



Lindow Community Primary School

School Policies

Control Sheet

Policy: **Staff Discipline, Conduct & Grievance**

Policy Type: **Statutory**

Author: **Headteacher**

Owner: **Headteacher**

Approved by: **Governing Body**

Reviewed: **Annually**

Policy: Staff Discipline, Conduct and Grievance

1. Scope

- 1.1 This policy applies to staff (Headteachers, teachers and support staff) of maintained schools with local management including Community, Community Special, Voluntary Controlled, Voluntary Aided and Foundation Schools.

2. Definitions

- 2.1. Circumstances that may lead to an employee being subject to the disciplinary procedure are deliberate (wilful or negligent) breaches of discipline / acts of misconduct, which are considered sufficiently serious to warrant formal investigation.
- 2.2. Such breaches may be single events (that may or may not amount to gross misconduct), or persistent minor breaches that normal management process has failed to prevent or rectify.
- 2.3. It is impossible to prescribe a common set of disciplinary standards covering all aspects of employment but the following examples may, depending on the circumstances, be considered as gross misconduct, and may therefore result in summary dismissal. This list is neither exclusive nor exhaustive.
- Child abuse or inappropriate professional conduct involving a child or young person under 19 years of age.
 - Violence or the threat of violence to another employee, pupil or parent.
 - Harassment and bullying.
 - Theft of school / Council or another employee's property.
 - Deliberate falsification of any document.
 - Criminal conduct at work.
 - Corrupt or improper practice in breach of the Code of Conduct (see section A27 of the Local Authority Personnel Management Guidelines).
 - Sleeping while on waking duty.
 - Discrimination against another employee, an applicant for employment or any other person associated with the school / Council on the grounds of race, ethnic origin, colour, nationality, sex, sexual orientation, marital status, age, disability, religion or belief.
 - Breaking the school's / Council's safety rules.
 - Reporting for, or being at, work while adversely affected by drink or non-prescribed drugs.
 - Unauthorised use of, or misuse of, a school / Council owned vehicle, school / Council equipment, property or facilities, including communication and information technology.
 - Knowingly disclosing confidential information in breach of the Confidential Reporting Procedure (Whistle blowing) (see section A27 of the Local Authority Personnel Management Guidelines).
 - Neglect of duty or behaviour liable to bring the school / Council into disrepute.
 - Breaching standards of professional conduct.

- 2.4. Gross misconduct is misconduct serious enough to destroy the employment contract between the employee and the employer and to make trust and a further working relationship impossible.
- 2.5. Summary dismissal is dismissal without notice, or pay in lieu of notice.

3. Objective

The objective of this policy is to ensure that an employee acts in accordance with the standards of conduct required by the school/Council. Its primary purpose is to help employees to improve rather than just to provide a means of imposing punishment.

4. Principles

- 4.1. At all stages of the procedure, account will be taken of the need to satisfy the tests of reasonableness and natural justice.
- 4.2. Employees will be informed of the complaint against them and will be given an opportunity to state their case before a decision is reached.
 - 4.2.1. In cases where gross misconduct may have taken place, the employee will be suspended on full pay pending further investigations. Suspension is not a disciplinary sanction, and the employee will be entitled to full basic pay during the period of suspension.
- 4.3. Employees will have the right to be accompanied at disciplinary and appeal hearings by their trade union or other representative of their choice and to call their own witnesses.
- 4.4. No disciplinary action will be taken against an employee until a thorough investigation has been carried out and the facts of the case have been established on the balance of probabilities. Consideration will be given to the reasonableness of the proposed action in all the circumstances.
- 4.5. No employee will be dismissed for a first disciplinary offence unless it is a case of gross misconduct.
- 4.6. Employees will be given a written explanation for any disciplinary action taken and informed of the improvements that are required of them.
- 4.7. There will be a right of appeal.
- 4.8. Issues will be dealt with thoroughly and as promptly as possible, within agreed and appropriate timescales.
- 4.9. Proceedings, witness statements and records will be kept confidential and in accordance with the requirements of the Data Protection Act 1998.
- 4.10. If disciplinary action is being considered against an accredited official of a recognised trade union, the case will be discussed, after obtaining the employee's agreement, with a senior trade union representative or permanent union official.
- 4.11. The school / Council will respect employees' rights to privacy in their private and family life and will take action in this context only where the right conflicts with their explicit or implicit obligations as an employee of the school / Council.

