



# Holmer Green Senior School

## Conduct and Discipline Policy

April 2024

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### 1. Introduction

- 1.1 This document sets out the School's policy on conduct and discipline and the procedure to be applied when an employee's conduct falls below normal or acceptable standards. Its aim is to help and encourage all employees to achieve and maintain the required standards of conduct and to ensure that the School is objective, firm, reasonable and consistent in its approach to dealing with employee discipline issues.

### 2. Scope

- 2.1 The policy, procedure and Statutory Requirements set out in this document apply to teachers and HGSS employees employed under the terms of Bucks Pay Employment Conditions but does not apply to:

- (With the exception of incidents relating to safeguarding as set out in the following paragraph 2.2) staff engaged on temporary contracts of less than 6 months in duration
- (With the exception of incidents relating to safeguarding as set out in the following paragraph 2.2) new staff who are still within their probationary period of employment and newly-qualified teachers during their statutory induction period.
- Where the employee has been barred from teaching by the Secretary of State, where the contract would be automatically terminated.
- Where a determination that the employee should no longer work at the school is imposed by reason of any other statutory provision (for example lack of physical or mental fitness)

- 2.2 Where conduct problems concern an allegation against a member of staff relating to children or young people, or vulnerable adults, the school should make contact with the Safeguarding Team at Buckinghamshire Council (see Appendix 1).

- 2.3 Where conduct problems are identified as having arisen due to lack of capability, they will be addressed through the School's capability procedure.

### 3. Roles and Responsibilities

- 3.1. The Headteacher, or Chair of Governors in the case of the Headteacher, is responsible for the overall management of standards of conduct within their School. The authority to take action under this Procedure rests in the Headteacher or Chair of Governors. The Headteacher will nominate those senior employees in the School who have the authority to give formal warnings.

### 4. Principles

- 4.1 The policy and procedure contained within this document is founded on the following principles:

- To maintain high standards of conduct within the School and to encourage improvement in conduct where shortcomings are identified.
- Where appropriate to address conduct issues without recourse to the formal stages of the disciplinary procedure.
- To ensure that employees facing action under the formal stages of the disciplinary procedure are treated fairly and consistently.
- Not to discriminate against any individual in the application of this policy and procedure on prohibited grounds e.g. on grounds of gender, trans-gender, race, trade union activities, disability, age, sexual orientation, part-time work status, religion or belief.

## **5. Informal Action**

- 5.1 In the course of normal day-to-day management it is anticipated that the employee will be advised of any conduct issues by their manager and counselled about how to correct such issues. This process will generally be regarded as the first step in addressing conduct issues and represents informal action outside of the School's formal Conduct and Discipline Policy & Procedure. Informal action is appropriate for low-level misconduct, which is capable of early correction. Where informal action fails to bring about a remedy, further misconduct is likely to be considered within the formal stages of the School's Conduct & Discipline Policy & Procedure and the employee shall be warned of this.

## **6. Rules on Conduct**

- 6.1 This section sets out examples of acts of misconduct, which are likely to lead to formal action being taken. The list is not exhaustive:

- Failure to comply with a reasonable management instruction
- Failure to observe the School's Standing Orders, financial or other operational regulations
- Failure to observe School policy, for example, actions in breach of the School's IT Security guidelines or the School's data protection policy
- Negligence in the performance of duties
- Failure to provide a duty of care in the performance of role
- Breach of Health & Safety rules and requirements including any act or omission
- Poor-time keeping
- Misuse of School property and equipment including misuse of phone system email, fax or internet facilities
- Failure to follow the School's sickness notification procedures and certification requirements
- Abuse of the sickness scheme e.g. engaging in activities which may delay/inhibit recovery and return to work
- Being under the influence of alcohol or drugs
- Improper use of information obtained in the School's employment
- Abusive or inappropriate behaviour toward pupils, parents, fellow employees or members of the public

- 6.2 In general the following types of offences are deemed to constitute serious misconduct and are likely to lead to dismissal without notice, or pay in lieu of notice. The list is not exhaustive and is intended to give only an indication of the nature and type of offence, which will warrant dismissal without notice or pay in lieu of notice:

