

Disciplinary Procedure



Bath & Wells Multi Academy Trust Disciplinary Procedure Appendices

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Appendix 1 – Disciplinary Rules

The Disciplinary Rules are intended to give examples of the type of conduct that could be considered as misconduct or gross misconduct, and which could lead to action under the MAT's Disciplinary Procedure. They are not intended to constitute an exclusive or exhaustive list.

Examples of Misconduct

(Note: In certain circumstances the examples below may be considered to constitute gross misconduct)

- 1.1 Persistent poor timekeeping
- 1.2 Unauthorised absence from work
- 1.3 Failure to comply with a reasonable management instruction
- 1.4 Failure to comply with sickness absence procedures
- 1.5 Acting in an aggressive or threatening manner or using foul or abusive language towards customers, colleagues or managers
- 1.6 Misuse or unauthorised use of school facilities, equipment or resources
- 1.7 Inappropriate use of school time, e.g. excessive use of time for personal conversations, correspondence, telephone calls, emails/internet use etc.
- 1.8 Knowingly being an accessory to, condoning or failing to report a serious disciplinary offence
- 1.9 Dishonesty, deliberate misinterpretation of information or falsification of records
- 1.10 Unauthorised use or disclosure of confidential information gained through employment with the school or failure to protect such information
- 1.11 Being unfit for duty through use of illegal substances or alcohol
- 1.12 Smoking in any school owned premises and grounds
- 1.13 Use of e-cigarettes in any school own premises
- 1.14 Failure to observe Health and Safety rules by act or omission, or negligence that threatens health and safety
- 1.15 General conduct in the workplace that has a negative impact on the work of the section, on colleagues, or on service delivery
- 1.16 Failure to declare any other work undertaken while being employed by the school
- 1.17 Damage to property
- 1.18 Failure to comply with the companies policies and procedures
- 1.19 Deliberate failure to reach required standards of performance
- 1.20 Deliberate failure to carry out duties and responsibilities
- 1.21 Inappropriate behaviour/conduct towards management or colleagues

Examples of Gross Misconduct

- 2.1 Dishonest acts and deliberate falsification of records which result in or could result in serious consequences
- 2.2 Falsification of qualifications which are a stated requirement of employment or which resulted in financial gain
- 2.3 Serious insubordination
- 2.4 Conduct that is a serious abuse of position
- 2.5 Bringing the school/MAT into serious disrepute or causing a serious loss of confidence in the school/MAT

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- 2.6 Theft or fraud
- 2.7 Undertaking other paid employment whilst receiving sick pay or other benefits from the school during a period of sickness or unauthorised absence without prior management agreement
- 2.8 Deliberate disregard of the MAT's financial procedures and rules
- 2.9 Physical or verbal assault or violence
- 2.10 Deliberate and serious damage to school property
- 2.11 Unauthorised removal of school property
- 2.12 Serious breach of Health and Safety rules and/or regulations
- 2.13 Breach of Equal Opportunities Policy. Offensive or abusive behaviour towards others, including harassment, bullying or victimisation
- 2.14 Making defamatory statements in the course of employment (e.g. making statements that are or could be slanderous or libellous). (A defamatory statement is a statement that will injure the reputation of another in the estimation of members of society generally).
- 2.15 Being unfit for duty through use of illegal substances or alcohol in circumstances where it could constitute a health and safety hazard or where it would be in breach of a position of responsibility and trust
- 2.16 Loss of confidential or sensitive data through negligence, loss of important or expensive equipment through negligence.
- 2.17 Deliberately accessing internet sites containing pornographic, offensive or obscene material
- 2.18 Criminal offences committed at work
- 2.19 Criminal offences and other conduct outside employment which would prevent an employee from continuing to do their job or which affects their suitability to perform their work or is liable to damage the school/MAT.
- 2.20 Serious negligence which causes or might cause unacceptable loss, damage or injury
- 2.21 Serious breach of confidence (subject to the Public Interest (Disclosure) Act 1998)

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Appendix 2 – Glossary

Balance of probability – the test used for an employer to give a disciplinary sanction. The employer should be genuinely convinced that the misconduct more likely than not took place. The employer does not have to prove guilt of the misconduct beyond reasonable doubt.

Capability – an employee's ability or qualification to do their job

Conduct – an employee's behaviour in the workplace

Gross misconduct - an act or omission that is of such a nature or so serious that, if proven, the continued presence of the employee at work cannot be tolerated, and which could lead to summary dismissal.

Disclosure & Barring Service (DBS) – is a Non-Departmental Public Body which carries out criminal records checking and barring functions to prevent unsuitable people from working with children and vulnerable adults. Referrals are required to the DBS where an employer has concerns that a person has caused harm or poses a future risk of harm to children or vulnerable adults.

Investigating Officer – a manager who has been appointed to carry out the investigation into allegations of misconduct.

