member of staff must be warned that if the allegation is found to be true it could lead to his/her dismissal.

6.3 Relevant documents must be available to both parties at least two full working days before the hearing together with information about any witnesses to be called. Pupils should not normally be called as witnesses unless in the opinion of the Chair their evidence is material and essential to a fair hearing. This does not remove the right for either party to refer to notes and supporting evidence during the hearing.

6.4 The hearing should be chaired by the Headteacher unless he is responsible for presenting the report or by a Governor where they are hearing the case.

6.5 The procedure to be followed at a hearing is detailed in Appendix A. A clerk may be provided only to assist the Chair with matters of information and procedure.

6.6 If the allegations are such that, if found to be true, disciplinary actions considered might include dismissal, the Headteacher (except where he is the person concerned or otherwise involved) has a right to attend in an advisory capacity at all stages of the disciplinary proceedings. Any advice in this respect must be given in the presence of both parties and considered before any determination is made.

7. **Formal Stage - Disciplinary Action**

7.1 The Headteacher or Governors will have to decide what action, if any, is reasonable in the circumstances. If action is to be taken then the factors which will need to be considered are:

- the member of staff's disciplinary record: including whether former relevant warnings or cautions have been given;
- the member of staff's age, length of service and general performance (any sub-standard performance not previously brought to the member of staff's attention and which is not the subject of the disciplinary proceedings should be disregarded for this purpose);
- any circumstances which may have a bearing (for example domestic circumstances);
- any standards or procedures which relate to the disciplinary offence;
- action taken in similar cases in the past.

8. Options available to the Headteacher or Governors

Level of Performance	Possible Disciplinary Penalty
Work performance or conduct below required standards.	An oral warning which should be recorded on file
Work performance or conduct which is persistently or seriously below standard.	A written warning.
Misconduct of a serious nature; failure to work to required standards after previous warnings.	Final written warning Dismissal with notice
Gross misconduct	Dismissal without notice

8.1 The levels of authority

Level of Authority	Authorised To
Line Manager	Carry out investigation prior to disciplinary action. Initiate disciplinary action under the formal procedure. Issue informal warnings.
Headteacher	Conduct formal disciplinary hearings Issue formal oral warnings. Issue formal written warnings.

	<p>Refer a case to the Governors' Staff Discipline Panel for consideration (e.g. gross misconduct).</p> <p>Suspend (in consultation with Chair of Governors)</p>
Governors' Staff Discipline Panel	<p>Conduct formal disciplinary hearings.</p> <p>Hear appeals against formal oral and written warnings issued by the Headteacher.</p> <p>Issue formal oral and/or written warnings.</p> <p>(In consultation) with the Chair of Governors dismiss, or suspend.</p> <p>Order a Headteacher to end a suspension.</p> <p>Hear appeals against the Headteacher's decision not to remove a warning letter from file.</p>
Governors' Staff Discipline Appeal Panel	<p>Hear appeals against formal, oral and written warnings issued by the Governors' Staff Discipline Panel.</p> <p>Hear appeals against a Governors' Staff Discipline Panel's decision to dismiss or suspend.</p> <p>Order a Governors' Staff Discipline Panel to end a suspension.</p> <p>Hear appeals against a Governors' Staff Discipline Panel's decision not to remove a warning letter from file.</p>

8.2 Appendix C sets out examples of misconduct. In no case can a member of staff be dismissed or be otherwise formally disciplined without first having had the opportunity to attend a formal disciplinary hearing.

8.3 **Only in cases of gross misconduct can a member of staff be dismissed for a first breach of discipline.**

9. **Formal Stage - Disciplinary Letters**

9.1 The decision on the outcome of the hearing will be confirmed in writing, within five working days of the hearing. The member of staff will be advised of any right of appeal at the same time as being informed of the outcome of the hearing.

9.2 If a disciplinary penalty is to be imposed, the member of staff must be informed in writing of:

- the nature of the disciplinary offence for which action is being taken
- a brief summary of the findings of the hearing
- the nature of the disciplinary penalty to be imposed or alternative course of action that will be taken
- the level of performance required in the future;
- the time scale within which the performance will be monitored and improvement assessed;
- arrangements for guidance, supervision or training, where appropriate; the potential consequences if work performance fails to meet the required standards;
- the opportunity to ask for clarification of the disciplinary action to be taken;
- the specified period of time after which a request for removal of a disciplinary warning from file may be made
- the member of staff's right of appeal.

