

PENRYN COLLEGE

Staff Disciplinary Policy

Approved by: Full Governing Body

Date approved: March 2023

Responsible SLT member: HR Manager

To be reviewed: March 2026

Published: Staff Intranet, Staff handbook, Website

Version: 07/23-v1.0

Contents:

Statement of intent

1. [Legal framework](#)
2. [Roles and responsibilities](#)
3. [Powers](#)
4. [The right to be accompanied](#)
5. [Gross Misconduct](#)
6. [Investigations](#)
7. [Criminal charges](#)
8. [Procedure at disciplinary hearings](#)
9. [Levels of disciplinary action](#)
10. [Alternatives to dismissal](#)
11. [The decision letter](#)
12. [Time limit for warnings](#)
13. [Right of appeal](#)
14. [Referrals to the Teaching Regulation Agency and DBS](#)
15. [Monitoring and review](#)

Appendix A: [Guide to undertaking a Disciplinary Investigation](#)

Appendix B: [Guide to Undertaking a Disciplinary Hearing](#)

Appendix C: [Letter Templates](#)

Statement of intent

The main purpose of the disciplinary procedure is to encourage an employee, whose standard of work or conduct is unsatisfactory, to improve. The procedure serves to ensure that this is done in a fair and consistent manner.

The disciplinary procedure is not contractual and may be varied by the school. Penryn College expressly reserves the right to depart from the terms of the disciplinary procedure in circumstances where the employee does not have two years' qualifying service.

The disciplinary procedure is strictly confidential and all aspects, including all documentation and records, shall be treated as such. In line with this policy, the following will be adhered to:

- In minor cases of alleged misconduct, the manager should initially seek to resolve the matter informally by discussion with the employee.
- The disciplinary procedure is to be used where an employee's work or conduct is alleged to be unsatisfactory.
- Each step and action under the procedure must be taken without unreasonable delay, by either the school or the employee.
- The timing and location of meetings must be reasonable.

Please note: Disciplinary actions that relate to allegations of abuse about a member of staff will also be managed in line with the Allegations of Abuse Against Staff Policy.

Legal framework

This policy has due regard to all relevant legislation and statutory guidance including, but not limited to, the following:

- The Education Act 2011
- The Teachers' Disciplinary (England) Regulations 2012
- DfE (2022) 'Teacher misconduct: the prohibition of teachers'
- DfE (2022) 'Keeping children safe in education 2022'
- DfE (2021) 'Teachers' Standards'
- DfE (2020) 'Teacher misconduct: disciplinary procedures for the teaching profession'

This policy operates in conjunction with the following school policies:

- Records Management Policy
- Staff Code of Conduct
- Child Protection and Safeguarding Policy
- Grievance Policy
- Allegations of Abuse Against Staff Policy

Roles and responsibilities

The governing board will be responsible for:

- Monitoring and reviewing this policy as needed or in any event every 3 years to ensure its effectiveness.
- Ensuring that all members of staff have read and understand the provisions outlined in this policy.
- Initiating disciplinary action and deciding the appropriate level of action where an allegation is made against the headteacher.
- Ensuring a culture is established where employees are supported and assisted in achieving and maintaining the required standards of conduct.
- Overseeing how this policy is managed and deployed, and for delegating the hearing of appeals to a sub-committee, if necessary.

The headteacher will be responsible for:

- The day-to-day implementation of this policy and maintaining discipline among all staff.
- Ensuring this policy and associated procedure are readily available to all employees and can be accessed in an appropriate format.
- Initiating disciplinary action and deciding the appropriate level of action.
- Ensuring records are kept of all disciplinary meetings and communications with employees.
- Ensuring that all documentation relating to disciplinary issues is retained in accordance with the schools Records Management Policy.
- Communicating the outcomes of disciplinary procedures to employees.
- If a matter concerns a safeguarding issue, ensuring the DSL has been notified.

Employees will be responsible for:

- Familiarising themselves with the standards outlined in the Staff Code of Conduct.

- Adhering to the provisions outlined in this policy and cooperating with the disciplinary procedure.
- Attending all meetings, interviews and hearings that take place in accordance with this policy and its associated procedure.
- Lodging appeals to the headteacher within five working days of receiving a decision.
- If choosing to be accompanied to a disciplinary or appeal hearing, notifying the disciplinary officer who their chosen companion is, in good time before the hearing.

Powers

The school has delegated powers to the following levels (or above) of staff:

Appellant	Investigation Officer	Disciplinary Officer	Hearing Chair	Appeal
Non-supervisory staff	Line Manager or SLT	Deputy Head	Head	Governors
Supervisory staff below SLT	Line manager or SLT	Deputy Head	Head	Governors
Assistant Head	Deputy Head	Deputy Head (different from IO)	Head	Governors
Deputy Head	Head	n/a	Governors	Chair of Governors
Head	Governors	n/a	Chair of Governors	External appointment

Where the employee is employed by the school at the level of the appointed disciplinary officer, then the next level of management up will ordinarily deal with the matter; for example, where an allegation is raised regarding an assistant headteacher, a deputy headteacher will ordinarily be the investigating officer and the headteacher will ordinarily be the chair.

