

For this we stand:
to search for truth;
to live in love;
to grow together.



"Speaking the truth in love, we will grow to become in every respect the mature body of him who is the head, that is Jesus Christ"

Ephesians 4

BISHOP WORDSWORTH'S SCHOOL

STAFF DISCIPLINARY PROCEDURE

A Statutory Policy

Definition: *'Is to', 'are to' and 'must' are obligatory. 'Should' is not obligatory but is good practice and is to be adhered to unless non-compliance can be justified.*

REQUIREMENTS

1. This procedure is required under general employment law and adheres to the requirements and recommendations of The School Staffing (England) Regulations 2009 and ACAS Code of Practice on Disciplinary Procedures March 2015. It is aligned fully with the expectations of The Teacher Standards (2011). These procedures also comply with the Schools funding agreement and articles of association.
2. This policy does not form part of any contract of employment or other contract to provide services.
3. This procedure applies to all employees at Bishop Wordsworth's School except those who are within their probationary period and/or who have not been employed by the School continuously for two years. Although employees with less than two years' service may not have the right to claim unfair dismissal, they will normally be subject to the same procedure to ensure fairness.
4. This procedure does not cover staff capability or poor performance issues unless these meet the threshold of poor conduct.

AIMS

5. The aim of this procedure is to set and maintain the required standards of conduct, behaviour and attendance and to ensure that all employees are treated fairly and consistently.
6. This procedure is designed to help and encourage all employees to achieve and maintain satisfactory standards of conduct and to minimise the requirement to progress concerns to formal procedure.
7. The procedure is not intended to replace the normal responsibilities of an employee's line manager or senior staff who may support, advise and encourage those employed at Bishop Wordsworth's School. It is to be used, however when routine professional and managerial approaches have not, or cannot, resolve unsatisfactory conduct.

8. The procedure is designed to ensure that:
- a. disciplinary matters can be dealt with swiftly and equitably and that prejudice in outcomes of any stage are avoided
 - b. when a complaint or allegation is made against an employee, they are given every opportunity to respond before any disciplinary action which may be appropriate.
 - c. no disciplinary action will be undertaken until the necessary investigations into any alleged matters have been carried out.
 - d. there is clarity provided for senior staff on how to proceed if disciplinary action is considered necessary.
 - e. at each stage the employee will be advised fully of the nature of the complaint or allegation.
 - f. employees are aware of their statutory right to be accompanied by a companion where the disciplinary meeting could result in any of the following circumstances:
 - i. A formal warning being issued.
 - ii. The taking of some other disciplinary action.
 - iii. The confirmation of a warning or some other disciplinary action.
- There is no entitlement to representation during the investigation.
- g. escalation through the prescribed stages can cease upon satisfactory resolution of the investigation.
 - h. as appropriate to the circumstances of the complaint or allegation the procedure may be initiated at any stage.

DEFINITIONS AND SCOPE

9. A disciplinary issue will arise when an employee is alleged to have behaved or acted inappropriately and/or contrary to either the staff code of conduct or the Teacher Standards (2011). Misconduct is defined as a confirmed instance of any such alleged behaviour.
10. Annex A sets out a non-exhaustive list of examples of misconduct at various levels, up to and including gross misconduct.
11. The flow chart in paragraph 13 shows the stages connected to a disciplinary event depending upon the alleged nature of the misconduct.
- a. In the event of minor disciplinary issues, the 'unsatisfactory conduct procedure' will be followed at first and will only be escalated when there has been no resolution, repeated or multiple instances of misconduct or further allegations/suspicion of further misconduct.
 - b. Conduct deemed by the Head to exceed minor disciplinary issues, as listed in Annex A, will be dealt with in accordance to the formal procedure.
 - c. Informal advice or verbal reprimands which do not meet the threshold of unsatisfactory conduct or formal procedure may be given at any time by a relevant line manager or senior staff. The Head and HR Lead should be kept informed of such reprimands and may, if the Head determines it to be appropriate, escalate a verbal reprimand to either pathway. These must be recorded internally with a note on the employee's file, even if not classed as disciplinary.