- Serious acts of insubordination
- Serious breaches of Financial regulations or other operational regulations
- Gross negligence in the performance of duties
- Theft from the School, its employees or members of the public or other acts of dishonesty
- Dishonest or improper use of information obtained in School's employment, for example, disclosure of information pertaining to School tender documents to outside contractors leading to unfair competition
- Serious breach of duty regarding non-disclosure of confidential information
- Serious breach of duty regarding disclosure of confidential information
- Serious breach of safe working practices and health and safety rules which endangers the health and safety of the individual, other employees, or members of the public and/or exposes the School to claims against it
- Serious breach or failure to provide safe working environment for children and young people
- Taking illegal drugs on School premises or School events/trips for other than medical reasons
- Buying, selling or offering drugs on School premises
- Offering alcohol to students

- Fraud
- Falsification of information, for example, qualifications or other relevant personal details in seeking and obtaining employment or promotion; information contained in time sheets, overtime claims, invoices, accounts, records or medical certificates
- Fighting
- Violent, offensive, abusive or indecent behaviour
- Bullying
- Unlawful acts of discrimination within the workplace on the grounds of race, sex, sexual orientation, age, disability, religious belief or trade union membership
- Harassment including discriminatory harassment, for example sexual harassment
- Unauthorised removal of and/or serious misuse of and/or deliberate damage to School property and equipment including misuse of email, fax or internet facilities
- Sexual misconduct at work
- Aiding and abetting any of the above
- Other actions which fundamentally breach the relationship of trust and confidence which exists between employer and employee
- Conduct that is considered seriously contrary to the Code of Conduct for Staff
- Criminal offences and cautions outside of work, including reprimands, final warnings or penalty notices

## **7. Cases of Alleged Criminal Activity**

- 7.1 HGSS reserves the right to suspend any internal investigation pending a police investigation.
- 7.2 If the allegation involves suspected harm to children, young people or vulnerable adults, the school should contact the Safeguarding Team at Buckinghamshire Council (see Appendix 1).
- 7.3 If the allegation involves suspected serious financial irregularity or fraud, the Head of Finance must be informed.

## **8. Formal Stages of the Disciplinary Procedure and Disciplinary Sanctions**

- 8.1 Fairness and transparency are promoted by developing and using rules and procedures for handling disciplinary and grievance situations. Where some form of formal action is needed, what action is reasonable or justified will depend on all the circumstances of the particular case. It is important to deal with issues fairly and to follow the steps below:
- Employers and employees should raise and deal with issues promptly and should not unreasonably delay meetings, decisions or the confirmation of those decisions.
  - Employers and employees should act consistently.
  - Employers should carry out any necessary investigations, to establish the facts of the case.
  - Employers should inform employees of the basis of the problem and give them an opportunity to put their case in response before any decisions are made.
  - Employers should allow employees to be accompanied at any formal disciplinary meeting.
  - Employers should allow an employee to appeal against any formal decision made.
- 8.2 The School also reserves the right to take a range of actions in addition to formal warnings or as an alternative to more serious disciplinary action depending on the circumstances of the case. Such actions may include withholding annual pay increments or other pay supplements, demotion for a specified or unspecified period or transfer to an alternative job or location with or without a reduction in the contractual rate of pay.
- 8.3 The formal stages of the Disciplinary procedure are based upon a graduated system of warnings with more serious sanctions being applied where poor conduct is repeated or the employee fails to heed previous warnings. The stages are listed below. The seriousness of the offence may result in stages in the process being missed out. An employee will not normally be dismissed for a first breach of discipline. However, in cases

of serious misconduct an employee may be dismissed without having had any prior formal warnings as to their behaviour / conduct:

Stage 1 – First Written Warning

Stage 2 – Final Written Warning

Stage 3 – Dismissal

8.4 Any warning applied is regarded as live and kept on the employee's personal file for a specified period of time. The School's retention schedule currently shows this as:

Informal Written warning	Date of warning + 6 months
First Written warning	Date of warning + 12 months
Final warning	Date of warning + 18 months

8.5 Where the same type of misconduct becomes a pattern, which is repeated every time an informal or formal warning ceases to be live, previous warnings may be taken into account. A pattern is considered to be more than one event in every year.

8.6 Where the sanction is dismissal this may either be dismissal with notice or in cases of serious misconduct dismissal without notice or pay in lieu of notice.