For allegations regarding the headteacher, a governor shall be appointed as the investigating officer and Chair of Governors will chair the hearing. For allegations regarding the Chair, a nominated governor will have the authority to be the investigating officer and any appeal will be to another nominated governor.

In a case where the person who would normally be the investigating officer is compromised through existing circumstances, is significantly involved in the incident, or does not have the resource to deal with the matter at that time, the case will normally be dealt with by an alternative at the same level or the next level of management, i.e. another supervisor/manager within the school at a level that is senior to the person being investigated.

Before any disciplinary decision is made, the employee will be advised of the allegations against them and will be given the opportunity to state their case. The employee will be notified in writing of the allegations to be answered, plus any documentary evidence, before the disciplinary hearing.

The employee must make every effort to attend an investigative interview and/or disciplinary hearing and failure to attend, without good reason, may be treated as misconduct in itself. If the employee fails

to attend without good reason, or if they are persistently unable to do so (for example, for health reasons), the school may have to take a decision based on the available evidence.

Investigatory meetings will not, by themselves, result in any disciplinary action.

At any disciplinary hearing or appeal hearing, the employee will have the right to put forward their case. The school will only consider evidence presented by the employee which is relevant to the allegations.

The school shall be entitled to manage the time and resources allocated to a disciplinary matter, including managing the time of a disciplinary hearing and allocating time within a disciplinary hearing. This may result in limiting the amount of time allocated to an employee to present their case.

The decision and the reasons shall be communicated in writing to the employee. An employee will be advised of their right of appeal and how to exercise that right.

Typically, the process would proceed as follows:

1. The Head will appoint an Investigating Officer and Disciplinary Officer
2. The Investigating Officer will investigate and make a recommendation to the Disciplinary Officer
3. The Disciplinary Officer will decide if the matter should either be referred to a hearing, dealt with informally or if there is no case to answer
4. If the matter goes to hearing the investigating officer will present the case to the panel.
5. If an appeal follows, the investigating officer will present the case to the appeals panel

The right to be accompanied

The employee may bring a companion to any disciplinary or appeal hearing under this procedure. The companion may be either a trade union official, a trade union representative or a work colleague not involved in the matter. The employee must tell the disciplinary officer who their chosen companion is, in good time before the hearing.

A companion is allowed reasonable time off from duties, without loss of pay, but no one is obliged to act as a companion if they do not wish to do so.

If the choice of companion is unreasonable, the school may ask for the employee to choose someone else. For example:

- If in the school's opinion the employee's companion may have a conflict of interest or may prejudice the hearing.
- If the companion is unavailable at the time a hearing is scheduled and will not be available for more than five working days afterwards.

The school may, at its absolute discretion, allow the employee to bring a companion who is not a work colleague or union representative (for example, a member of family) if this will help the employee overcome barriers to effective participation caused by a disability.

At a hearing, the companion may make representations to the school and ask questions, but should not answer questions on the employee's behalf. The employee may confer privately with their companion at any time during a hearing.

Gross Misconduct

'Gross Misconduct' occurs where a member of staff acts in a way which is incompatible with the faithful discharge of his or her duty to the employer (The Academy Trust in this case).

The misconduct must be gross or grave, seen in the light of all the circumstances of the case and so serious that it goes to the root of the contract of employment and makes the staff member's continued employment incompatible with the best interests of the academy.

Some examples of conduct which potentially amount to gross misconduct (justifying summary dismissal (that is, instant dismissal without notice or payment in lieu of notice)) might include:-

- all fraud, theft or serious dishonesty at work
- deliberate, serious (negligent) acts which have the potential for causing serious injury to staff members or pupils
- damaging academy property deliberately or recklessly
- serious violent or threatening behaviour at work
- deliberate serious breach of confidentiality
- supplying or being in possession of illegal drugs
- serious or persistent sexual or racial harassment
- drunkenness (such as to impair the performance of duties) or being under the influence of illegal drugs during working hours
- insolent or abusive behaviour towards parents, pupils, or other members of staff
- sexual misconduct
- serious act of insubordination

(This list is not exhaustive)

Suspension

In certain circumstances, consideration may be given to suspending the member of staff from their place of work at the outset of the investigation or at any stage during the course of the investigation. The school will consider and document why suspension is necessary before making this decision, and will consider alternatives to suspension, where possible.

The suspension will be for no longer than is necessary and the school will confirm the arrangements to the employee in writing.

The decision to suspend may only be taken by a headteacher. If the headteacher is unavailable, the decision may be delegated to a nominated deputy headteacher, who must make every effort to contact the headteacher, to discuss the case and be authorised to make the decision.

Where the headteacher is suspended, the chair of governors only has the power to do so and must notify the full governing board.

In other cases, the school board should be informed through the chair of governors.