12. No employee is to be dismissed for a first breach of discipline except in the case of gross misconduct when the penalty may be dismissal without notice (see responsibilities and powers of the governing body).

13. Flow chart for procedure associated with disciplinary issues:



14. Concerns about an employee raised under this procedure may be progressed under the Capability Procedure if it is established at any stage that the underlying problem is the employee's performance in post. Action taken within this procedure has equal status to action taken under the Capability Procedure.

THE PROCEDURE: UNSATISFACTORY CONDUCT

To be followed in accordance with paragraph 13

15. If a line manager or Senior Leader has concerns about an employee they will firstly let the employee know the nature of the perceived disciplinary issue. At this time, they, or delegated to HR/a more senior employee, should inform the employee of the time and date of a meeting to discuss how the issue should be addressed.

16. The purpose of the meeting will be to ensure the employee is:

- a. aware of the concerns;
- b. knows what is required to meet the expected standards
- c. made aware of the timescale over which an improvement is required
- d. made aware of the possible consequences of not achieving the required standards

17. Appropriate action at this stage may include provision of:

- a. support and training
- b. advice and guidance
- c. monitoring and feedback on a pre-determined schedule
- d. escalation to the formal procedure where a pattern of conduct is evident. A pattern of conduct may be considered three or more instances within a rolling 12-month period.

THE PROCEDURE: FORMAL

To be followed in accordance with paragraph 13

18. The Formal Procedure consists of the following elements:

Investigation (19a and 19b)

Suspension (where deemed necessary) running concurrently with the investigation (20)

Disciplinary Hearing (21)

Outcome, Sanctions & Notification (22)

Appeals (23)

19. a) Investigation

- a. Where there is a suspected case of misconduct the Head, unless they are the subject of the allegation (see c), will determine if the matter should proceed to investigation.
- b. The investigation is to be carried out by either the Head, HR Manager, Bursar or other nominated senior member of staff appointed by the Head or the Governing Body's nominee (the Investigator). Where required the investigator or Head may request the assistance of third parties including solicitors, teaching unions, HR consultancy etc.
- c. Where the Head is to be the subject of a disciplinary investigation, the investigation is to be carried out by a nominee of the Governing Body - such as a professional investigations agency - with professional HR assistance if necessary.
- d. The HR Lead or other designated HR professional should advise and support all parties to ensure procedural fairness.
- e. An employee being investigated is to be informed of the investigation in writing

as soon as practicable. The allegation(s) should be clearly stated along with an outline of the scope of investigation. The investigation may comprise, among other things:

- i. Interviewing witnesses and preparing witness statements.
 - ii. Checking information provided by witnesses.
 - iii. Interviewing the employee to obtain an initial response.
 - iv. Collating relevant documents.
- f. The Investigator is to investigate the complaint and collect any evidence deemed necessary. Notes are to be made of any interviews and must be both signed and dated by the relevant parties as an accurate record. Employees should be informed that they can request a copy of any interview or hearing notes, or a written summary if no formal minutes are taken.
- g. Where the suspected breach of discipline is an allegation of abuse of a child then refer to paragraph 21b below.
- h. At the conclusion of the investigation the relevant documents will be provided to the Head who, considering the evidence, will make a decision on whether:
- i. no further action is required (see paragraph 24ai)
 - ii. the matter should be dealt with outside the formal disciplinary procedure (i.e. by informal advice and/or feedback) (see paragraph 15)
 - iii. to issue an oral or written warning (in line with paragraph 24 aii, iii, iv).
 - iv. to take disciplinary action prescribed by paragraph 24av, vi) the matter should be referred to a formal disciplinary hearing

21. b) Investigation involving allegations of abuse against children

- a. If the allegation is made by, or concerns a child, the Procedure in the Child Protection Policy is to be followed.
- b. If an allegation concerning a child is against a member of staff, it is likely that Social Services or the Police will lead any investigation, and the appropriate elements of the procedure above are to run in parallel to that investigation.
- c. A risk assessment of the member of staff must be undertaken as soon as reasonably practicable following allegations of abuse. This may necessitate alterations to their normal duties.
- d. Where an external investigation is to be carried out, suspension of the employee against whom the allegations are being made is to be strongly considered.