9.3 The specified period after which the member of staff may request the removal of a warning from file will depend upon the nature of the offence and the type of disciplinary action imposed. It will not normally exceed one year (two years for a final written warning). Removal will be subject to satisfactory conduct during the specified period. Where, exceptionally, the misconduct is so serious that it cannot realistically be disregarded for future disciplinary purposes this should be made explicitly clear, together with a statement that any recurrence will lead to dismissal.

9.4 A copy of the discipline letter should be sent to the member of staff, the Chair of Governors, the Chair of the Staff Discipline Panel and a copy retained on file. As indicated in the letter a member of staff may request the Chair of the Staff Discipline Panel or Headteacher responsible for the decision, a year after the event and each subsequent year, to remove any warning letter from file for the purpose of future disciplinary proceedings. Such a request shall not unreasonably be refused and the Panel or Headteacher will respond in writing to this request within five working days, giving reasons if this request is refused.

9.5 A member of staff shall be entitled to appeal against a decision not to remove a warning from file. The appeal will be heard by either by the Staff Discipline Panel or

a Staff Discipline Appeals Panel (the members of which cannot have had any part in the previous proceedings) as appropriate, but there will be no further right of appeal beyond a hearing by one such Panel.

9.6 The member of staff has the right to respond in writing to the warning. Any such response will be kept with the warning.

10. **Right of Appeal**

10.1 A member of staff who has been formally disciplined has a right of appeal against the decision in accordance with the following:

Action taken by:	Right of Appeal to:
Headteacher	Governors' Staff Discipline Panel
Governors' Staff Discipline Panel	Governors' Staff Discipline Appeal Panel

10.2 A request for an appeal must be made in writing to the Governors, through the Clerk, within ten working days of the receipt of the letter detailing the outcome of the hearing. Such a letter must contain the intention together with a reason for the appeal.

10.3 The conduct of an appeal is detailed in Appendix C.

10.4 There is no second right of appeal.

11. **Suspension**

11.1 The Headteacher or the Chair of the Trust (in consultation with the Chair of Governors) (if the subject is the Headteacher) may decide, in view of the special circumstances of a case, to suspend a member of staff on full pay prior to the disciplinary hearing. Such a suspension is not a disciplinary action in itself, but a means of providing a breathing space to enable investigations to be carried out. It will be used to protect the interests of the Headteacher, Panel and the member of staff during the investigation and to ensure investigations are impartial.

11.2 A member of staff will automatically be suspended if the alleged offence constitutes gross misconduct.

11.3 In considering whether suspension would be applicable, the Headteacher or Panel may consult the Chairman of Governors. Whoever determines that such suspension is appropriate, given the circumstances, will inform the Chairman of Governors and the Headteacher or Panel accordingly.

11.4 Other than in exceptional circumstances, a member of staff may only be suspended after either the Headteacher or Governors Staff Discipline Panel have formally interviewed the member of staff and wherever possible with his representative.

11.5 After investigating, the Headteacher may lift a suspension and where a Governors' Staff Discipline Panel removes a suspension they must inform the Headteacher or Chairman of Governors.

11.6 Only the Governors' Staff Discipline Panel (or the Headteacher in consultation with the Chairman of Governors) has power to lift the suspension. Upon ending the suspension the Headteacher must also be informed.

12.0 **Dismissal**

12.1 The Governors' Staff Discipline Panel is authorised to determine the dismissal of a member of staff (in consultation with the Chair of Governors or Chair of Trustees in the case of a Headteacher).

12.2 This decision of dismissal will be confirmed in writing to the member of staff, and the Chair of Governors. The letter will also contain the reasons for the dismissal and the right of appeal to the Governors Staff Discipline Appeal Panel within ten working days of receipt of the letter.

12.3 Where the Governors' Staff Discipline Appeal Panel decide to uphold the decision of an original Panel to dismiss there will be no further right of appeal. This decision will be confirmed in writing to the member of staff.