While the employee is suspended, they should not visit the school site or contact any of its pupils, parents, governors, chair of governors, members or colleagues, unless the employee has been authorised to do so by the headteacher.

While suspended, the school will provide the employee with a named contact with whom they can liaise to support them through the investigation.

Suspension of this kind is not a disciplinary penalty and does not imply that any decision has already been made about the allegations. The employee will continue to receive their salary during the period of suspension. Every effort will be made to avoid lengthy periods of suspension. The decision to suspend, and the conditions of suspension, will be reviewed periodically and the employee will be updated as, and when, necessary.

Investigations

The purpose of an investigation is for the school to establish a fair and balanced view of the facts relating to any disciplinary allegations against an employee, to allow the disciplinary officer to determine whether to proceed with a disciplinary hearing. The amount of investigation required will depend on the nature of the allegations and will vary from case to case. It may involve interviewing and taking statements from the employee and any relevant witnesses, and/or reviewing relevant documents. The investigating officer will also make a recommendation whether the allegation constitutes Gross Misconduct.

Investigative interviews are solely for the purpose of fact-finding and no decision on disciplinary action will be taken until after a disciplinary hearing has been held. An employee does not have the right to bring a companion to an investigative interview; however, the school may, in its absolute discretion, allow an employee to bring a companion if it helps the employee

to overcome barriers to effective participation caused by a disability or in exceptional circumstances.

The employee must cooperate fully and promptly in any investigation. This will include informing the school of the names of any relevant witnesses, disclosing any relevant documents to the school and attending investigative interviews if required. Any failure to comply may lead to disciplinary action. It is incumbent on the employee, during the investigation stage, to raise details of additional witnesses whom the school should interview during the investigation.

The school will make every effort to maintain confidentiality and guard against unwanted publicity whilst an allegation is being investigated. Where an employee has been accused of misconduct by a pupil, the school ensures that no material is published or made public that could identify the employee as the subject of the allegation.

Reporting restrictions will remain in place until the employee is charged with an offence or until the Secretary of State publishes information on the outcome of the investigation. Reporting restrictions will be disappplied if the employee waives their right to anonymity by going public themselves or by giving their written consent for another to do so, or if the restrictions are lifted by a judge.

Criminal charges

Where the employee's conduct is the subject of a criminal investigation, charge or conviction, the school will investigate the facts before deciding whether to take formal disciplinary action.

The school will not usually wait for the outcome of any prosecution before deciding what action, if any, to take. Where the employee is unable or has been advised not to attend a disciplinary hearing or say anything about a pending criminal matter, the school may have to take a decision based on the available evidence.

A criminal investigation, charge or conviction relating to conduct outside work may be treated as a disciplinary matter if the school considers that it is relevant to the employee's employment.

Procedure at disciplinary hearings

At the beginning of the hearing, the disciplinary officer will introduce those present and the purpose of the meeting. The employee will be reminded of their right to be accompanied (if the employee has not chosen to be accompanied by a trade union representative or a work colleague). The Investigating Officer will go through the allegations against the employee and the evidence that has been gathered. The Chair will invite the employee to respond and present any relevant evidence.

Witness evidence (save for additional matters that the employee wishes to raise) is provided through witness statements and interview notes which have been approved by the witness. There is no right for either the school or the employee to call witnesses to the disciplinary hearing. The hearing Chair may however ask questions of the employee. Should the employee wish to question the evidence provided by another witness in the investigation then this should be raised by the employee upon receipt of the investigation documents, prior to the hearing.

The employee will be given a full opportunity to ask questions and put forward any mitigating factors which they believe are relevant to the allegations. Once the employee has been afforded an opportunity to explain their position, the hearing Chair will do either of the following:

- Give the decision and explain the reasons for the decision, and confirm as soon as possible in writing
- Inform the employee that the decision will be given in writing as soon as possible

The hearing Chair may adjourn the disciplinary hearing if the school needs to carry out any further investigations in light of any new points the employee has raised at the hearing. The employee will be given a reasonable opportunity to consider and comment on any new information obtained before a decision is given.

Levels of disciplinary action

There are four stages, each of which is designed to cover the varying seriousness of the cases. The stages give a proper sequence for persistent cases. Where the case is of sufficient importance or seriousness to use the procedure, disciplinary action will be taken at whatever stage appears appropriate to the circumstances. No employee will be dismissed for a first breach of discipline except in the case of gross misconduct when the penalty may be dismissal without notice and without pay in lieu of notice.