22. Suspension

- a. The Governing Body has the power to suspend School staff including the Head. This power is delegated to a **Discipline Panel**, but the Head may suspend staff if they consider immediate suspension appropriate. The Head is to report such action to the Chair of the Pay & Staffing Committee for ratification by that Committee and copy the report to the Chair of Governors.
- b. Suspension may take place at any time before or during investigations into an employee's conduct and must be confirmed in writing. Guidance notes are also to

be issued to ensure the employee understands their position.

c. Suspension is a neutral act and is not a disciplinary penalty. It is a power which may be exercised where:

- i. it is considered that an employee should not remain on the premises to facilitate a more objective investigation
- ii. there are difficulties in the relationship between the employee and other people (e.g. colleagues or pupils) with whom they would normally expect to come into contact in the workplace which cannot be adequately mitigated against
- iii. the safety of employees or the School's duty of care to its employees and/or pupils may be compromised by the employees presence.
- iv. the conduct alleged is perceived to amount to an act of gross misconduct
- v. the conduct alleged is perceived to have undermined trust and confidence

d. The Head may take action short of suspension including moving an employee from their normal place of work or redirecting their activities during the period of the investigation in order to facilitate a more objective investigation or following a risk assessment.

e. Suspension of any member of staff can only be ended by the Governing Body and is delegated to a Discipline Panel.

f. Suspension should normally be on full pay. However, where the employee is certified as unfit to attend work owing to ill health or takes maternity leave, payments are to be made in accordance with the relevant conditions of service.

g. In the event that an employee lives in school accommodation, the Head, or delegated to a Discipline Panel, may put restrictions on the employee as to their movements on the school site during the period of the investigation.

23. The Disciplinary Hearing

a. The disciplinary hearing is to be conducted by the disciplinary panel which consists of the Head and two nominated senior staff or governors. The composition of the panel must be approved by the Chair or Vice Chair of the Governing Body.

b. The hearing may be attended by a non-voting professional such as the HR Lead in an advisory capacity and/or as Secretary to the Panel (see para 23f). The HR Lead or other designated HR professional should advise and support all parties to ensure procedural fairness.

c. No member of the disciplinary panel may have taken part in the investigation or be otherwise involved in the allegations.

d. Where the allegation concerns the Head, the disciplinary panel will constitute three members of the governing body.

e. The employee is to be informed in writing at least 7 days before the Hearing if a Disciplinary Panel is to be convened. The letter of notification will include:

- i. the date, time and venue of the disciplinary hearing (this can be online by mutual agreement)
- ii. the names of positions of those hearing the case
- iii. the nature of the allegations

- iv. the possible consequences from the hearing (see paragraph 24)
 - v. a copy of all evidence from the investigation
 - vi. reference to the right to be accompanied by a companion (colleague or trade union representative) (see paragraph 23f and 23g)
 - vii. the location of documents detailing the structure and procedure for a disciplinary panel hearing
 - viii. notification of reasonable adjustments which can be made for employees with a disability in order that all parties can participate fully in disciplinary procedures
- f. An employee has the right to be accompanied at any formal disciplinary hearing by a companion. This companion may be an employee of the School, a trade union representative, or an official employed by a trade union. The companion may address the hearing, confer with the employee, and provide support, but may not answer questions on the employee's behalf.
- g. Employees must inform the school of the identity of their chosen companion 48 hours in advance of the meeting to allow reasonable arrangements to be made.
- h. Requests by the employee for a delay in the disciplinary hearing are to be considered on its merits and a rearranged date should not be later than 5 working days after the original date. Requests may be made on any grounds but are likely to be accepted where the employee requires additional time to gather evidence in their defence or arrange a companion (colleague or trade union representative) to attend.
- i. In the event of a medical problem the disciplinary hearing can be rearranged to a date no later than 5 working days after the original date. In the event of subsequent rearrangements, the hearing can proceed on the third occasion without the employee. If this is to be the case, then a Secretary to the Panel will be appointed by the panel to take notes, and these will be shared with the employee within 24 hours of the conclusion of the hearing.
- j. The structure and procedure for a disciplinary panel hearing is presented in Annex B.

