

Staff Conduct Policy and Procedure

Last update: February 2021

High standards of behaviour by staff are critical for the school to achieve its aims.

All members of staff must:

- provide a role model for all students
- ensure that they provide students with clear and continuous messages about politeness, respect for others and excellent conduct
- support the wellbeing, safeguarding and protection of students
- take extreme care over the security of personal data to ensure compliance with the provisions of the General Data Protection Regulation (GDPR) at all times
- conduct themselves in ways which enable the school to operate as an effective and efficient organisation
- treat each other with respect, providing support to colleagues when appropriate
- consider their own welfare, including their work life balance and safe organisation
- maintain absolute honesty and integrity
- always work in a way which promotes the interests of the school community and which promotes the school's aims
- take all reasonable steps to look after the school's assets and to use school equipment in accordance with relevant policies and guidelines
- follow the school's employment and contract related procedures and policies including those concerning absence, attendance at meetings, overtime (where relevant), standards of dress and other related matters
- not be involved in behaviours or actions which may bring the school into disrepute, either directly or by association.

If the conduct of a member of staff does give cause for concern, the school's Staff Conduct Procedure will be followed. Where members of staff have concerns about the behaviour of other staff, they should follow the Confidential Reporting Policy.

The following policies include sections which relate to staff behaviour. Particular attention should be paid to those sections concerning electronic communication and the use of the internet in those policies marked * and in the staff handbook. The following is a subset of the safeguarding list:

- Child protection policy
- Safeguarding
- Safer Working Practice document (*sections 3.12 and 3.28)
- Keeping Children Safe in Education
- Confidential Reporting (Whistle Blowing)
- *E-safety policy
- Educational visits
- Health and Safety
- *Internet acceptable use
- Physical Contact with pupils
- Registration of Pupils (Attendance)
- Single Equality Scheme (race, gender, disability, religion and belief, sexual orientation, age and vulnerable children)

These are all accessible on the School Policies page on the school website.

In addition, reference should be made to the Staff Handbook, available on the school network under Staff Resources (Drive T:).

Conduct Procedure

This Conduct Procedure and Guidance is based on that recommended by the Local Authority for Gloucestershire and has been subject to consultation with the relevant trade unions/professional associations recognised by the Authority. It takes into consideration the changes introduced by the Education Act 2002 (Staffing Regulations 2003), the Employment Act 2002 (Dispute Resolution) Regulations 2004 and associated provisions in the Act, and the ACAS Code of Practice on Discipline and Grievance Procedures. The Governing body of Katharine Lady Berkeley's School has adopted this procedure.

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1 PURPOSE & SCOPE

- 1.1 The Headteacher is responsible for maintaining and setting standards of conduct in the school and for ensuring that rules and procedures are in place. This procedure applies to all staff employed by the school and covers conduct, Health and Safety and Safeguarding issues. Those matters relating to performance are normally dealt with under the Capability procedure.
- 1.2 The conduct procedure is designed to help and encourage all employees to achieve and maintain high standards of conduct and to promote fairness and order in the treatment of individuals facing an allegation concerning misconduct or gross misconduct. Also to be taken into account are any appropriate documents that relate to expected standards of conduct, e.g. terms and conditions of employment, job descriptions, school policies, or any conduct rules.
- 1.3 If the alleged misconduct concerns a matter of child protection (see Appendix to this procedure – ‘Guidance on handling child abuse allegations against staff’), financial irregularities, or alcohol/drug concerns, reference will need to be made to the appropriate school policies and procedures action taken accordingly.
- 1.4 Where appropriate, reference will be needed to the school’s procedures for Confidential Reporting, known as ‘Whistle Blowing’.
- 1.5 The school will seek advice from its contracted Human Resources Advisers whenever informal or formal action is being contemplated or instigated
- 1.6 Where the school has not consulted with or disregards the advice of the contracted Human Resources Advisers, or where the school acts unreasonably and/or unfairly in relation to a dismissal, the contracted Human Resources Advisers is likely to pass on the related costs, including those associated with litigation, to the governing body. It is therefore advisable to consult the contracted Human Resources Advisers at an early stage when any disciplinary action is being considered.