The following decisions will be confirmed in writing:

- **Level 1:** A first warning may be given where the case is of sufficient importance or seriousness to bring to the attention of the employee formally. The time limit shall be six months (excluding the Summer holiday) from the date of the decision.
- **Level 2:** A written warning may be given where the case has already involved a first warning and insufficient improvement has been made, where further misconduct has occurred, or where the case is of sufficient importance or seriousness. The time limit shall be nine months (excluding the Summer holiday) from the date of the decision.
- **Level 3:** A final warning may be given where the case has already involved a written warning and insufficient improvement has been made, where further misconduct has occurred or where the case is of sufficient importance or seriousness. Also where gross misconduct may not warrant dismissal, for example due to mitigating circumstances. The time limit shall be 12 months (excluding the Summer holiday) from the date of the decision; however, in exceptional circumstances, misconduct may be so serious that if repeated at any time in the future, the likely consequence is dismissal. The individual/s making the decision may impose a final written warning and specify that such a warning will remain in force for a longer period of time.
- **Level 4:** Dismissal. An employee is likely to be dismissed where the case has already involved the final warning and insufficient improvement has been made or where further misconduct has occurred or where the case is so serious as to constitute gross misconduct or where there is some other substantial reason.

Breaches of discipline will be disregarded after the specified period of satisfactory conduct, but will remain permanently on the employee's personnel file.

Alternatives to dismissal

In some cases, the school may, at its discretion, consider alternatives to dismissal. These will usually be accompanied by a final written warning. Examples include the following:

- Demotion
- Transfer to another department or job
- A period of suspension without pay
- Loss of seniority
- Reduction in pay
- Loss of future pay increment

The decision letter

A letter detailing the decision will be given to the employee and a copy placed on their personnel file, if a warning is issued. Following the outcome of the hearing, the decision letter will state:

- The reason for the decision.
- The course of action to be followed by the employee.
- The timescale in which improvement is required, if applicable.
- Where assistance is required, the assistance which will be made available to the employee (e.g. training and guidance).
- The date on which the warning will elapse.
- That further disciplinary action will be considered if there is further misconduct or insufficient improvement within the timescale of the warning.
- The right of appeal against the decision and how to exercise that right.

If the warning is a final, it will also state that if the employee's conduct continues to be unsatisfactory or if there is further misconduct, it may lead to dismissal.

Time limit for warnings

The time limits for warnings are as follows:

- **First warning:** the time limit shall be 6 months (excluding the Summer break) from the date of the decision
- **Written warning:** the time limit shall be 9 months (excluding the Summer break) from the date of the decision
- **Final warning:** the time limit shall be 12 months (excluding the Summer break) from the date of the decision

In exceptional circumstances, misconduct may be so serious that if repeated at any time in the future the likely consequence is dismissal. The individual/s making the decision may impose a final written warning and specify that such a warning will remain in force for a longer period of time.

Breaches of discipline will be disregarded after the specified period of satisfactory conduct, but will remain permanently on the employee's personnel file.

Right of appeal

All employees have the right of appeal. Appeals must be lodged in writing to the headteacher within five working days of the decision being communicated to the employee, i.e. usually within five days of the date of the outcome letter. If the Head teacher is appealing a decision, the appeal must be lodged with the Chair of Governors.

If the employee is appealing against dismissal, the date on which dismissal takes effect will not be delayed pending the outcome of the appeal; however, if the appeal is successful, the employee will be reinstated with no loss of continuity of pay.

If the employee raises any new matters in their appeal, the appeal officer may need to carry out further investigations. If any new information comes to light, the appeal officer will provide the employee with a summary including, where appropriate, copies of additional relevant documents and witness statements. The employee will have a reasonable opportunity to consider this information before the hearing.

The school will give the employee written notice of the date, time and place of the appeal hearing. The appeal hearing may be a complete re-hearing of the matter or it may be a review of the fairness of the original decision in the light of the procedure that was followed and any new information that may have come to light. This will be at the school's discretion depending on the circumstances of the case. In any event the appeal will be dealt with as impartially as possible. Where possible, the appeal hearing will be conducted impartially by a more senior manager who has not been previously involved in the case. The employee may bring a companion to the appeal hearing.

The appeal officer may adjourn the appeal hearing if the school needs to carry out any further investigations in the light of any new points the employee has raised at the hearing. The employee will be given a reasonable opportunity to consider any new information obtained before a decision is given.

The appeal officer may do any of the following:

- Confirm the original decision
- Revoke the original decision
- Substitute a different penalty

The appeal officer will inform the employee in writing of the final decision as soon as possible. There will be no further right of appeal.

Referrals to the Teaching Regulation Agency and DBS

Allegations of serious professional misconduct by a teacher may be referred to the Teaching Regulation Agency (TRA). A referral is appropriate if the alleged misconduct is so serious, it warrants a decision on whether a teacher should be prevented from teaching.

If an individual may have harmed a child or vulnerable adult, or put a child or vulnerable adult at risk of harm, a referral to the DBS must be made by the employer. In these cases, advice should be sought from the school's HR advisor.

Monitoring and review

This policy is reviewed as needed or in any event, every three years by the headteacher and governing board.

The scheduled review date for this policy is 1st March 2026.

Appendix A

Guide to undertaking a disciplinary investigation. *This does not form part of the policy*

Representation

As part of the disciplinary procedure, employees have a statutory right to be accompanied at formal disciplinary hearings by their trade union representative or a workplace colleague.