24. Outcome, Sanctions and Notification

- a. The range of outcomes are:
- i. Dismiss the case and take no further action
 - ii. Issue an oral warning, if it is determined there has been a minor breach of conduct
 - iii. Issue a first written warning, if there has been an unsatisfactory response to a prior oral warning, or if there has been a first but serious breach of conduct
 - iv. Issue a final written warning, if there has been an unsatisfactory response to a prior warning(s), or if there has been a first but very serious breach of conduct.
 - v. Impose a disciplinary penalty, including disciplinary suspension without pay, withholding of incremental progression or demotion. Sanctions such as demotion or suspension without pay may only be applied where permitted under contract and with the employee's consent.

- vi. summary dismissal for *cases of gross misconduct* only
- b. The Governing Body must provide a means by which staff whom it proposes to dismiss from the School are able to make representations and, where such a determination for dismissal is made, to appeal against it. It will also be answerable before an employment tribunal for any deficiencies in complying with statutory requirements in the handling of any dismissal.
- c. The outcome of the Hearing is to be confirmed in writing to the employee, copy to the Chair of Governors, within seven days by the Head/Chair of the Panel giving details of:
 - i. the allegations
 - ii. the nature of the sanction and the reasons for the sanction
 - iii. any remedial action required of the employee
 - iv. dates for review
 - v. the procedure for exercising the employee's right to appeal
 - vi. confirmation that the warning will be disregarded according to the timescales set out in Record Keeping (paragraphs 25-29).
 - vii. The right to appeal
 - viii. the right to request a copy of any interview or hearing notes, or a written summary if no formal minutes are taken.
- d. If a Discipline or Appeal Panel has agreed that an offence amounted to gross misconduct, then referrals must be completed.
 - i. Referral to the Teaching Regulation Agency (TRA) if the conduct may bring the profession into disrepute or calls into question the employees' suitability to teach.
 - ii. There is a mandatory referral to the Disclosure and Barring Service (DBS) if the school removes a person from regulated activity (or would have), and this is due to harm, risk of harm, or safeguarding concerns. Referral to the DBS is a *statutory requirement* in cases of risk of harm, and failure to refer when legally required is a criminal offence.

25. Appeals

- a. An employee who has been issued with a formal written warning or a final written warning or who has been informed by the Discipline Panel that he/she is to be dismissed has the right to appeal to the Appeals Panel of the Governing Body.
- b. The procedure is as follows:
 - i. An appeal is to be lodged by email to the Company Secretary, copy to the Head, within 14 days of receipt of the letter informing the employee of the decision and is to include the ground for appeal.
 - ii. The Chair of Governors is to form an Appeals panel and plan a convenient date. The Appeals Panel may not consist of fewer members than the Discipline Panel which made the decision that is the subject of the appeal, and may not include any member of that Discipline Panel.
 - iii. The Appeal hearing is to take the form of a review of the disciplinary sanction or a rehearing depending on the grounds of the appeal.
 - iv. The Hearing is to follow the procedure for a discipline panel hearing (see Annex B) except that normally, at the discretion of the Panel Chair, the

employee will present the grounds for appeal immediately after the introductions.

- v. The employee may be accompanied by a companion (colleague or trade union representative) (see paragraph 23f) at the Appeal Hearing.
- c. When hearing an Appeal against a warning, the Appeals Panel may take one of the following decisions:
 - i. Dismiss the Appeal
 - ii. Allow the Appeal
 - iii. Substitute a different sanction (greater or lesser)
 - iv. Uphold the original sanction
- d. When hearing an appeal against dismissal, the Appeals Panel may take one of the following decisions:
 - i. Dismiss the appeal
 - ii. Dismiss the appeal but offer to re-engage the employee in the same or another post with effect from a date to be decided
 - iii. Allow the appeal and reinstate
 - iv. Reinstate with a written or final written warning
- e. The decision at appeal is final and must be notified in writing within seven days.
- f. Where an Appeals Panel hears an appeal against a decision other than a decision to dismiss and, during the Appeal, considers that it may determine that dismissal is a possible outcome to the Appeal, it is to advise the appellant of this possibility and invite the appellant to present her/his case giving due consideration to this possibility. The appellant may at this stage request an adjournment in order to prepare further to make representations against the possibility of dismissal.
- g. In the eventuality where an employee has resigned or otherwise ceased employment with the School, they may still appeal a decision.
- h. Where an employee has resigned or otherwise ceased employment with the school all referrals to external agencies (as prescribed in 24di, ii) must still be made.