2 PRINCIPLES AND GUIDANCE

These should be read in their entirety when disciplinary action is anticipated and before commencing the procedure.

2.1 Sanctions

- 2.1.1 No disciplinary sanction will take place until the case has been investigated and a hearing completed.
- 2.1.2 Suspension does not constitute a sanction and may be necessary according to the nature of the allegation and/or to enable a thorough investigation to be undertaken (see section 2.8).
- 2.1.3 No employee will be dismissed for a first breach of conduct except in a case found to be gross misconduct, when the penalty will be dismissal without notice or payment in lieu of notice.
- 2.1.4 Where the result of a hearing a formal warning is issued, it is important to note that the employer has the ability to withhold salary progression under the relevant schemes for staff e.g. Salary Progression Scheme for Support Staff.

2.2 Conduct of proceedings

- 2.2.1 Dependent on the seriousness of the alleged misconduct, these procedures may be implemented at any Stage.

2.2.2 Disciplinary action up to initial dismissal decisions may be taken by the Headteacher, one or more governors, the Headteacher and one or more governors together, a panel of governors (normally three) or, in the absence of the Headteacher, the Acting Headteacher.

2.2.3 Circumstances where alternative arrangements may need to apply include:

2.2.3.1 Where the Headteacher:-

- Has become inextricably involved in the investigation and/or has been directly involved in disciplinary decisions leading to dismissal (see section 2.8 Investigations).
- Is the subject of an ongoing disciplinary investigation or action, or there is some other reason that would make it inappropriate for the Headteacher to conduct the hearing.
- Is on long-term absence from school e.g. sickness, secondment.

2.3 Hearings

2.3.1 At every formal stage of the procedure the employee will be advised in writing of the nature of the complaint against him or her and will be given the opportunity to state his or her case at a formal hearing before any decision is made. At least five working days' notice will be given of a hearing. For hearings where the outcome could result in dismissal, at least 10 working days' notice will be given. Dates that are re-arranged by agreement of the parties need not comply with the notice periods above (*see 2.4.1 Employee's rights*). Wherever possible, hearings should be arranged during the normal working day for the individual concerned.

2.3.2 The school will arrange for a record of the hearing to be taken, normally by a suitable member of the school's secretarial staff.

2.4 Employee's rights

2.4.1 At any formal hearing, an employee has the right to be accompanied by a trade union representative or workplace colleague. The employee should be encouraged to be accompanied when attending any formal interview as part of an investigation. Should the employee's representative be unavailable at the time proposed for the hearing, the employee or his/her representative must inform the employer so that an alternative date can be arranged, if possible within five working days of the original date. If it is necessary for the availability of the parties, a date outside of the five days may be agreed but the rearranged date must not put an undue delay on the procedure.

2.4.2 At all formal stages of the procedure an employee will have a right of appeal against any penalty imposed (see section 6 Appeals).

2.5 Sickness absence during the procedure

2.5.1 If during the procedure the employee becomes absent due to ill-health, the headteacher is advised to contact the HR adviser as soon as possible, to ensure the best course of action is followed

2.5.2 Where an employee is absent at the time of a scheduled meeting, the employer should act reasonably to offer a suitable alternative date, and the employee has to make a reasonable attempt to attend the meeting. However, where the employee continues to be unable to attend any meetings, they may proceed in the employee's absence if delay would otherwise compromise the procedure or where the employee's absence record is also a cause for concern. The employee's representative may attend on behalf of the employee where

s/he is unable to attend and alternative times have been considered. Following any meeting taken in the employee's absence, the decision and the reasons for it should be communicated in writing to the employee, along with the right of appeal and any time-scales if appropriate.