## **9. Suspension**

9.1 An employee may be suspended from duty on full pay at any time in any of the circumstances described below:

- Where the School has grounds to suspect that the employee is guilty of serious misconduct or
- Where there is a real risk that the employee's continued presence at their place of work may interfere with a disciplinary investigation being undertaken or
- Where the continued presence of the employee at their place or work might be detrimental to their health or
- Any combination of the above
- Where suspension relates to a safeguarding allegation, the guidance in Appendix 1 must take precedence over this policy and procedure

9.2 Alternatives to suspension may be agreed pending the results of a preliminary investigation and a decision on whether to suspend. These alternatives will be kept to a minimum and reviewed regularly and include:

- Permitting the employee to work from home
- Work at an alternative location or in an alternative role
- Work in a more closely supervised environment
- Management leave

9.3 Suspension is not considered as formal disciplinary action. However, failure to observe the terms of suspension, detailed in Paragraph 9.7 of this document, will constitute a disciplinary offence.

9.4 Suspension will be for the shortest time possible. However, suspension will usually continue until either it is decided not to proceed with a disciplinary hearing against the employee or the disciplinary hearing has taken place and the employee has been informed of the outcome of it. In cases where it is anticipated that the employee will be suspended for a period exceeding three calendar months there shall be a review at monthly intervals to determine whether it is necessary for the employee to remain suspended.

9.5 When an employee is suspended he/ she will be informed of:

- The reason for the suspension

- Any terms of the suspension
- The date from which the suspension shall apply
- The likely duration of the suspension
- The name of their nominated contact

9.6 Depending on the nature of the conduct under investigation an employee may or may not be given details about the allegations under investigation at the time of suspension. For example, an employee may not be given details about the allegations under investigation if they include an allegation made by a child that is the subject of a criminal investigation.

9.7 During the period of suspension, unless otherwise informed the employee is:

- Prohibited from attending his/her place of work other than for the purposes of attending investigatory interviews or attending a disciplinary hearing.
- Prohibited from contacting any pupil, parent, employee of the School or officer of the Council other than their representative or contact. This prohibition does not prevent the employee from having social contact with their colleagues outside of the work place, provided the disciplinary issues that are the cause of the suspension are not discussed.
- Prohibited from undertaking alternative employment with another employer.
- Obligated to co-operate with the disciplinary investigation including any request to furnish or identify documents and attend meetings.
- Obligated to ensure that they are, and remain, contactable during normal working hours.

9.8 During the period of suspension the employee will normally be entitled to receive full contractual pay, not including any enhanced rates of pay or payments, special allowances, or payments for unsociable hours. However, pay may be stopped during the period of suspension in circumstances where the employee refuses and/or fails to co-operate or assist with the investigation. Any decision to stop pay during a period of suspension will be notified in writing to the employee. Should the employee commence sick leave during a period of suspension, he/she must notify the nominated contact on the first day of sickness, submit medical certificates for the relevant period and comply with the School's sickness reporting procedures. During periods of sickness the employee will be paid in accordance with the School's rules on sick pay.

## **10. Investigations**

10.1 In most cases an investigation will be required to establish whether or not there is a case for the employee to answer at a formal disciplinary hearing. Where an investigation takes place, the School will aim to conduct it promptly and without unnecessary delay. However, the nature, scale and duration of any disciplinary investigation will depend on the seriousness and complexity of the misconduct being investigated.

10.2 Investigations relating to safeguarding allegations must be made with reference to Appendix 1.

10.3 The person with responsibility for the investigation is the Investigating Officer. The Investigating Officer may also undertake the role of Presenting Officer during the hearing. The Investigation Officer should be a nominated member of the Senior Leadership Team.

The function of the Investigating Officer is to: -

- Ascertain the facts and circumstances surrounding the allegation or allegations of misconduct.
- Ascertain the employee's initial response to the allegation.
- Form a view as to whether there is a case to answer at a formal disciplinary hearing.

- 10.4 The Investigating Officer may be the employee's immediate manager, other designated person or an independent investigator. The remit and format of the investigation will depend on the circumstances of each case but will, in every case, be governed by the principles of reasonableness and proportionality.
- 10.5 The employee suspected of misconduct will be required to attend an investigatory interview. A week's notice will be given for such a meeting and this will include the reason for the meeting and include details of what the meeting relates to. The employee must endeavour to attend any investigatory interviews and co-operate with the investigation. It is recognised that the employee may wish to be accompanied at such an interview. Reasonable requests to be accompanied will be considered where it does not unduly delay the investigation.
- 10.6 At the conclusion of the investigation, the Investigating Officer will form a view as to whether or not there is a case to answer at a formal disciplinary hearing.

