



Dated: February 2023

Review date: February 2024

Manorway Independent School Disciplinary Procedure

1. Preamble

- 1.1. Disciplinary procedures are necessary for promoting fairness and order in staff relations and has been drawn up in order to ensure that all employees who may become subject to disciplinary action are dealt with in a fair and equitable manner.
- 1.2. This disciplinary procedure reflects:
 - the obligations on the school governing body in respect of grievance matters; and
 - the provisions of the ACAS Code of Practice on Disciplinary and Grievance Procedures.
- 1.3. The governing body should adopt the procedure set out in this document and ensure that it is readily available to and understood by management and staff at the school.
- 1.4. In voluntary aided and foundation schools, teachers are employed by the governing body other than in very limited circumstances. The governing body is empowered to dismiss a teacher employed by the governing body.
- 1.5. It is good practice for members of the governing body dealing with disciplinary matters to be provided with information and, where possible, training in this role.

2. Application of this Disciplinary Procedure

- 2.1. This procedure shall operate alongside the relevant statutory requirements in relation to the exercise by governing body of their power in relation to discipline and dismissal.
- 2.2. This disciplinary procedure is separate and distinct from the grievance procedure whereby a teacher is entitled to air a grievance relating to his/her employment. The grievance procedure shall not be used as a means of imposing any disciplinary penalty on the teacher. If, however, the question of disciplinary proceedings arises as a result of the hearing of a grievance, the disciplinary matter shall be dealt with in accordance with the procedure set out below. If a grievance is raised during a dismissal/disciplinary procedure it is good practice to adjourn the dismissal/disciplinary procedure to allow the grievance procedure to be followed.
- 2.3. This procedure shall apply where the governing body/head teacher is contemplating dismissing a teacher or taking disciplinary action against a teacher.
- 2.4. This procedure shall apply to dismissals on grounds of conduct, redundancies of less than 20 employees, the non-renewal of fixed term contracts and retirement.

- 2.5. Save in exceptional circumstances, this procedure shall not apply to cases of absenteeism or of allegedly inadequate performance/capability which shall be dealt with by other appropriate measures seeking to achieve improvement by positive means. It is recognised, however, that ultimately, this procedure may need to be invoked where attempts to resolve such problems by other means have been exhausted.
- 2.6. It is recognised that minor cases of misconduct and most cases of poor performance are best dealt with by informal advice, coaching/counselling and/or informal oral warnings. Such actions shall not be considered to form part of formal disciplinary action.
- 2.7. At all meetings held under the terms of this procedure, a teacher shall have the right to be accompanied by a fellow worker or trade union representative. Such meetings shall not be restricted to formal hearings but shall also include any investigative interviews and any meetings held outside formal disciplinary procedures at which informal oral advice may be given.
- 2.8. No disciplinary action shall be taken against a trade union representative until the case has been discussed with a senior representative or full-time official of the union concerned.
- 2.9. Where the governing body has delegated any disciplinary or dismissal functions to the head teacher, such functions may not be delegated further to another member of staff.

3. Governing bodies

- 3.1. The governing body shall establish a staff dismissal committee, to which it delegates responsibility for considering cases which may possibly result in dismissal, and a separate staff dismissal appeals committee to which it must delegate responsibility for considering appeals against decisions of the staff dismissal committee. An appeal panel established to hear an appeal against a determination that a teacher should be dismissed, should consist of at least three governors.
- 3.2. The governing body shall be responsible for considering disciplinary cases. This committee shall also serve as the staff dismissal committee.
- 3.3. The governing body shall also establish a staff disciplinary appeals committee which shall be responsible for considering appeals against decisions of the staff disciplinary committee.
- 3.4. The Chair of the governing body shall not sit on either the staff disciplinary committee or the staff disciplinary appeals committee in order that he/she is able to advise the head teacher when considering cases involving staff other than the head teacher and to seek advice in cases involving the head teacher.

4. Investigations

- 4.1. Prior to any disciplinary action, allegations shall be promptly and carefully investigated and statements from witnesses shall be obtained where appropriate.
- 4.2. Teachers against whom allegations are made shall at any investigative interview have the right to be informed of the nature of the allegations and to respond if they so choose.
- 4.3. Investigation shall, where possible, be undertaken by a member of the senior leadership team other than the head teacher in order that the head teacher is subsequently able to consider matters under informal action or formal disciplinary procedures without prior involvement.

The Disciplinary Procedure

5. Informal Action

- 5.1. The head teacher may deal with matters by giving oral advice or issuing unrecorded informal warnings. Such warnings shall not be regarded as part of formal disciplinary procedures. The head teacher may, however, make it clear in such cases that formal action might be taken against the teacher on recurrence of the conduct in question.

6. Formal Disciplinary Action: Formal Warning Procedures

- 6.1. In the event of a complaint relating to the conduct of a teacher which the head teacher considers on investigation may require the issue of a formal warning, a disciplinary meeting shall be arranged by the head teacher to take place as soon as is reasonably possible and, where possible, at a mutually convenient time.