12.4 Within fourteen days of the date of written notification of a determination of dismissal by the Governors' Staff Discipline Panel or Governors' Staff Discipline Appeal Panel as appropriate, the Chair of Governors will terminate the member of staff's contract of employment at the school with or without notice according to the circumstances. Where a Staff Discipline Appeal Panel upholds a Panel's decision, notice will normally be communicated verbally by the Chair to the member of staff at the conclusion of the hearing and confirmed in writing the next working day.

Procedure to be Followed at a Formal Disciplinary Hearing

1. In this procedure reference to the manager, the member of staff and the Headteacher shall include their personal representatives as appropriate.
2. The Chair hearing the case will introduce those present, explain the purpose of the hearing and the procedure to be followed. The name(s) of any representatives should have been made known to the Clerk at least 2 full working days prior to the hearing.
3. The Chair will confirm whether witnesses are to be called by either side. If either party wishes to call a witness, this should have been made known to the Chair, together with the reason, at least two full working days before the hearing.
4. The Chair will read out the allegations set out in the written notification of the hearing.
5. The evidence against the member of staff will be presented by the manager ensuring that the member of staff and his representative are made aware of the content of any witnesses' statements or relevant records and documents. In presenting the case against the member of staff, witnesses may be called as appropriate.
6. The member of staff may question the evidence and witnesses against the member of staff.
7. The member of staff will present the defence evidence and call any witnesses.
8. The manager may question the evidence presented by the member of staff and witnesses.
9. Each witness must withdraw immediately after answering questions, but may be recalled with the agreement of the Chair.
10. The Chair (and members) shall have the opportunity to ask questions of both sides and their witnesses at any time during the proceedings outlined in paragraphs 5 - 8 inclusive.
11. The manager may then sum up the case for disciplinary action.
12. The member of staff may sum up the reasons that disciplinary action should not be taken or is inappropriate.
13. The manager, the member of staff, their representatives and any witnesses shall then withdraw.
14. The Headteacher/Panel shall then deliberate in private together with any independent person present to give advice as to law and procedure. If it is necessary to clear any

points of uncertainty on the evidence already given both sides are to be recalled together even if only one is concerned with the point giving rise to doubt.

15. The person(s) hearing the case will determine whether the allegations against the member of staff are true. If further investigations are necessary it may be appropriate to adjourn the hearing at this stage, in which case both parties are to return and be advised accordingly.
16. The manager, member of staff and their representatives shall return and the Chair will announce the decision and/or recommendation to both sides personally. He will then tell the member of staff what disciplinary penalty, or other action will be taken and inform the member of staff of his right of appeal as appropriate. The findings shall be confirmed in writing within five working days together with the member of staff's right of appeal.

**Procedure to be Followed at Disciplinary Hearings
Before an Appeal Panel**

1. This procedure relates to the conduct of appeals to an Appeal Panel of the Governing Body.
2. In this procedure reference to the Headteacher and member of staff shall include their personal representatives as appropriate. Reference to the "Headteacher" should be replaced by "Staff Discipline Panel" if the latter heard the original hearing.
3. The Appeal Panel will consist of members appointed by the full Governing Body or Trust Board. It must exclude those members who have been part of a Panel who have already heard the case.
4. The hearing will be arranged as soon as practicable and no later than fifteen working days after the receipt of the appeal letter. The member of staff will receive at least five working days written notice of the appeal.
5. The member of staff may be represented by his trade union or another person. The name(s) of any representatives and/or witnesses should have been made known to the Clerk at least 2 full working days prior to the hearing. Witnesses may be called. Documents produced at the hearing by either side must be available to both parties, and the Panel, before the hearing. Reference can be made by either party to personal notes during the hearing.
6. The Chair of the Panel hearing the case will introduce those present, explain the purpose of the hearing and the procedure to be followed.
7. The Chair will establish whether witnesses are to be called by either side.
8. The Chair will read out the allegations set out in the written notification of the hearing together with the statement of appeal made by the member of staff.
9. The member of staff will put present the ground for appeal in the presence of the Headteacher and will call any witnesses.
10. The Headteacher may then ask questions of the member of staff and witnesses.
11. The Headteacher will put the management's case in the presence of the member of staff and will call any witnesses.
12. The member of staff may ask questions of the Headteacher and witnesses.
13. The Members of the Appeal Panel shall be entitled to ask questions of the Headteacher, the member of staff and the witnesses at any time during the proceedings outlined in paragraphs 9 to 12 inclusive.