## **11. Notification to attend a disciplinary hearing**

- 11.1 Where a formal disciplinary hearing is to take place, the employee will receive written notification from the Hearing Officer at least 7 working days in advance, of the requirement to attend a disciplinary hearing. The letter will advise the employee of the following:
- The location, date and time of the proposed disciplinary hearing
  - Details of the disciplinary allegations which the employee is to face and the full report and bundle relevant to the investigation
  - Whether dismissal is being contemplated as a sanction
  - Their right to be accompanied
  - The identity of the Hearing Officer and, where appropriate, the supporting panel of governors
  - The requirement for the employee to confirm in writing that they are attending, at least 5 working days before the disciplinary hearing, providing all relevant documentation and confirming the names of the employee's representative and any witnesses that are likely to be called. The representative may be an accredited union representative or work colleague but not a friend, family member or legal representative.
- 11.2 Unless already provided the employee will also be provided at this stage with copies of any documents it is intended will be relied upon at the disciplinary hearing (known as the bundle). For example:
- A copy of the report by the Investigating Officer
  - Copies of or a summary of any statements obtained as part of the investigation
  - Notes of any investigatory interview they attended
- 11.3 The disciplinary hearing will not take place unless and until the employee has had proper opportunity to consider the information supplied to him/her. An employee who requires further time to prepare his/her case may make a request in writing, normally within two days of receiving notification of the hearing, asking for the disciplinary hearing to be held at a later date, normally within five working days of the date of the original hearing.
- 11.4 The employee is under a duty to take all reasonable steps to attend the hearing. The disciplinary hearing may proceed in the employee's absence but only when all of the following conditions are met:
- The employee has either failed to attend two disciplinary hearings (or failed to respond to two previous notifications to attend a disciplinary hearing).
  - The employee is on notice that the disciplinary hearing may proceed in their absence.
  - The employee has been informed of the opportunity to provide a written statement setting out their defence to the allegations.

- The employee has not been certified as unfit by a doctor to attend the disciplinary hearing.

## **12. Right to be Accompanied**

12.1 Employees have a statutory right to be accompanied by a companion where the disciplinary meeting could result in:

- a formal warning being issued; or
- the taking of some other disciplinary action
- the confirmation of a warning or some other disciplinary action (appeal hearings)

The representative may be an accredited union representative or work colleague but not a friend, family member or legal representative. The School will not meet any of the costs associated with the attendance of the representative at a disciplinary hearing beyond granting paid time off to a representative who is a School employee.

Employees should also consider how they make their request so that it is clearly understood, for instance by letting the employer know in advance the name of the companion where possible and whether they are a fellow worker or trade union official or representative.

If a employee's chosen companion will not be available at the time proposed for the hearing by the employer, the employer must postpone the hearing to a time proposed by the employee provided that the alternative time is both reasonable and not more than five working days after the date originally proposed.

The companion should be allowed to address the hearing to put and sum up the employee's case, respond on behalf of the employee to any views expressed at the meeting and confer with the employee during the hearing. The companion does not, however, have the right to answer questions on the employee's behalf, address the hearing if the employee does not wish it or prevent the employer from explaining their case.

12.2 Exceptionally, an employee is entitled to legal representation at a disciplinary hearing or appeal hearing. This is only applicable in circumstances where the decision of the disciplinary hearing may result in the employee being referred to an external body, as a result of which the employee may lose the right to practice their profession.

## **13. Grievances during the course of the disciplinary process**

13.1 Where, during the course of the disciplinary process the employee raises a grievance about any aspect of the disciplinary process, the employee's grievance will be dealt with as part of the disciplinary hearing and will not be treated as a separate grievance under the School's grievance procedure.