- 4.12. Reasonable adjustments will be made to enable employees with a disability or from ethnic minorities to participate fully in investigation interviews and hearings and respond to any allegations made against them.

5. Standards

5.1. Headteacher's / Chair of Governor's responsibilities:

- 5.1.1. The day-to-day monitoring and counselling of employees forms part of the normal supervisory / management process and does not form part of the formal policy. Except in the case of potential gross misconduct, where there are shortcomings in an employee's overall conduct, the employee should be made aware of the standards that are required and possible remedies should be considered before any formal steps become necessary.
- 5.1.2. The responsibility for the application of this procedure lies with the Headteacher or Governing Body, as appropriate, who will have the authority to impose any of the sanctions laid down in the policy.

5.2. Employees' responsibilities:

- 5.2.1 Employees should fully understand the standards of conduct and performance expected of them in their jobs and to seek to fulfil those expectations.
- 5.2.2 Employees should seek advice and support when personal circumstances impair their ability to do the job.
- 5.2.3 Employees should ensure that their private life does not interfere with the proper performance of their duties and responsibilities with the school / County Council.

6. Minutes and Records

- 6.1 Copies of meeting records will be given to the employee, including copies of any formal minutes that may have been taken. In certain circumstances (for example, to protect a witness), the school / Council reserves the right to withhold some information.
- 6.2 The following written records will be kept on the employee's personal file:
- the complaint against the employee
 - the employee's defence
 - findings made and actions taken
 - the reason for the actions taken
 - whether an appeal was lodged
 - the outcome of the appeal
 - any grievances raised during the disciplinary procedure; and subsequent developments.

7. Grievance and Performance Management Policies

- 7.1 If at any stage in this procedure it becomes apparent that the matter is actually one of capability rather than discipline, it is appropriate to switch to the application of the appropriate Performance Management Policy.
- 7.2 If an employee raises a grievance related to the disciplinary case, consideration will be given to suspending the disciplinary procedure for a short period while the grievance is dealt with, subject to para 7.3 below.
- 7.3 It will normally be appropriate to deal with a grievance related to the case at the disciplinary hearing or a part of the appeal. However if the employee's grievance is that the action taken or contemplated is or would be unlawfully discriminatory, or that it is being taken for other reasons than that which has been asserted, the Grievance Policy should apply.

Why is a Staff Grievance Policy important?

Even in the best-run schools it is inevitable that from time to time staff will have grievances. Consequently, it is important that schools adopt fair, effective and legal grievance procedures.

Cheshire East Standard

All employers are under a statutory obligation to adopt and adhere to a grievance procedure for all staff that accords with the statutory requirements. That procedure **MUST** be fair and legal. All new and existing staff **MUST** be made aware of the existence of the procedure and have access to it during school hours. This procedure can be found at Appendix 1 below.

Grievances with / against the Authority

Where a member of staff of a maintained Cheshire East school with local management has a grievance with an employee or member of the local authority outside that school, it will be dealt with under the current County Council grievance procedure. In these cases, the school should seek advice from its personnel service provider.

8. Hearings and Appeals

- 8.1 Where possible, the employee's trade union or other representative will be consulted about the date and time of the hearing to ensure that this is convenient for them. If either cannot attend on the proposed date, the employee can suggest an alternative time and date so long as it is reasonable and is not more than 5 days later than the original date, or both sides may agree an alternative date beyond this period.
- 8.2 If an employee is unable to attend a meeting for a reason outside their control and unforeseeable at the time the meeting was arranged (e.g. illness), a further date will be arranged. Where absence due to illness continues the Occupational Health Unit will be asked for advice on whether or not the employee is fit to attend a hearing.
- 8.3 If the employee fails to attend without good reason, a decision may be taken in the employee's absence.
- 8.4 Sufficient time will be given to enable the employee to prepare their response to the allegations. The hearing will be a minimum of 5 working days after they have been notified of the date of the hearing and the details of the management case. In more serious and complex

cases, there will be a minimum of 15 working days, unless the employee requests an earlier hearing.

- 8.5 In the case of appeals where the evidence has already been presented there will be a minimum of 5 working days between the written notification of the date and the date of the hearing.