2.6 Role of the Governors

- 2.6.1 Governors may have a specific role to play in the procedures and for this reason should not enquire into or discuss any allegations concerning the conduct of an employee. Knowledge of a situation may not constitute prejudice, however prior involvement in a case will normally exclude any governor from the decision or appeals process.
- 2.6.2 Where the procedures involve allegations against the Headteacher, the Chair of Governors must ensure that there are sufficient governors available to carry out the functions of any disciplinary and appeals hearings with impartiality

2.7 Investigations

- 2.7.1 Where the allegation involves a child protection issue, the steps detailed in Appendix 1 - "Practical guidance on handling child abuse (physical, sexual, emotional or neglect) allegations against staff" – must be followed. Reference should also be made to the Gloucestershire Safeguarding Children Board (GSCB) procedures available at www.gscb.org.uk
- 2.7.2 When an allegation of misconduct is made, it will be necessary to investigate the circumstances relating to the allegation and an investigating officer should be nominated. Consideration should be given to the investigation being conducted by a deputy head, assistant head, or for cases involving support staff, another senior manager. However, there may be occasions where the Headteacher is already involved in the investigation, or it is felt that s/he would be in the best position to undertake it, in these cases alternative arrangements would apply if a hearing needed to be convened (*see section 2.2 Conduct of proceedings*). If the allegation is of a sexual nature, sensitivity should be used when considering the sex of the person conducting or assisting in any investigation.
- 2.7.3 Where, as part of an investigation, it is necessary to interview pupils, a written record of the interview with the pupil must be made. Pupils will not be called to give evidence at subsequent disciplinary hearings. As the employee is not allowed to attend pupil interviews, it is necessary to allow him/her to be represented. However, the representative is only present as an observer to ensure the interview was conducted openly and recorded accurately. In general, the observer will be the employee's school trades union representative. The above requirements on schools for the recording of statements and representation will not normally apply where pupil interviews are conducted by external agencies e.g. Police or Social Workers, and are available to the school.
- 2.7.4 The investigating officer will ensure that adults being formally interviewed are told the nature and purpose of the investigation, that written notes or statements will be taken and that these may be used at a hearing. It is advised that individuals are told that they may be required to attend as a witness at the hearing at which they would be questioned on their statement. Notes or statements should be signed and dated by the interviewee as an accurate record.
- 2.7.5 As part of the investigation it will normally be necessary to interview the employee. At any formal interview the employee will be informed of the purpose of the meeting and encouraged to be accompanied by a trade union

representative or workplace colleague. It must be made clear that it is an investigatory interview and not a formal disciplinary hearing. A representative may take part in the meeting but must not answer for the employee.

2.7.6 On conclusion of the investigation, the investigating officer shall make a report, written or oral (later confirmed in writing), to the person considering the allegation to decide whether or not to proceed with a formal hearing. Outcomes of the investigation may result in:

- no further action; or
- an informal setting of standards (see section 3 Informal Action); or
- a formal disciplinary hearing (see sections 4 Formal Action and 5 Procedure for Gross misconduct).

2.8 Suspension

2.8.1 Suspension is a neutral act which does not imply guilt or blame; however the decision to suspend should only be taken after considering the circumstances of the allegation. Further advice on suspension is given in Appendix 1 to this procedure – “Practical guidance on handling child abuse (physical, sexual, emotional or neglect) allegations against staff”, which although written for child protection purposes, promotes good practice in any circumstances involving suspension decisions.

2.8.2 Where the allegation is in respect of a matter involving child protection, the decision to suspend should be made only after taking advice from the Local Authority Designated Officer wherever possible. It is understood that under exceptional circumstances, an immediate decision to suspend will have to be made.

2.8.3 The power to suspend rests with the Headteacher or, in emergency situations, the Chair of Governors. Suspension may take place at any time before or during the course of an investigation. As it is a neutral act and the employee will remain on full pay. In situations where the employee is certified as unfit to attend work owing to ill-health or takes maternity leave, payments will be made in accordance with the relevant conditions of service for these absences.

2.8.4 A decision to suspend should only be taken after considering the circumstances of the allegation, the wider impact on the school community, particularly colleagues, and whether an alternative may be appropriate.

Circumstances to be considered: -

- a) Where there is considered to be a risk to a child or children.
- b) Where the allegations are sufficiently serious that the outcome may be dismissal.
- c) Where this would allow a more objective examination of the circumstances or for the investigation to proceed unimpeded.
- d) To prevent a possible repetition of the allegation or offence.
- e) Where there are reasonable grounds to believe that it would seriously affect the interests of the school, and/or individual if s/he were to remain at work.