## **14. Disciplinary Hearings**

14.1 The disciplinary hearing will be held by the Headteacher/Staff Dismissal Committee for alleged misconduct. The Staff Dismissal Committee is a panel of three Governors. If dismissal is a possible outcome, the Headteacher/Staff Dismissal Committee and must be assisted by an HR Officer. In general terms the following format will be:

- The Investigating Officer shall outline the management case against the employee
- The Investigating Officer shall call any witnesses or read from the statement of any witnesses he or she wishes to rely on and direct the Headteacher/ Staff Dismissal Committee's attention to any documents to be relied on
- The Employee and the Headteacher/ Staff Dismissal Committee shall have the opportunity to ask questions of any witnesses called and to raise points about any information provided by witnesses. Where an employer or employee intends to call relevant witnesses they should give advance notice that they intend to do this.



- The employee should be allowed to set out their case and answer any allegations that have been made. The employee should also be given a reasonable opportunity to ask questions, present evidence and call relevant witnesses.
- The Investigating Officer and the Headteacher/ Staff Dismissal Committee shall have the opportunity to ask questions of the Employee and any witnesses called by the Employee
- The Investigating Officer and the Employee shall have the opportunity to sum up their respective cases if they so wish
- The meeting will adjourn for the Headteacher/ Staff Dismissal Committee chair to consider the outcome

## **15. Confirmation of the outcome of the disciplinary hearing**

15.1 Whether or not the employee has been informed of the outcome of the disciplinary hearing orally at its conclusion, the employee will be notified of the outcome of the disciplinary hearing in writing. Written notification will normally be within 5 working days of the date of the hearing and will include:

Where misconduct is confirmed or the employee is found to be performing unsatisfactorily it is usual to give the employee a written warning. A further act of misconduct or failure to improve performance within a set period would normally result in a final written warning.

If an employee's first misconduct or unsatisfactory performance is sufficiently serious, it may be appropriate to move directly to a final written warning. This might occur where the employee's actions have had, or are liable to have, a serious or harmful impact on the organisation.

A first or final written warning should set out the nature of the misconduct or poor performance and the change in behaviour or improvement in performance required (with timescale). The employee should be told how long the warning will remain current. The employee should be informed of the consequences of further misconduct, or failure to improve performance, within the set period following a final warning. For instance that it may result in dismissal or some other contractual penalty such as demotion or loss of seniority.

A decision to dismiss should only be taken by a manager who has the authority to do so, normally the Headteacher/Staff Dismissal Committee. The employee should be informed as soon as possible of the reasons for the dismissal, the date on which the employment contract will end, the appropriate period of notice and their right of appeal.

Some acts, termed gross misconduct, are so serious in themselves or have such serious consequences that they may call for dismissal without notice for a first offence. But a fair disciplinary process should always be followed, before dismissing for gross misconduct.

## **16. Right of Appeal**

16.1 An employee may appeal against a decision to issue them with any level of disciplinary sanction, i.e. first written warning, final written warning or dismissal.

16.2 An employee seeking to appeal must do so within 7 working days' of written notification of the decision. The employee should send their letter of appeal together with the grounds of appeal to the Warning Appeal Panel or Staff Dismissal Appeal Committee, named in the letter confirming the outcome of the hearing. The Warning Appeal Panel is a second group of Governors to the Staff Dismissal Committee. If the employee, for whatever reason appeals outside of the specified time limit he shall include with their letter of appeal an explanation for why the appeal is being presented late. In such circumstances the decision as to whether to hear the appeal or not shall rest with the Warning Appeal Panel or Staff Dismissal Appeal Committee.