Misconduct - is conduct that falls below the expected standards; which may involve an employee breaking specific rules about behaviour or conduct. It may take the form of either an act or an omission, including negligence or failure to act.

Sanction – a punishment imposed on an employee as a result of misconduct. Sanctions may include dismissal or a formal written warning.

Summary dismissal – is dismissal without notice due to gross misconduct.

Suspension – a neutral act where an employee is prevented from attending work on full contractual pay whilst an investigation is undertaken. It does not imply wrongdoing or prejudice an outcome.

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Appendix 3 - Order of Disciplinary Hearing

The following procedure will apply to disciplinary hearings. Someone who is not involved in the case should be appointed to take notes on the proceedings and Human Resources may be present throughout the hearing.

- The chairman of the panel will introduce all present and describe the procedure to be followed, agreeing attendance of witnesses
- The investigating officer will introduce the case, state the evidence and may call witnesses
- The employee and their representative will have the opportunity to ask questions of the investigating officer and each witness in turn.
- The panel members will have the opportunity to ask questions of the investigating officer and each witness in turn.
- The investigating officer may re-examine each witness in turn after questions from the panel and the employee/representative. The questioning should be restricted to any matter referred to in their statement, given in evidence, or referred to in their examination by the panel members or the employee/representative.
- The panel will decide whether the witnesses may need to be recalled at some point later in the hearing for further questions or whether they may leave.
- The employee/representative shall put their case and may call witnesses.
- The investigating officer shall have opportunity to ask questions of the employee, their representative or witnesses
- The members of the panel shall have the opportunity to ask questions of the employee, their representative or witnesses.
- The employee or their representative will have the opportunity to re-examine witnesses on any matter referred to in their statement, given in evidence, or referred to in their examination by the panel members or the investigating officer.
- The panel will decide whether the witnesses may need to be recalled in order to be questioned later in the proceedings or may leave.
- The investigating officer followed by the employee/their representative will then summarise each of their cases. In summing up neither party may introduce any new matter.
- Nothing in this procedure shall prevent the panel members from inviting either party to amplify statements or asking questions that may be necessary to ascertain further evidence as appropriate. This may involve calling other witnesses not previously involved in the hearing.
- The panel may at its discretion adjourn the hearing in order that further evidence or witnesses may be produced by either party, or for any other reason.
- The panel chair should ensure that both parties are satisfied that the hearing has been properly conducted and place on record any objection that is raised.
- The investigating officer and the employee and their representative shall withdraw while the panel consider evidence and reach their decision.
- Should it be necessary for the panel to seek any further information after the parties have withdrawn, both the investigating officer and the employee and their representative shall be called back into the room, even if only one side is required to provide the information sought.
- The investigating officer and the employee and their representative will be called back into the hearing where the chair will give the panels decision.

The approach to the hearing will be formal and polite and encourage the employee to speak freely with a view to establishing the facts. It will be a two-way process. If new facts emerge, it may be necessary to adjourn the meeting to investigate them and reconvene the meeting when this has been done.

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Appendix 4 – Guidelines for Investigating Officers

A disciplinary investigation usually takes place after the relevant authorised individual (see authority to act table) has established that there has been a situation or incident that requires an investigation.

As investigating officer you are responsible for:

- Gathering all the relevant facts promptly
- Establishing the exact nature of the situation or incident
- Summarising findings in an investigation report
- Presenting evidence at the hearing after the investigation and answering questions as required.
- Attending appeal hearings as a witness when required

When carrying out an investigation, the investigating officer should:

- Ensure the investigation is carried out as quickly as possible
- Be thorough and fair
- Remain impartial and objective
- Maintain confidentiality as appropriate
- Seek evidence
- Talk to relevant witnesses and review documents as appropriate to establish the full facts
- Keep notes of investigation meetings
- Compare statements and notes and attempt to resolve any discrepancies

THE INVESTIGATION PROCESS

Prepare

Familiarise yourself with the situation/incident

- Ensure that the person under investigation has a clear understanding of the complaint/allegation(s) against them.
- Establish the facts and collect evidence.
- Identify the witnesses you want to interview and plan the questions you need to ask. Interviewees should be notified in writing of the requirement to attend interviews
- Consider the value of other evidence (e.g. computer records, CCTV, documents and files, accident forms, case notes, medical records, policies and procedures, training records)
- Maintain confidentiality and remind all parties involved in the investigation of the requirement for confidentiality.
- Identify the timescale (investigations should take place in a timely manner without undue delay)
- Plan where the investigation meetings are going to be held – this needs to be in a private place that is free from interruptions.
- Throughout the investigation a member of Human Resources will be available to provide advice and support. E.g. on the preparation of questions.

Review any documentation identified.