Record Keeping

25. Normally, the validity of disciplinary warnings will expire after:

- a. sixth months (verbal warning)
- b. one year (first written warning)
- c. two years (final written warning)

provided that no further warnings have been issued and no disciplinary action has been taken against the employee during that period.

26. Expired warnings are generally to be disregarded in the event of any future disciplinary action. A record of the warning is not to be removed from the personal file however.

27. There may be occasions where the nature or pattern of misconduct and the employees' duties in post do not make it desirable or appropriate for the normal time limits to apply. In these circumstances the employee as to be notified in writing of the period applicable to the warning, which should not normally exceed 5 years.

Exceptionally, there may be circumstances where the misconduct is so serious, relating for example to the care of vulnerable people, that it cannot be disregarded for future disciplinary purposes. In such circumstances, the written warning can never be disregarded and any recurrence may lead to dismissal.

28. Where, following investigations, a case is withdrawn or not upheld, any reference to the alleged disciplinary offence is to be expunged from the employee's personal file except where this conflicts with Statutory Regulations.

29. The time limits referred to in the document may be varied provided that all parties agree.

15 th November 2022	Minor changes
6 th June 2024	Minor changes
10 th October 2024	Removal of code of conduct annex
16 th October 2025	Major changes including addition of unsatisfactory conduct procedure and clarification of differing procedures

ANNEX A TO STAFF DISCIPLINARY PROCEDURE

EXAMPLES OF OFFENCES THAT WOULD BE CONSIDERED MISCONDUCT

1. Examples of instances and behaviours which may be classed as **minor** misconduct. The following lists is not exhaustive:
 - a. Failure to comply with reasonable instructions from senior staff
 - b. Failure to follow the policies, practices and requirements of the school
 - c. Inappropriate use of the school's facilities
 - d. Unauthorised absence from work or persistent lateness, including after-school meetings, parent meetings, open events or other time directed activities
 - e. Unsatisfactory standards of work (not related to capability) such as failure to submit, or exceedingly poor submissions, of reporting data according to the published calendar
 - f. Breach of the Data Protection Policy specifying treatment of sensitive information, passwords, and locking computers
 - g. Using bad language in front of pupils
 - h. Unsatisfactory conduct towards other employees including discourteous, rude or confrontational behaviour
2. More significant breaches of conduct are termed **serious** misconduct. The following list of examples is not exhaustive:
 - a. Repeated failure to comply with reasonable instructions from senior staff
 - b. Failure to follow the policies, practices and requirements of the school which results in increased risk
 - c. Ignoring fire drill or lockdown protocols
 - d. Failure to follow the provisions set out in 'Keeping Children Safe in Education' (KCSIE) including delays in reporting a safeguarding concern
 - e. Unauthorised access to sensitive records
 - f. Intimidating behaviour
 - g. Argumentative or insubordinate conduct
 - h. Use of inappropriate language, racialised language, sexualised language, inappropriate jokes etc.
 - i. Comments that may reasonably be interpreted as discriminatory or undermining equality, diversity or inclusion