Alternatives to suspension include: -

- i. alternative duties/locations or removal from contact with pupil(s) including working from home
- ii. close supervision – e.g. providing a colleague to be present throughout contact time.

- 2.8.5 Where a decision is taken to suspend, apply special home leave or to work elsewhere, it is important to consider what support can be made available to the member of staff.
- 2.8.6 The nature of the suspension must be confirmed in writing and copied to the school's Human Resource Advisers.
- 2.8.7 Only the governing body may lift a suspension, normally through an appropriately delegated committee.

2.9 Documentation

- 2.9.1 When a decision is made to convene a formal disciplinary hearing, the employee should be informed in writing, enclosing two copies of the following information: -
- Where and when the hearing will be conducted, giving appropriate notice (*see 2.3 Hearings*).
 - Stage of the formal procedure under which the hearing will be conducted (enclose a copy of the procedure). Where a possible outcome of the hearing could result in dismissal, this should also be stated.
 - The purpose of the hearing.
 - Details of the complaints and/or allegations being considered.
 - Available supporting information, including statements already taken as part of an investigation
 - Who will be attending the hearing.
 - The right to be accompanied by a trade union representative or workplace colleague (the additional copy of the correspondence is for the representative).
- 2.9.2 Other information that comes to light or was not available at the time the letter was issued will be sent as soon as possible but in advance of the date of the hearing. The employee will be sent two sets of this additional information.
- 2.9.3 Wherever practical, there should be an agreed bundle of documentation available to all parties at least three working days prior to the hearing.
- 2.9.4 In cases where the outcome of the hearing could result in dismissal, it is essential that a final bundle of documents should be made available to all parties at least three working days prior to the hearing.
- 2.9.5 When submitting any documentation the employee will be expected to follow the same timescales, allowing the school sufficient time for the documents to be collated, paginated and distributed to the appropriate timescale

2.10 Warnings

- 2.10.1 Following a hearing any formal action will be notified in writing to the employee detailing: -
- the reason for the action
 - the level of warning and its duration
 - expected improvement with time-scale
 - consequences of any repetition or failure to improve satisfactorily
 - the impact, if any, on pay (*see 2.1.3 Sanctions*)
 - right of appeal (*see 6 Appeals*)

2.10.2 Any formal warning will be considered spent after a specified period determined at the time of the issue of the warning. This period should be determined by the person(s) conducting the hearing, giving due consideration to the nature of the offence. However, as a guideline, a period of six months would normally be considered as appropriate at Stage 1 (Oral Warning) and a period of one calendar year at Stage 2 (Written Warnings).

2.11 Dismissals

2.11.1 Where dismissal is with notice, the notice period will be in accordance with the employee's contractual arrangements, or the statutory period, whichever is greater. For dismissals following a decision for gross misconduct, dismissal will be with immediate effect and without notice or pay in lieu of notice.

3 INFORMAL ACTION (SETTING OF STANDARDS)

Although any informal action taken is outside of this procedure, its status needs to be clarified. Cases of minor misconduct are usually best dealt with informally, normally in the form of a discussion between the manager and the employee. The manager must make clear that it is informal action but it may be followed by a note confirming the expected standards of behaviour/conduct and that any further misdemeanour may result in formal action being taken. Whilst any record of the discussion is not subject to formal warning periods (see Section 2.11 Warnings), the school should act reasonably when considering using this information in any future formal action, taking into consideration the nature of the misconduct.

4 FORMAL ACTION

4.1 The Formal Procedure

Dependent on the seriousness of the alleged misconduct, the procedures may be implemented at any of the defined 'Stages', however, it must be made clear to the employee, the Stage of the procedure at which the hearing is being conducted and that s/he has a right to be accompanied (see sections 2.4 Employee's rights and 2.10 Documentation). Details of who should conduct the hearing are given at section 2.2 Conduct of proceedings.