14. The Headteacher and the member of staff can sum up their cases, if they so wish.
15. The Headteacher and the member of staff, their representatives and any witnesses will then withdraw.
16. The Appeal Panel with a minuting Clerk in attendance if required, will consider the evidence in private. They may recall either party to clear points of uncertainty on the evidence already given. If recall is necessary, both parties are to return even if only one is concerned with the point giving rise to doubt.
17. The Headteacher, the member of staff and their representatives will return and the Appeal Panel will give their decision to the Headteacher and member of staff personally, and their findings shall be confirmed in writing together with reasons for any disciplinary action taken, within five working days.

Types of Misconduct Warranting Formal Disciplinary Action

1. It is not possible to give an exact definition of misconduct. The Governing Body will, among other things, regard as misconduct any behaviour by a member or staff which tends to bring the school into disrepute or to cause a loss of public or professional confidence in an individual or the school.

2. This list, therefore, serves only to provide examples of misconduct and is neither exclusive nor exhaustive. There may be other acts of similar gravity which would be regarded as misconduct.

3. Examples of behaviour which may be regarded as misconduct and which may, therefore, lead to disciplinary action include:

Unauthorised or inappropriate punishment of pupils; unauthorised removal of the school's property; offences of dishonesty; conduct likely to offend decency; falsification of claims and applications (including falsification of qualifications); unauthorised absence, abuse of authority; regular unpunctuality; failure to implement reasonable instructions; failure to meet reasonable deadlines.

4. Work performance below required standards over a period of time:

Unreliability due to absenteeism or poor time keeping.
Repeated failure to meet reasonable deadlines.
Contravention of the smoking policy.
Breach of confidence.

5. Work persistently or seriously below standard:

Failure to respond to previous oral warnings about poor performance.
General neglect of duties.
Refusal to obey reasonable instructions.
Disregard of safety rules.
Obstruction of the work of others.
Insubordination.
Significant breach of confidence.
Incapacity through the misuse of alcohol or drugs.

6. Misconduct of a serious nature, and/or failure to work to required standards despite previous warnings.

As 5 above, where a member of staff has failed to respond to previous warnings, training, guidance or supervision given.

Where the nature of disruption, insubordination etc. is of a more serious nature than in 5 above.

Any misconduct which is considered insufficiently serious to justify dismissal, but serious enough to warrant a final written warning.

7. Gross Misconduct

The list below covers actions which would be considered as gross misconduct. It is given for illustrative purposes only and is not intended to be exhaustive. In reality any action by a member or members of staff that has a significant adverse impact on the Trust, the School, the Staff, the Pupils may be considered as gross misconduct.

- Theft, fraud, and/or falsification of records
- An act of violence, fighting or physical assault
- Deliberate damage to school property
- Serious negligence which causes unacceptable loss, damage or injury
- Grossly indecent or immoral behaviour
- Serious incapability through abuse of alcohol or drugs
- Possession or taking of controlled drugs or stimulants which have not been prescribed by a registered medical practitioner
- Serious breaches of the Trust's Safeguarding and Child Protection Policies and Procedures
- Serious breach of confidence relating to the Trust's, School's or its students' affairs
- Serious acts of insubordination
- Discrimination or harassment or other breach of the Trust's Equalities and Diversity policies
- Serious breaches of the Trust's or School's Health and Safety policy or procedures
- Fundamental or substantial breach of trust or unauthorised disclosure of information relating to the Trust's, School's or students' affairs
- Serious breaches of Social Media and Networking policies

- 7.1 Gross misconduct will be misconduct whose seriousness is such that the Governing Body is justified in no longer tolerating the presence at school of the member of staff who commits an offence of gross misconduct; a member of staff who commits an act of gross misconduct will, therefore, be liable to summary dismissal.

Approved by the CDAT Board on 20th May 2022