Review any relevant documentation (e.g. medical records, personal files, policies and procedures) to assist in the understanding of the problem and focus on questioning. Information is strictly confidential. A brief record of the reasons for reviewing documentation should be included in the report. A copy should be taken of the documentation reviewed

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Carry out interviews with witnesses

The purpose of the interview is to find out what happened and this should be explained from the outset. The interview will aim to:

- Establish chronology of events according to those involved
- Understand the role of any individuals within the incident and the limits of that involvement
- Evaluate compliance with policies and procedures.
- Compare the finding with what is already known
- Identify any gaps in information
- Ask staff to outline and discuss their account of events or their concerns
- You may wish to ask the witnesses to write a written statement prior to meeting them. Where appropriate you would ask them to respond in their written statement to certain questions.
- Where a witness provides a written statement you need to ensure you are happy that you have obtained all the information that you require from them, and that there are no un-answered questions. If you are not satisfied then you can re-interview the witness.
- Discuss with HR if a witness is unwilling to get involved.
- Use open questions to gain information, clarify issues and check your understanding of what has been said.
- Do not lead the witness but do encourage them to concentrate on the main facts.
- Advise witnesses that their statements may be made available to the employee should the matter proceed to a hearing. Witnesses also need to be made aware that they may be called to give evidence at a hearing.
- Where appropriate ask interviewees to provide evidence to support information provided
- Take notes of the key points raised at the meetings. A copy of the notes should be given to the relevant employee/witness following the meeting and they should be asked whether there is anything they wish to add to them. Where the employee/witness provides alternative notes following the meeting both versions should be signed and dated and included in the evidence supporting the investigation report.

You may decide that it is not necessary to interview every witness, in this instance a written statement from the witness that is signed and dated will suffice.

Further interviews may be required if:

- People not initially identified are identified through first stage interviews or from reviewing documents
- There are new findings that required previous interviewees to be questioned further
- Where clarification of understanding is required

See above notes on carrying out interviews with witnesses for further guidance

Witness statements

Witness statements may include the following:

- The name and job title of the person giving the statement
- Summary of the incident being investigated
- The reason for the witness being able to comment on the issues
- Facts that can be provided by the person
- Sketch or plan if appropriate

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- Date, time and place the statement was taken
- The signature of the witness

Gather other evidence

- Ask/seek supporting evidence to substantiate information provided by the employee/witnesses. Keep copies to use as supporting documentation.
- You may need to re-look at or review other documents not originally identified such as attendance records, appraisal documents, e-mails, letters, training records, development plans etc. You will need to take copies of the documents for supporting documentation.
- You may wish to compare records for different employees
- You may wish to carry out site visits.

Preparing the investigation report

Once the investigation has been complete, you will need to write a report, Human Resources can provide advice.

The report should be clear, concise and presented in a logical format, it should:

- Outline the incident or situation
- Give a chronology of events
- Give a details summary of the findings, conclusion and recommendations

Checklist for investigating officers

ACTION	COMPLETE Date and signed
Investigation has been commissioned by authorised individual	
Investigating officer appointed	
Identified documentation to review	
Identified individuals to interview	
Booked venues for interviews	
Plan timescales	
Notifications sent to interviewees and their representatives and information sent on the process and their right to be represented	
Where appropriate interviewees asked to write a witness statement in advance of the interview	
All relevant documentation reviewed and copies taken	
Interviews take place	
Notes of interviews written up	
Notes of interviews sent to interviews to check and amend if necessary (copies of each version kept, signed and dated)	
Second interview take place if required	
Notes of interviews written up	
Notes of second interviews sent to interviewees to check and amend if necessary (copies of each version to be kept, signed and dated)	
Any further identified relevant documentation reviewed and copies taken.	
Analysis of facts and findings	
Complete report	
Final report signed and dated and sent to person who authorised investigation	
Debriefing session undertaken where finding are presented and	

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discussed with those involved.	
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Appendix 5 – Template for Disciplinary Investigation Report

1. **Executive summary**

Summaries the issues pertinent to the incident, the overall conclusion and key recommendations

2. **Introduction**

Briefly introduce the purpose and structure of the report

3. **Background**

Include:

- Full details of the allegation(s) and the potential severity (e.g. what policy/procedure may have been breached)
- Issues relevant to the individual concerned

4. **Chronology**

Outline of order of events

5. **Methodology**

Describe the process and methods that was used to undertake the investigation

6. **Summary of findings and conclusion**

This section should summarise the findings from:

- The interviews
 - Review of the documentation
 - Any other investigation undertaken
- And the conclusion that has been drawn on as a result of the findings, in terms of:
- The incident
 - Management arrangements
 - Other issues
 - Whether or not the allegation(s) of misconduct are found to have been upheld on the balance of probabilities

(This section should clearly separate fact from opinion and evidence from judgement, but show that all aspects have been considered in order to draw a final conclusion)

7. **Recommendations**

This section should consider the recommendations from the investigation. In particular any proposed action to address the situation and to prevent re-occurrence of the issue or incident. Recommendations should not be made regarding the individual under investigation