- j. Sharing confidential school business inappropriately
 - k. Inappropriate social media that could reflect poorly on the school
3. Certain breaches of the disciplinary rules are so serious that they may constitute **gross** misconduct which gives rise to summary dismissal (without notice). The following represents some examples of misconduct that might lead to an employee being immediately dismissed; this list is not exhaustive:
- a. Extreme violation of safety regulations, e.g. smoking in restricted areas, failure to report a serious accident/injury, etc.
 - b. Intoxication from alcohol/non-prescribed drugs resulting in incapacity for work, including during any trip or event while supervising students.
 - c. Being in possession of illegal drugs.
 - d. Fighting or causing a disturbance.
 - e. Malicious damage or destruction of the School's, employees' or student's property.
 - f. Single incidences of behaviours which meet the threshold of harm as outlined in 'Keeping Children Safe in Education' (KCSIE). This may include instances of harm to any child, not just a pupil of the school, as defined in the Safeguarding and Child Protection Policy.
 - g. Multiple instances of behaviour which singularly may not meet the threshold of harm as outlined in 'Keeping Children Safe in Education' (KCSIE) but which establish a pattern of behaviour which could be considered to meet the threshold of harm.
 - h. Serious bullying, harassment or abuse of a student, employee or visitor to the School.
 - i. Serious transgressions under the School's Equality Policy such as discrimination, racial abuse etc.
 - j. Dishonesty, including asking for or accepting a bribe, theft, fraud or misuse of School property including malicious damage to School property. Property includes intellectual property owned by the school and includes any intellectual property that has been produced as part of a staff member's work in school.
 - k. Theft from, or violence towards, other members of the School, students or members of the public, including malicious damage to their property.
 - l. Obscene or indecent behaviour or sexual misconduct or the circulation of offensive material.
 - m. Accessing or downloading unauthorised images via the internet.
 - n. Serious misuse of any hardware, software, intranet, internet, email, social media or other electronic means.
 - o. Serious breach of security or of financial regulations and/or procedures.
 - p. Serious breach of confidentiality or misuse of information including disclosure of confidential/personal information to unauthorised persons. This may include breach of the Data Protection Act 1998.
 - q. Failure to report a safeguarding concern
 - r. Misinformation in the submission of a safeguarding concern
 - s. Dishonest or fraudulent use of the School's name, time, facilities, services and/or suppliers for private use whether or not for financial gain.
 - t. Acting in a way that has, or has the potential to, cause significant reputational damage to the school.
 - u. Unauthorised absenteeism.

- v. Gross negligence in duties resulting in any of the above.
 - w. Gross dereliction of duty for example in not following Child Protection procedures.
4. Teacher misconduct guidance from the TRA explains that, among other things, the following offences may be serious enough to warrant prohibition of teaching:
- a. Abuse of position or trust (particularly involving pupils) or violation of the rights of pupils
 - b. Actions or behaviours that undermine fundamental British values
 - c. Misconduct seriously affecting the education and/or wellbeing of pupils, and particularly where there is a continuing risk.
 - d. Serious departure from the personal and/or professional conduct elements of the Teachers' Standards
 - e. Sustained or serious bullying, or other deliberate behaviour that undermines pupils, the profession, the school or colleagues

ANNEX B TO STAFF DISCIPLINARY HEARING PROCEDURE

PROCEDURE FOR CONDUCT OF A DISCIPLINARY PANEL HEARING

GENERAL

1. The case for the School is to be presented by the Chair of the disciplinary panel or the Investigator.
2. It is the responsibility of the employee to ensure that their companion is adequately briefed.

HEARING PROCEDURE

3. The Chair of the Panel is to introduce the Panel members and anybody else present, state the function of the Panel and establish who is to present the case for each party, whether they are to call witnesses and if so, how many.
4. The Head presents the case and may call witnesses.
5. The employee/appellant may ask questions of the Head, Investigator and/or witnesses.
6. The Chair and members of the Panel may ask questions of the Head and/or any of the witnesses.
7. The employee/appellant may make a submission in the presence of the Head, produce evidence and call witnesses.
8. The Head will have the opportunity to ask questions of the employee/appellant and/or his/her witnesses.
9. The Chair and members of the Panel may ask questions of the employee/appellant and/or his/her witnesses.
10. The Head and the employee/appellant are to be asked if they have any further comments.
11. All except panel members and the Secretary to the Panel (if appointed) are to withdraw.

12. The Panel deliberates. Note that, if the Panel wishes to ask either party any supplementary questions, both parties are to return.

13. The Panel may communicate its decision verbally to the parties immediately but is to confirm in writing to the employee/appellant within seven days of the Hearing.

14. If there is an aggrieved third party to the case, the Chair of the Panel is responsible for notifying that party of the Panel's decision.

15. If all parties are present throughout, then they may make their own notes. If a Secretary to the Panel is appointed, the Secretary is to take notes and circulate copies to all parties.