The employee is responsible for arranging their representation, including notifying the representative of the hearing date in good time and sending them copies of all relevant documentation. Where the employee's trade union representative is not available at the time proposed for the meeting, the employee may propose an alternative date and time.

At the school's discretion, the employee may be allowed to bring a companion who is not a work colleague or union representative, for example, a member of family, if this will help the employee overcome barriers to effective participation caused by a disability.

Line managers should try to agree on a mutually convenient date for the meeting with the employee and their union representative in order to ensure that hearings do not have to be delayed or rescheduled.

The trade union representative may address a hearing to put the case for the employee and sum up the case, respond on behalf of the employee to any views expressed at the hearing and may confer with the employee. They may not, however, answer questions on their behalf.

Suspension

In certain circumstances, consideration may be given to suspending an employee from their place of work at the outset of the investigation or at any later stage during the course of the investigation.

Staff should consider and document why suspension is necessary before making this decision, and should consider alternatives to suspension where possible. The suspension should be for no longer than is necessary and the school should confirm the arrangements to the employee in writing.

The decision to suspend may only be taken by a headteacher or Chair of Governors. If the headteacher or Chair of Governors is unavailable, the decision may be delegated to a nominated deputy headteacher, who must make every effort to contact the headteacher or Chair of Governors to discuss the case and be authorised to make the decision.

Where the headteacher is the subject of the disciplinary investigation, only the chair of governors has the power to do so and must notify the full governing board.

A suspended employee should be assigned a contact officer who will review the suspension at regular intervals and advise the employee of progress with the case.

Deciding if there needs to be an investigation

Where possible, potential disciplinary issues should be resolved informally by drawing the employee's attention to the perceived unsatisfactory conduct, discussing the situation and the standards of conduct that are required, and agreeing an appropriate way forward, including any improvement required. This information should be recorded in the event that the informal resolution has been unsuccessful and improvements are not seen.

Informal action may often be a more satisfactory way of dealing with a breach of rules than a disciplinary meeting, if it takes the form of a discussion with the objective of encouraging and helping the employee. Informal discussion must not turn into a disciplinary meeting and warnings should not be given and recorded.

Investigation

No formal disciplinary action should be taken without a prompt and appropriate investigation into the circumstances.

The purpose of an investigation is for the school to establish a fair and balanced view of the facts relating to any disciplinary allegations against an employee, before deciding whether to proceed with a disciplinary hearing. The amount of investigation required will depend on the nature of the allegations and will vary from case to case. It may involve interviewing and taking statements from the employee and any relevant witnesses, and/or reviewing relevant documents.

Preparing for an investigation

The headteacher must nominate the line manager or a senior member of staff who has received relevant training as the investigating officer. Where the allegations are against the headteacher, the chair of the governing body should discuss the case with the school and an independent governor should be nominated.

The investigating officer should write to the employee at the earliest opportunity and give them the following information:

- Details of the allegations
- The time and date of any investigation meeting, with five working days' notice
- Confirmation of their right to representation by a trade union representative or workplace colleague at all meetings

The investigating officer should design an investigation plan, this could include:

- What needs to be investigated.
- Who is carrying out the investigation.
- Witnesses who need to be spoken with.
- Sources of evidence, for example work records.

- Policies or workplace guidelines to follow.
- The importance of confidentiality.
- Any other relevant points or information.

Carrying out an investigation

The investigating officer should promptly carry out a thorough, comprehensive and unbiased investigation into the allegations in as timely a manner as the circumstances will allow. This will involve the gathering of all relevant evidence from the relevant parties and an investigation meeting with the employee.

The investigation report should be completed as soon as possible and within 15 working days for allegations of misconduct and other cases where the fact finding is relatively straightforward. For allegations of gross misconduct and more complex cases, the investigation process should take no longer than 20 working days. In very complex cases or exceptional circumstances, a reasonable timescale should be agreed by mutual consent.

The investigation may require employees and witnesses to be interviewed to establish the facts. Employees should be given reasonable notice in advance of any investigation meetings. Minutes of these meetings should be taken and agreed with the employee as a true record. At the end of the meeting, the witness should sign the minutes and these will form a witness statement.

The employee must cooperate fully and promptly in any investigation. This should include informing the school of the names of any relevant witnesses, disclosing any relevant documents to the school and attending investigative interviews if required. Any failure to comply may lead to disciplinary action. It is incumbent on the employee, during the investigation stage, to raise details of additional witnesses whom the school should interview during the investigation.

The school should make every effort to maintain confidentiality and guard against unwanted publicity whilst an allegation is being investigated. Where an employee has been accused of misconduct by a pupil, the school ensures that no material is published or made public that could identify the employee as the subject of the allegation.

The investigating officer should gather all the information they reasonably can and need for the case. They should assess what physical evidence is needed based on:

- What is laid out in the investigation plan.
- What sources of information they can use.
- Any time limits, for example records getting deleted.

Types of physical evidence could include:

- Emails
- Paperwork

- Receipts
- Computer records
- Phone records
- CCTV recordings
- Attendance records

The investigating officer may decide a witness can give a statement without having a meeting, if the witness:

- Is not an employee.
- Only needs to provide minimal information.
- Is ill and cannot come to an investigation meeting.