9. Confidentiality

- 9.1 All parties have a responsibility to deal with disciplinary issues in a sensitive and confidential manner.
- 9.2 Information shared as part of the disciplinary process is confidential and must not be used or published for any other purpose. Failure by the employee or manager to observe this requirement could, of itself, lead to further disciplinary action.

Appendix 1: Cheshire East Council - Education & Community Department

School Staff Grievance Policy

1. Introduction

The School / Council actively seeks to promote a harmonious working environment and positive working relationships but acknowledges that there may be instances where employees may have problems or concerns about their work, working environment or working relationships that they may wish to raise and have addressed. This grievance procedure supports the right of employees to raise legitimate grievances and provides a mechanism for these to be dealt with fairly and speedily before they develop into major problems or potential collective disputes.

2. Scope

This procedure may be applied to all staff (teachers and support staff) employed in Cheshire Schools.

3. Definition

A grievance is 'a complaint by an employee about action which their employer has taken or is contemplating taking in relation to them.' Such grievances may for example relate to terms and conditions of employment, health and safety, relationships at work, new working practices and organisational change. There are instances where the application of the Grievance Procedure is not appropriate; these exclusions from access to the procedures are outlined in paragraph 7.

4. Objective

To enable an employee to raise a grievance relating to their employment and receive a timely and appropriate response from management, with a view to reaching a satisfactory outcome.

5. Principles

The procedure aims to provide a means for dealing with any grievance which an employee may have in the course of, and connected with, their employment, and can be used by a group of employees who share a grievance if they wish to pursue it collectively.

The following principles underpin the policy:

- to ensure that such grievances are dealt with efficiently and within agreed timescales
- to be clear and unambiguous, detailing where the responsibility for the application of the procedure lies and clearly defining roles and responsibilities
- to confirm that the proceedings will be confidential, and any witness statements and records will be kept confidential to those proceedings
- to incorporate the rights of the employee to be accompanied at meetings; have access to relevant information; have an opportunity to explain their position; and a right of appeal
- to ensure that the grievance procedure is appropriately used by clearly outlining exclusions to access to the procedure.

NOTE: If the Headteacher (or the Chair of Governors, where the aggrieved is the Headteacher) finds that an employee has knowingly misused the procedure; the employee concerned may be subject to disciplinary action.

6. Procedural Timescales

Employees should raise grievances on a timely basis in order to ensure that the matter can be fully investigated and resolved satisfactorily. Any grievances that are not raised within *2 months* of the event occurring, or final event where there is a sequence of events, will be considered out of time.

For the operation of each stage of the procedure, time limits are specified. These are intended to ensure their speedy resolution and to avoid delays. However, there may be exceptional circumstances where both the Headteacher and employee representatives agree that speed is not essential, (this may be necessary in cases where further investigation is required), in which case there may be mutual agreement to extend timescales.

If a grievance is not dealt with within a specified time limit, the employee will have the right to proceed to the next stage of the procedure. Where an employee or their representative fails to comply with a time limit, the procedure will cease and the grievance will be considered settled or withdrawn, unless it is agreed that the failure was not the fault of the employee or their representative. This will not apply if the Headteacher and the employee agree that the time limits should be extended.

The timing and location of meetings should be reasonable and the employee must take all reasonable steps to attend. If the person accompanying the employee cannot attend on a proposed date, the employee can suggest a suitable alternative date/location. This must not be more than *five working days* after the date originally proposed by the Headteacher. The Headteacher is not obliged to agree an alternative date if this timescale cannot be met. Timescales must take into account school closure periods, for example if a grievance is lodged at the end of a term, it may not be possible for it to be dealt with until the start of the new term.

7. Exclusions from Access to Grievance Procedure

- Where a teacher (including the Headteacher) has a grievance in relation to his/her pay (see 8 below).
- Employees who fail to comply with the relevant time limits within the procedure, unless management concurs in advance to a particular time limit being extended.
- Attempts to restart the procedure in respect of a grievance which has been heard under the procedure within the previous *6 month period*.
- Where employees have been notified of the date of an interview or disciplinary hearing concerning an alleged act of misconduct by them and whose declared grievance is connected with that matter.
- Where an employee has been notified of the date of an interview or formal hearing concerning alleged unsatisfactory performance by them and whose grievance concerns, or is connected with, that matter or the arrangements for that interview or hearing.
- Where an employee seeks to express grievances about matters over which the employer has no control e.g. health & safety legislation.
- Where an employee has grievances that are the subject of, or appropriate to, any collective disputes procedures agreed between the employer and a trade union recognised by them.