4.2 Stage 1 – Oral Warning hearing

Where normal managerial practice has failed or the alleged misconduct demands formal action, a disciplinary hearing will be convened. If following a hearing a decision is taken to issue a warning at this Stage, the employee should be advised that it is an Oral warning and that any failure to improve or change behaviour sufficiently could result in a written warning(s) and ultimately dismissal. The employee must also be informed about the right of appeal (see Section 6 Appeals).

4.3 Stage 2 – Written Warning hearings

Where there is a failure to improve or change behaviour sufficiently in the time-scale set out in a previous warning, or where the offence is sufficiently serious, a hearing should be convened at Stage 2. If following the hearing a decision is taken to issue a written warning it should be determined whether this is a First Written warning or a Final Written warning. For a First Written warning it should be made clear that any failure to improve or change behaviour sufficiently could result in a Final Written warning and ultimately dismissal. For a Final Written warning, any failure to improve or change behaviour sufficiently will mean dismissal. The employee must also be informed about the right of appeal (see Section 6 Appeals).

4.4 Stage 3 – Dismissal hearing (normally only after Stage 2 – Final Written warning, but see Gross Misconduct, below)

- 4.4.1 If the employee's conduct/behaviour still fails to improve sufficiently, or if the offence is sufficiently serious, the final Stage in the disciplinary process will be to consider dismissal. If the decision is dismissal, the employee will be informed immediately and advised of the right of appeal. The decision, the reasons for it, and the appeal arrangements are to be confirmed in writing to the employee within three working days.
- 4.4.2 Following a decision to dismiss, the notice will be issued as soon as possible (*see section 2.12 Dismissals*). Should the employee be successful in his/her appeal, notice will be withdrawn.

5 PROCEDURE FOR GROSS MISCONDUCT

- 5.1 Gross misconduct is regarded as misconduct serious enough to breach fundamentally the employment contract between the employer and the employee, and which makes any further working relationship or trust impossible. Offences of gross misconduct will result in summary dismissal, that is, dismissal without notice or pay in lieu of notice, but only following a properly conducted hearing.
- 5.2 When an allegation is made which may constitute gross misconduct, suspension may be an appropriate act (*see section 2.8 Suspension*). The following list (which is not exhaustive) provides examples of offences which could be regarded as gross misconduct: -
- theft, fraud, deliberate falsification of records or examination results including the conduct of examinations
 - physical violence, verbal abuse, bullying, harassment or intimidation
 - deliberate damage to property, health and safety equipment or a serious breach of health and safety rules
 - serious negligence which causes loss, damage, injury, or endangers persons or property
 - incapability through alcohol or illegal drugs
 - any illegal discrimination
 - inappropriate physical, emotional or sexual contact with a child, or an abuse of trust as defined in the Sexual Offences Act (2003)
 - serious insubordination or serious undermining of school management, or a serious breach of confidentiality
 - deliberately accessing internet sites containing pornographic, offensive or obscene material and/or being in possession of pornographic images of children
 - inappropriate activities on school site(s) or whilst on school activities e.g. sexual activities with another adult
 - bringing the school into disrepute
- 5.3 If following investigation it is felt there is a case to answer for gross misconduct, Stage 3 of this procedure should be applied. The employee should be informed that the hearing will be conducted under Stage 3 – Dismissal, Gross Misconduct. If it is felt that the offence would not warrant consideration as gross misconduct, a hearing should be convened at an appropriate Stage and the employee advised.
- 5.4 Where, following a hearing, the decision is taken to dismiss, this will be put into immediate effect having due regard to the role of the LA (*see section 2.12 Dismissals*). If the employee makes a successful appeal against the decision, s/he will be re-instated immediately without detriment to pay or loss of service.