The investigating officer should ask the witness to write:

- Answers to specific questions, where necessary.
- Their name and, where applicable, job title.
- The date, place and time of any relevant issues.
- What they saw, heard or know.
- The reason why they were able to see, hear or know about the issues.
- The date and time of writing their statement.
- Their signature.

The role of the investigating officer is to gather evidence and produce a report that should recommend whether:

- No further action is required.
- Management guidance is appropriate.
- Training is required.
- The case should be referred to a hearing.
- Whether the matter is potentially one of gross misconduct.

If other areas of concern arise during the process that require further investigation, the investigating officer should adjourn the meeting in order to undertake this.

The employee under investigation should be given a copy of any written evidence, including witness statements.

Outcome of an investigation

If the Disciplinary Officer determines there is no case to answer the matter should be closed, the employee informed in writing and all documentation removed from the employee's file. If

the matter does not warrant a disciplinary hearing, the headteacher may take informal action. If on completion of the investigation the Disciplinary Officer is satisfied that the alleged misconduct warrants a hearing, they should inform the employee and a disciplinary hearing should be arranged.

In the case of the headteacher, the investigating officer should submit a report to the chair of governors. The chair of governors should decide if any further action is required and whether there needs to be a formal hearing convened.

Individuals directly involved in the investigative process may present a case or give evidence as a witness, but may not give advice to, or sit on, the subsequent disciplinary hearing panel.

Appeals

All employees have the right of appeal. Appeals must be lodged in writing to the headteacher within five working days of the decision being communicated to the employee, i.e. usually within five days of the date of the outcome letter.

If the employee is appealing against dismissal, the date on which dismissal takes effect should not be delayed pending the outcome of the appeal; however, if the appeal is successful, the employee should be reinstated with no loss of continuity of pay.

If the employee raises any new matters in their appeal, the appeal officer may need to carry out further investigations. If any new information comes to light, the appeal officer should provide the employee with a summary including, where appropriate, copies of additional relevant documents and witness statements. The employee should have a reasonable opportunity to consider this information before the hearing.

Minutes of the appeal hearing should be taken by a suitable person, as arranged by the school. Copies of the minutes should be circulated to all parties within two working days of the hearing.

The appeal officer should inform the employee in writing of the final decision as soon as possible. There should be no further right of appeal.

Record Keeping

Managers must keep written records of meetings and discussions relating to the disciplinary process and copies of all final meeting records must be given to employees.

Written confirmation of the outcome of any meetings should be sent to the employee for their information and a copy should be kept on the employee's personnel file. Upon expiry, any warning should be removed from the employee's personnel file except for warnings relating to the safety and welfare of children or young people.

Appendix B

Guide to undertaking a disciplinary hearing. *This does not form part of the policy*

The responsibility of governing boards

It is the responsibility of governing boards to approve and set out the grievance and disciplinary procedures for the school.

Maintained schools and academy trusts must be mindful of their obligations under employment law and it is recommended that they take into account the ACAS [‘Code of practice on disciplinary and grievance procedures’](#) when considering their discipline and grievance procedures.

It may be possible in the first instance for grievance or minor disciplinary issues to be resolved informally – ACAS recommends that this should be explored in all cases. Where the issue cannot be resolved informally, the formal process outlined in the school’s disciplinary policy or grievance policy should be followed.

Convening a panel

The requirement and circumstances for a governor panel is detailed within the school’s disciplinary policy, which should always be followed. If a governor panel is required, the clerk should advise the board on panel membership. The panel should be made up of impartial members to ensure a fair and objective process. Whilst all governors have equal status, staff governors should not be included in the panel as this would be considered a conflict of interest – it is inappropriate for colleagues to be aware of issues relating to their senior leaders or peers. There may be occasions where parent governors may also have a conflict of interest, e.g. if the member of staff teaches their child, and so all potential conflicts should be considered and removed from the process.

Preparing for a meeting

A disciplinary or grievance panel should be convened without delay. Consideration must be given to providing the staff member with reasonable time to prepare their case. The meeting should be organised for a reasonable time of day.

The panel must be provided with all supporting paperwork relevant to the meeting. This may include:

- A copy of the relevant policy, i.e. the grievance or disciplinary policy.
- Copies of any other relevant policies relevant to the grievance or disciplinary issue.
- A copy of any initial investigation report.
- Copies of any CCTV footage or other documentary evidence.
- Copies of witness statements.

- In the case of an appeal, a copy of the first decision letter.

The staff member should be made aware they have a right to be accompanied at a disciplinary or grievance meeting. They may choose to bring a fellow worker or a union representative.