8. Links with Other Procedures

- If an employee is being taken through Disciplinary or Performance Management procedures, this procedure cannot be used to register concerns about action under those procedures. Any concerns must be made formally, in writing, and will then be appropriately dealt with as part of those procedures. Where appropriate, consideration may be given to the suspension of proceedings whilst such concerns are addressed.
- If an employee has a grievance about an unrelated matter, this may be pursued simultaneously but arrangements under Disciplinary/Capability procedure will take precedence over those relating to a grievance.
- The grievance procedure does not apply where an employee makes a protected disclosure under the Confidential Reporting Procedure, unless the employee actually intends the making of the disclosure to constitute the raising of a grievance. An employee can choose whether to raise a concern as a grievance OR as a protected disclosure.
- If a teacher (including the Headteacher) wishes to appeal against any decision of the Governing Body in relation to his/her pay or any other decision taken by it under the School Teachers' Pay and Conditions Document that affects his/her pay, s/he should invoke the school's Appeals Procedure, which is in the school's Pay Policy. The Appeals Procedure performs the function of the school's grievance procedure on teachers' pay matters and therefore decisions should not be reopened under the school's grievance procedure. Decisions made under the Appeals Procedure do not affect teachers' statutory employment rights.

9. Post Employment Grievances

The procedure will apply in all cases where the employee is still employed by the School. It may also be necessary to deal with a grievance from an ex employee. Dealing with post employment grievances in this way will enable outstanding differences to be resolved, reduce the possibility of legal action, and could assist the School/County Council in identifying helpful changes to working practices. Where it is not reasonably practical to apply the full Procedure or both the employee and the Headteacher agree in writing that the Modified Grievance Procedure will apply instead (as outlined in Annex A).

10. Records

Records should be kept detailing the nature of the grievance raised, the employer's response, any action taken and the reasons for it. These records should be kept confidential and retained in accordance with the Data Protection Act 1998 that requires the release of certain data to individuals on their request. Copies of records should be given to the individual concerned although in certain circumstances some information may be withheld (e.g. to protect a witness).

11. Grievances Against Governors

Where a member of staff has a grievance with the Governors that does not involve any other member of staff, a direct approach shall be made to a sub committee or panel of the Governing Body appointed especially for the purpose.

Cheshire East Council - Education & Community Department

School Staff Grievance Procedure

Informal Stage

Most routine complaints or grievances are best resolved informally through discussion between the employee and their immediate line manager (or the Chair of Governors, in the case of the Headteacher). Dealing with grievances in this way can often lead to speedy resolution of problems. It is in everyone's best interests to resolve grievances quickly and fairly at the lowest levels of the organisation.

An employee with a grievance (as defined in the Policy) shall first raise it with their immediate line manager (or the Chair of Governors, where the aggrieved is the Headteacher) who will be expected whenever reasonable and practicable, to provide a reply either orally, or in writing if the employee requests it, within *5 working days* of the grievance being raised.

If, however, the employee's immediate line manager (or the Chair of Governors, where the aggrieved is the Headteacher) is the subject of the grievance and for this reason the employee does not want them to hear the grievance, the employee shall have the right to have the grievance heard by the Headteacher (or proceed to the Second Stage of the Formal Procedure, where the aggrieved is the Headteacher). The employee should submit the grievance in writing to the Headteacher with a request for this to be done. The Headteacher hearing the grievance shall provide the employee's line manager with an opportunity to express their views about the matter without obligation to do so in the presence of the aggrieved employee. Management should not lose sight of its duty to maintain mutual confidence and trust with the aggrieved employee's line manager or supervisor.

Where a grievance is against the Headteacher then the employee should submit the grievance in writing to the Chair of Governors. The employee shall have the right to have the grievance heard by the Chair of Governors. The Chair of Governors shall provide the Headteacher with an opportunity to express their views about the matter without obligation to do so in the presence of the aggrieved employee.

Formal Procedure

Where a grievance cannot be resolved informally it should be dealt with under the formal grievance procedure. A copy of the grievance procedure and related guidance notes will be made available to the employee at this stage. The employee should also consider making contact with their trade union at this point. In addition it may be necessary to consider personnel involvement.