- 16.3 Once an appeal has been received in writing, an appeal hearing will normally be convened promptly, allowing at least 7 working days written notice of the hearing.
- 16.4 Employees have a statutory right to be accompanied at appeal hearings
- 16.5 An appeal against a first written warning will be considered by the Warning Appeal Panel. The Warning Appeal Panel will review all the papers that were presented to the Hearing Officer.
- 16.6 An appeal against a decision to dismiss will be heard by the Staff Dismissal Appeal Committee
- 16.7 In the case of an appeal against a final written warning or dismissal, where the grounds of appeal are based on the severity of the disciplinary sanction alone, the role of the appeal panel shall be to conduct a review of the case.
- 16.8 Where the grounds of the appeal are broader than an appeal against the sanction, the role of the appeal panel shall be to conduct a re-hearing of the evidence and submissions made when the initial decision was taken, plus to consider all matters raised which are related to that decision whether or not they were known to the Headteacher/ Staff Dismissal Committee at the time the initial decision was made.
- 16.9 The Appellant shall be given notice in writing of the venue, date and time of the appeal hearing. Copies of any documents relevant to the case including documents which were not presented before the Headteacher/ Staff Dismissal Committee and which are intended for consideration at the appeal hearing will be exchanged at least 5 working days in advance of the hearing.
- 16.10 The Staff Dismissal Appeal Committee hearing the appeal have a broad discretion. They may uphold the decision of the hearing, revoke it in its entirety or substitute a lesser or a greater penalty. For example, substitute a final written warning for a dismissal or substitute dismissal with notice for dismissal without notice.
- 16.11 Employees should be informed in writing of the results of the appeal hearing as soon as possible but definitely within 5 days of the appeal.
- 16.12 The effect of a successful appeal against dismissal will be that the employee is reinstated and their continuity of employment is preserved.

## **17. Special cases**

Where disciplinary action is being considered against an employee who is a trade union representative the normal disciplinary procedure should be followed. Depending on the circumstances, however, it is advisable to discuss the matter at an early stage with an official employed by the union, after obtaining the employee's agreement.

If an employee is charged with, or convicted of a criminal offence this is not normally in itself reason for disciplinary action. Consideration needs to be given to what effect the charge or conviction has on the employee's suitability to do their job and their relationship with their employer, work colleagues and customers.

**Policy reviewed: April 2024**  
**Next Review: April 2025**

## Appendix 1

### **Managing Concerns or Allegations against Staff working with Children or Adults who have Care and Support Needs**

The Buckinghamshire Safeguarding Children Board publish the procedure for managing allegations against staff and volunteers working with children to ensure that safeguarding allegations are dealt with consistently, thoroughly, fairly and in a timely manner. The procedure can be found on its website here:

<https://bscb.procedures.org.uk/skyzps>

The Buckinghamshire Safeguarding Adults Board publish the procedure for managing concerns or allegations against staff and volunteers working with adults who have care and support needs. The procedure can be found on its website here:

<https://www.buckssafeguarding.org.uk/adultsboard/wp-content/uploads/sites/3/2020/08/Managing-Concerns-or-Allegations-Against-Staff-and-Volunteers-Working-with-Adults-who-have-Care-and-Support-Need.pdf>

In the case of allegations against adults who have care and support needs, where there is seen to be substance to an allegation, consideration should be given to whether to make a referral to the Disclosure and Barring Service (DBS) while an investigation is being completed. The operational process for reporting incidents to the DBS is given in the procedure.

#### **General points to consider when dealing with allegations against staff**

##### **Immediate actions**

Inappropriate early actions can sometimes inadvertently prejudice an investigation into an allegation – including where necessary, a police investigation. Managers dealing with a safeguarding allegation against a member of staff should always refer to their Designated Safeguarding Manager or to Human Resources at the earliest possible stage and before taking any action to investigate or suspend a member of staff.

##### **Timescales**

Timescales for conducting initial investigations and determining the need for disciplinary hearings are set out clearly in the procedures for Managing Allegations against Children and for Managing Concerns or Allegations against Staff and Volunteers Working with Adults who have Care and Support Needs.

##### **Settlement agreements**

'Settlement agreements' must not be used. A 'settlement agreement' is where a member of staff agrees to resign provided that disciplinary action is not taken and that a future reference is agreed.

##### **Referrals to other regulatory bodies**

If the allegation is substantiated and the person is dismissed or the employer ceases to use the person's services, or the person resigns or otherwise ceases to provide his/her services, the LADO or Designated Safeguarding Manager should discuss with the employer whether the employer is under a duty to refer the matter to the appropriate regulatory body in the case of children; and to the Disclosure and Barring Service (DBS) and/or the appropriate regulatory body in the case of adults who have care and support needs.

##### **Retention of records**

A clear and comprehensive summary of the case findings should be held on a person's confidential HR file.

In the event that there is no action under the procedure, a summary of the case must be kept until a person's normal retirement age, or 10 years from the date of an allegation, whichever is longer.

Where it is found there is a case to answer involving the protection of children or adults who have care and support needs and disciplinary action is taken, the papers relating to this disciplinary action must be kept for 75 years from the employee's date of birth.