The meeting rooms should have enough space to comfortably host all attendees are available. Additional rooms should also be provided to give attendees space to meet prior the meeting, during any adjournment and following the meeting if necessary. Written notification of the date and time of the meeting should be given to all parties. Reasonable adjustments should be made to ensure that all parties are able to attend the meeting but failure to attend a meeting without prior notice and in any event after more than one rescheduling, may mean that the panel can reach a decision based on the evidence available. The chair should be appointed from the panel of governors to facilitate the meeting and that the appointed person should be aware of the process the meeting should follow.

Example agenda

1. Chair welcomes attendees to the meeting and explains the purpose of the meeting.
2. Chair introduces all attendees present and explains the role of each attendee.
3. Chair outlines the allegations against the staff member, or the details of the grievance being raised.
4. The employee is given the opportunity to respond to the allegations raised or, in response to their grievance, ask questions and present any relevant evidence.
5. Provision of any supporting information by the employee or their representative to support the case.
6. The investigating officer or school representative is given the opportunity to ask questions of the employee and any witnesses they have called.
7. Questions from the panel to all parties.
8. Adjournment if any new evidence or information is submitted.
9. Closing statement and summing up by both parties – no new evidence is permitted at this point.
10. Chair calls the meeting to a close.
11. All attendees, apart from the panel, leave the room.
12. Consideration of decision by the panel to write minutes and personnel representative to provide legal guidance.

Recording the meeting

To ensure a transparent process, it is recommended that a disciplinary or grievance panel meeting be formally recorded by an appropriate person. This will vary between cases.

ACAS recommends that any records of disciplinary or grievance processes are treated as confidential and are not kept any longer than is necessary in accordance with the Data Protection Act 2018.

Communicating the decision

The panel may choose to communicate their decision to the member of staff in person, but must also confirm this decision in writing. Depending on the circumstances, any potential sensitivities of the panel meeting and the time the panel need to deliberate, the panel may choose to inform the members of staff in writing only.

The decision letter should include the following information:

- The panel's decision.
- The reason for the decision.
- In the case of a disciplinary meeting, details of any prescribed course of action to be followed by the employee, e.g. attending a training course.
- In the case of a grievance meeting, details of any prescribed course of action to be followed by the school, e.g. review of a policy or process.
- Timescale in which improvement or a course of action is required.
- Where assistance is required, the assistance which will be made available to the employee e.g. training and guidance.
- In the case of a disciplinary meeting, the date on which any warning given will elapse.
- That further disciplinary action will be considered if there is further misconduct or insufficient improvement within the timescale of the warning.
- The right of appeal against the decision and how to exercise that right.

In the case of a disciplinary meeting, if a final warning is given, the letter should also state that if the employee's conduct continues to be unsatisfactory or if there is further misconduct, it may lead to dismissal.

The right to appeal

Staff members should always be informed in writing of their right to appeal against any decision which has been made at a panel meeting. Information given to the staff member regarding their right to appeal should include the following:

- Who the appeal should be lodged with.
- The timescale in which the appeal must be lodged.
- The process for raising any new matters.
- The process for submitting new information or evidence.

If an appeal is lodged, a further panel of governors will be required to hear the appeal, and this will need to involve another three impartial governors who have no knowledge or information regarding the previous hearing.

The member of staff should be advised that the appeal hearing may be a complete re-hearing of the matter, or it may be a review of the fairness of the original decision

in the light of the procedure that was followed and any new information that may have come to light. This will be at the panel's discretion depending on the circumstances of the case. In any event, the appeal must be dealt with as impartially as possible.

The panel may do either of the following:

- Confirm the original decision
- Revoke the original decision
- Substitute a different penalty

Appendix C

Letter Templates

Standard letter requesting attendance at an investigatory interview

Strictly Personal & Confidential

Mr A Anybody

Any Street

Any Town insert date

Dear Mr Anybody

Investigatory Interview

I write to confirm that you are required to attend an investigatory interview with (insert name of nominated "Investigating Officer") at (insert venue) on (insert date) at (insert time).

The purpose of the interview is to consider the following:

(insert details).

You may be accompanied at the interview by a workplace colleague or your trade union representative. The unavailability of your preferred companion will not normally be a reason for the interview not proceeding or being re-arranged (*). There is no statutory right to be accompanied.

Yours sincerely

(Investigating Officer)

Copy to: Trade Union representative/workplace colleague (if applicable)

Standard letter requesting attendance at a disciplinary hearing

Strictly Personal & Confidential

Mr A Anybody

Any Street

Any Town insert date

Dear Mr Anybody

Disciplinary Hearing

I write to confirm that you are required to attend a disciplinary hearing to be held on (insert date) at (insert time) at (insert venue).

The purpose of the hearing is to consider the following complaints relating to:

(insert details).

You have the right to be accompanied at the hearing by your trade union representative or a workplace colleague. You, or your representative, have the right to make a written submission prior to the hearing and/or to make statements at the hearing. Any written statements or other documentation you wish to be considered at the hearing should be submitted to me by (insert date which should be not less than **1 calendar week** before the scheduled date of the hearing).

During the hearing the attached statements from (insert names of people who provided statements) will be referred to.