- 6.2. The teacher shall be informed in writing of the date, time and purpose of the meeting and the nature of the allegations at least 5 days in advance of the meeting. The teacher shall at the same time be informed of any evidence to be presented and the names of any witnesses to be called at the meeting and provided with all supporting documents.
- 6.3. Where the teacher's chosen companion cannot attend on the date proposed, the teacher shall be entitled to propose a reasonable alternative time and date which falls before the end of the period of five working days beginning with the first working day after the date proposed.
- 6.4. At the disciplinary interview, the teacher shall have the opportunity to answer allegations made, question any witnesses, and state his/her case before any decision is reached.
- 6.5. Initial complaints relating to conduct, where proven, shall normally be dealt with by means of a formal oral warning, which may be given to the teacher at the disciplinary interview. A report of the warning shall be placed on the teacher's personal file, and he/she shall be given a copy. The acknowledgement of the teacher, together with any written observations of the teacher, shall also form part of the record.
- 6.6. In the event of a further complaint or a complaint of a more serious nature, consideration may be given to a formal written warning or final written warning. Such a warning shall be given in the form of a letter to the teacher and a copy of the letter shall be placed on the teacher's personal file. The acknowledgement of the teacher, together with any written observations of the teacher, shall also form part of the record.
- 6.7. Warnings shall be disregarded for disciplinary purposes and expunged from the file after a specified period. These periods shall be 6 months for oral warnings and 12 months for written warnings including final written warnings. The teacher shall be notified when warnings are expunged.
- 6.8. The outcome of disciplinary proceedings shall normally remain confidential to the parties involved.

7. Formal Disciplinary Action: Appeals against Formal Warnings

- 7.1. The teacher shall be entitled to appeal against the issue of any warning. That appeal shall be heard at a meeting of the staff disciplinary committee. The teacher must notify in writing his/her intent to appeal within 15 days of receipt of any warning. The staff disciplinary committee shall hear the appeal within 15 days of its being lodged. The teacher shall be informed in writing of the date, time, and purpose of the meeting at least 10 days in advance.
- 7.2. The procedure to be followed at such a meeting shall be the same as that set out below for cases which are referred to the staff disciplinary committee for consideration. The committee shall not, however, be empowered to impose a more severe penalty than that originally imposed by the head teacher.

8. Formal Disciplinary Action: Further Disciplinary Action or Determination that a Teacher Should Cease to Work at the School

- 8.1. In the event of a further complaint following the issue of a final written warning or a complaint of a more serious nature, consideration may be given by the head teacher, in consultation with the Chair of the governing body, to referring the case to the staff disciplinary committee.
- 8.2. Where the head teacher and Chair of governing body consider that a determination may lead to dismissal, the head teacher shall refer the matter to the staff disciplinary committee.
- 8.3. In the event that it is decided to refer a case to the staff disciplinary committee, a meeting of the Committee shall be convened within 15 days. The teacher shall be notified in writing of the date, time and purpose of the meeting and the nature of the allegations at least 10 days in advance of the meeting. Where a determination which may lead to dismissal is considered to be a possible outcome, this shall be clearly stated in writing in this letter of notification. The teacher shall be informed of any evidence to be presented and the names of any witnesses to be called at the meeting and provided with all supporting documents at least 5 days in advance of the meeting.
- 8.4. At the hearing before the staff disciplinary committee, the head teacher shall formally present the complaint and shall call any witnesses in support of the complaint. The head teacher may be questioned by the teacher concerned or his/her representative, as may any witnesses supporting the complaint.
- 8.5. The teacher or his/her representative shall then be given the opportunity to present his/her case with such evidence in documentary form or through the presentation of witnesses as he/she considers appropriate.
- 8.6. The members of the staff disciplinary committee shall be entitled to question the parties and/or their witnesses at any point to seek clarification on any point raised in the allegation or the defence.
- 8.7. The staff disciplinary committee shall consider its decision in private and may decide that:
 - (a) no action be taken.
 - (b) a formal oral warning, formal written warning or final written warning be issued; or that
 - (c) the teacher should cease to work at the school.
- 8.8. A first breach of discipline shall not lead to a determination which may lead to dismissal, save in any case of misconduct so serious as to warrant such action according to principles of contract law and those managing unfair dismissal in law.
- 8.9. The decision of the staff disciplinary committee shall be given orally at the meeting and confirmed in writing within 7 days. The notice must inform the teacher of his or her right of appeal. Where the committee decides that a teacher should cease to work at the school, the

committee shall include a written statement of the reasons for the committee's decision in its letter of confirmation to the teacher.

- 8.10. Where the teacher concerned is employed by the governing body of the school, the letter of confirmation shall also include notification of dismissal with notice as appropriate to the circumstances.

9. Formal Disciplinary Action: Appeals against Further Disciplinary Action or Determination that a Teacher Should cease to Work at the School

- 9.1. The teacher shall be entitled to appeal against a decision of the staff disciplinary committee. This appeal should be lodged within 15 days of notification of the decision. The appeal shall be heard by the staff disciplinary appeals committee within 15 days of its being lodged. The teacher shall be given at least 10 days' notice of the date, time, and purpose of the appeal hearing.
- 9.2. Any appeal panel established to hear an appeal against a determination that a teacher should be dismissed, should consist of at least three governors.
- 9.3. The appeal may take the form of a rehearing or a submission upon the facts of the case as the teacher wishes.
- 9.4. The staff disciplinary appeals committee shall be empowered to confirm the decision of the staff disciplinary committee, impose a lesser penalty, or order that no action be taken. The staff disciplinary appeals committee shall not be empowered to impose a more severe penalty than that originally imposed.

10. Suspensions

- 10.1. It is important to note that suspension from duty is a neutral act. It is not a disciplinary penalty and carries no assumption of guilt.
- 10.2. Suspension from duty pending a formal disciplinary hearing shall only be considered following an initial investigation:
- (a) where suspension appears on good grounds to be necessary for the protection of pupils, other staff, or property; or
 - (b) where the continued presence at work of the person against whom allegations are made would be an obstacle to proper investigation.
- 10.3. Where it is considered that a teacher should be suspended from duty, the head teacher shall consult with the Chair of the governing body before that decision is taken. Suspensions may only be lifted by the governing body.
- 10.4. Suspension shall be on full pay in accordance with Regulations 16 and 25 of the School Staffing (England) Regulations 2003.