6 APPEALS

- 6.1 At all Stages of the formal procedure, employees may exercise their right to appeal against a disciplinary warning or dismissal. It should be noted that the appeal stage is part of a statutory procedure and if the employee pursues an employment tribunal claim the tribunal may reduce any award of compensation if the employee does not exercise the right of appeal.
- 6.2 To appeal, the employee should write to the Clerk to Governors within ten calendar days of the written confirmation of the outcome of the hearing. The letter should state the grounds for appeal and should enclose any supporting information. Supporting information not available at this time should be submitted as soon as possible, and in any case prior to the date of the appeal hearing, allowing time for the school to collate, paginate and distribute a bundle three working days prior to the hearing. Where the appeal period overlaps with a pre-determined holiday period e.g. out of term-time for term-time only employees, the letter of appeal needs only to register the intention of appeal, however a fully detailed letter should arrive within five working days following the end of the holiday period.
- 6.3 A Committee of three governors not previously involved with the case will conduct appeal hearings. Arrangements for the appeal hearing should be notified to the employee within ten working days of the receipt of the appeal request. The employee shall be advised of the right to be accompanied by a trade union representative or workplace colleague.
- 6.4 Appeals conducted at Stage 1 or 2 will normally be restricted to considering the reasonableness of the decision, any relevant new evidence, or any procedural irregularities.
- 6.5 At an appeal hearing any disciplinary penalty imposed will be reviewed but it cannot be increased.
- 6.6 The decision of the appeal Committee will be final and should be confirmed in writing to the individual. Should a decision be taken which changes the original decision, the Committee will need to make clear the terms of that decision. Should a decision be made not to dismiss, notice will be withdrawn as soon as possible or the employee will be reinstated with immediate effect without detriment to pay or loss of service.

7 REPORTS BY THE EMPLOYER TO THE DEPARTMENT FOR EDUCATION (DfE)

The criterion for referring cases of misconduct initially to the DfE are "circumstances where an employer has ceased to use the services of a teacher or other worker with children or young people under the age of 19 or might have ceased to use those services had the teacher not ceased to do so". In these circumstances the School is required to notify the Children's Safeguarding Operations Unit at the DfE of the details of the case.

APPENDIX

Guidance on handling child abuse (physical, sexual, emotional or neglect) allegations against staff

This procedure should be followed if a concern about a member of staff is raised by a colleague, parent or child which suggests that the member of staff has:

- Behaved inappropriately in a way that has harmed or may have harmed a child or
- Possibly committed a criminal offence against or related to a child or
- Behaved towards a child or children in a way which indicates that the member of staff may be unsuitable to work with children

The above will include inappropriate or unnecessary physical contact with a child and verbal abuse of or towards a child.

Any allegation should be reported straight away to the most senior member of staff available, generally the Headteacher providing they are not implicated in or a witness to the incident of concern. If the concern relates to the Headteacher, the report must be made to a Deputy Headteacher and Chair of Governors.

The Headteacher will then inform the Gloucestershire Local Authority Designated Officer for Allegations Management (LADO) on 01452 426994 or 01452 583638 at the first possible opportunity and no investigation should be undertaken without advice.

If the complaint is made directly to the police, the LADO should be contacted as described above. The LADO will advise whether the actions described in this procedure can take place concurrently with any police investigation.

The LADO will have an initial discussion with the Headteacher and agree on how to proceed, whether the matter can be dealt with within the school's own conduct procedure or whether a multi-agency approach is required. The LADO will also give advice about the need to suspend the member of staff, to ask the member of staff not to report to work without a formal suspension or if the member of staff can continue to work. Advice will also be given concerning the information that can be given to him or her at this stage.

The agreed procedure will be recorded by the LADO and a copy will be sent to the Headteacher. If the decision is to proceed to a strategy discussion, the LADO will make the referral and arrange a meeting. The Headteacher will need to attend the discussion at which the conduct of the investigation will be agreed together with the timescale and the roles of the police and the social work team.

The Headteacher has the responsibility to ensure that a record of the allegation and the outcome of the initial discussion with the LADO and the outcome of any investigation and subsequent hearing is included in the member of staff's personnel file.

Associated documents:

- Safeguarding Policy
- Child Protection Policy
- Keeping children safe in education - statutory guidance for schools and colleges (April 2014)
- Guidance for Safer Working Practice for Adults who work with Children and Young People in Education Settings
- Policy regarding Physical Contact with Pupils
- Drugs Management Policy

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