Should the allegation/complaint be substantiated, the probable outcome of the hearing will be (insert, if appropriate, the probable disciplinary sanction. Note: in cases of gross misconduct, should the allegation/complaint be substantiated, the possible outcome of the hearing could be dismissal).

A copy of the procedure to be followed at the hearing is enclosed.

Yours sincerely

Headteacher

Enc

Copy to: Trade union representative/workplace colleague (with employee's permission)

Standard letter confirming a written warning

Strictly Personal & Confidential

Mr A Anybody

Any Street

Any Town insert date

Dear Mr Anybody

Verbal Warning

I refer to the Disciplinary Hearing which took place on (insert date of hearing) in accordance with the academy's Disciplinary Procedure. At that meeting (insert names of people in attendance) were in attendance.

At the meeting it was established that (insert details).

I confirm that you were issued with a formal verbal warning as to your future conduct. This oral warning will remain 'active' for a period of 6 months from the date of the hearing after which it will be disregarded. You were informed that any recurrence of the following conduct (insert details of the conduct which led to the disciplinary sanction being imposed) will lead to further disciplinary action.

I enclose a copy of the academy's Disciplinary Procedure for your information and draw your attention to your right of appeal. If you wish to appeal against this formal written warning you must do so, in writing, within 2 calendar weeks of receipt of this letter.

Yours sincerely

Headteacher

Enc

Copies to: Trade union representative/workplace colleague **(with employee's permission)**

Standard letter confirming a written warning

Strictly Personal & Confidential

Mr A Anybody

Any Street

Any Town insert date

Dear Mr Anybody

Written Warning

I refer to the Disciplinary Hearing which took place on (insert date of hearing) in accordance with the academy's Disciplinary Procedure. At that meeting (insert names of people in attendance) were in attendance.

At the meeting it was established that (insert details).

I confirm that you were issued with a formal written warning as to your future conduct. This formal written warning will remain 'active' for a period of 12 months from the date of the hearing after which it will be disregarded. You were informed that any recurrence of the following conduct (insert details of the conduct which led to the disciplinary sanction being imposed) will lead to further disciplinary action.

I enclose a copy of the academy's Disciplinary Procedure, and draw your attention to your right of appeal. If you wish to appeal against this formal written warning you must do so, in writing, within 2 calendar weeks of receipt of this letter.

Yours sincerely

Headteacher

Enc

Copies to: Trade union representative/workplace colleague (with employee's permission)

Standard letter confirming a final written warning

Strictly Personal & Confidential

Mr A Anybody

Any Street

Any Town insert date

Dear Mr Anybody

Final Written Warning

I refer to the Disciplinary Hearing which took place on (insert date of hearing) in accordance with the academy's Disciplinary Procedure. At that meeting (insert names of people in attendance) were in attendance.

At the meeting it was established that (insert details).

This letter constitutes a final written warning as to your future conduct. This final written warning will remain 'active' for a period of 12 months (or more if act of leniency from a potential dismissal) from the date of the hearing. You were informed that any recurrence of this conduct (insert details of the conduct which led to the disciplinary sanction being imposed) will lead to further disciplinary action which may lead to your dismissal.

I enclose a copy of the academy's Disciplinary Procedure, and draw your attention to your right of appeal. If you wish to appeal against this final written warning you must do so, in writing, within 2 calendar weeks of receipt of this letter.

Yours sincerely

Headteacher

Enc

Copies to: Trade union representative/workplace colleague **(with employee's permission)**

Dismissal letter

RECORDED DELIVERY

Strictly Personal & Confidential

Mr A Anybody

Any Street

Any Town insert date

Dear Mr Anybody

I refer to the hearing which took place on (insert date of hearing) in accordance with the academy's Disciplinary Procedure. At that meeting (insert names of people in attendance) were in attendance.

At the meeting it was established that (insert details).

I have to inform you that, having given careful consideration to the matter, I have accepted the Disciplinary Panel's recommendation that you be dismissed from the service of Penryn College with effect from (insert date).

I enclose a copy of the academy's Disciplinary Procedure and draw your attention to your right of appeal against dismissal to the Appeals Panel.

If you do wish to appeal against this dismissal you must do so, in writing, within 2 calendar weeks of receipt of this letter.

Yours sincerely

Chair of Governing Body

Enc

Copies to: Trade Union representative/workplace colleague **(with employee's permission)**

Letter following Appeal

RECORDED DELIVERY

Strictly Personal & Confidential

Mr A Anybody

Any Street

Any Town insert date

Dear Mr Anybody

I refer to the Appeal hearing which took place on (insert date of hearing) in accordance with (insert name of) academy's Disciplinary Procedure. At that meeting (insert names of people in attendance) were in attendance.

Following careful consideration of all the evidence, the Appeals Panel upholds the decision reached at the Disciplinary Hearing held on (insert date).

It is therefore my duty to inform you that you are dismissed from the services of Penryn College and your last day of employment will be (insert date).

Yours sincerely

Chair of Governing Body

Copies to: Trade Union representative/workplace colleague **(with employee's permission)**