First Stage

Step 1: The employee must outline the nature of the alleged grievance, the evidence to support it, and the outcome that they are seeking in a written statement to the Headteacher (or the Chair of Governors, where the aggrieved is the Headteacher).

Step 2: The Headteacher (or the Chair of Governors, where the aggrieved is the Headteacher) should then acknowledge receipt, arrange a meeting to hear the grievance as soon as practicable and inform the employee of their right to be accompanied. The hearing should not take place unless the Headteacher (or the Chair of Governors, where the aggrieved is the Headteacher) has had reasonable opportunity to consider the details of the grievance. At the hearing the employee will be allowed to explain their complaint and outline how they think it should be settled.

Step 3: The Headteacher (or the Chair of Governors, where the aggrieved is the Headteacher) must provide a written response to the grievance within *28 working days* of receipt of the grievance. Any extension to this timescale must be mutually agreed with the employee and only be in exceptional circumstances.

Second Stage

Step 1: If the employee is still aggrieved, they should inform the Headteacher (or their nominated representative or the Chair of Governors, where the aggrieved is the Headteacher) of the reasons why in writing within *10 working days* of receipt of the response to Stage 1, outlining that they want to progress to the appeal stage of the procedure.

Step 2: Upon receipt, the Headteacher (or their nominated representative or the Chair of Governors, where the aggrieved is the Headteacher) should inform their designated Personnel Advisor.

Step 3: The Personnel Advisor/School Liaison Manager may be able to conciliate in order to attempt to find a resolution to the grievance.

If conciliation is not appropriate or does not result in an acceptable outcome, the employee will then proceed to the appeal stage of the procedure.

Third Stage

Step 1: The appeal will be to the Staffing Sub-Committee or other designated subcommittee of the Governing Body. The appeal should be arranged as soon as practicable by the clerk to the Governors and the arrangements notified to the employee within *20 working days* of moving to the appeal stage. The Appeal will take the form of a hearing and the format will be as per Annex A.

Step 2: The decision of the Sub-Committee will be confirmed in writing to the employee and will be final.

Annex A - Conduct of a Grievance Hearing

A Grievance will be heard by a designated committee of the governing body e.g. Staffing Sub Committee. In this procedure, the employee's Manager will normally be the Headteacher or another member of the Senior Management Team, but where the aggrieved employee is the Headteacher, the Chair of Governors will perform this role. In the latter case, the Chair of Governors must not be a member of the Committee.

For the sake of dealing with the case expeditiously, the hearing will normally take place within 28 *working days* of the appeal being lodged. The employee will be given in writing a minimum of 7 *working days* notice of the time and place of the hearing, and will be allowed to be represented either by their trade union representative or some other person of their choice. The procedure for the hearing will be circulated in advance.

The procedure at the Committee will be as follows:

1. The Committee, with the person acting as Clerk in attendance, will elect a Chairman.
2. Introductions of both to the Members and Clerk of the Committee.
3. The employee (or their representative) will state their grievance and may call witnesses in support. Witnesses will only attend for the duration of their evidence.
4. Members of the Committee and the Manager and his/her advisor may then ask questions of the employee/their representative/witnesses.
5. The Manager and his/her advisor responds to the grievance and may call witnesses. Witnesses will only attend for the duration of their evidence.
6. Members of the Committee, the employee/their representative may then ask questions of the Manager and his/her advisor and witnesses.
7. The Manager and his/her advisor then sums up.
8. The employee (or their representative) then sums up
9. Both parties withdraw. The Committee (with Clerk present) consider their decision. If it is necessary to recall either party to clear points of uncertainty both parties will return not withstanding that only one is concerned with the point giving rise to doubt.
10. Both parties will be recalled to hear the decision of the Committee, which will be confirmed in writing. The decision will be final.

Conduct of a Grievance Hearing: Modified Procedure

This procedure is to be followed in limited circumstances where the application of the full Grievance Procedure is not reasonably practical or where both the employee and the Headteacher agree in writing that the Modified Procedure will be applied.

Step 1: The employee must outline the nature of the alleged grievance, the evidence to support it, and the outcome that they are seeking in a written statement to the Headteacher (or the Chair of Governors, where the aggrieved is the Headteacher).

Step 2: The Headteacher (or the Chair of Governors, where the aggrieved is the Headteacher) must respond in writing within 28 working days of receipt of the grievance.