



Brookfields
Specialist SEN School

Brookfields School Staff Discipline and Conduct Policy

Date	Description
24 January 2024	Approved by the Full Governing Board

Review schedule	Annually
Next review	October 2024
Policy holder	Catherine Bernie

Brookfields School Equalities Statement

All pupils at the school are offered a broad, balanced, stimulating and relevant curriculum regardless of their background, culture or ability. Each pupil is valued for who they are and what they bring to the school. We appreciate and celebrate the richness of diversity within the school community as well as the wider community.

Through the work we do across the school on developing Values, we actively promote the importance of tolerance, co-operation, courage, determination, friendship and respect. Through this approach, pupils develop independence, confidence and integrity which prepares them for their future lives.

1 Introduction

This policy and procedure explains the process which management and Governors will follow in all cases of misconduct to ensure fairness and consistency of approach. All misconduct cases will be assessed with regards to the seriousness and where appropriate the individual will be supported to improve or redress the situation. Conduct of all staff outside of work is covered by this policy if misconduct has the potential to bring the school into disrepute.

This policy and procedure complies with the ACAS Code of Practice on disciplinary matters and with current employment legislation.

This policy and procedure:

- applies to all staff who have completed their probationary period of employment with the School and is intended to provide a fair method of dealing with alleged failures to observe standards of conduct
- does not apply to staff who are still in their probationary period who will be dealt with in accordance with the Probationary policy
- applies to staff on temporary or fixed-term contracts will be subject to this procedure with adjustments made, where appropriate, to reflect the likely duration of the contract
- has been adopted by the Governing Board of the School
- does not apply to allegations of sub-standard work (for which the Capability policy will be used)
- does not apply in circumstances relating to redundancy or ill health
- shall not be used in respect of a trade union representative without consulting an official of the appropriate trade union concerned.

The Board of Governors is mindful of its obligations under the Equality Act 2010 [and its commitment to the School's Equality, Diversity and Inclusion Policy] and, with the exception of the exclusions noted above, this procedure will be applied fairly and consistently to all employees.

2 Responsibility for managing this policy and procedure

The Headteacher, or Chair of Governors in the case of the Headteacher, is responsible for the overall management of standards of conduct within the School and holds the authority to take action under this policy. The Headteacher will nominate those senior employees in the school who can support this process and also have the authority to issue formal warnings. The Headteacher and nominated colleagues will seek advice from the HR Manager before taking any action. In cases of potential gross misconduct leading to summary dismissal (dismissal without notice or pay in lieu of notice), the Headteacher will usually hear the case together with another senior member of staff. In the case of the Headteacher this role would fall to the Chair of Governors who may convene a panel of Governors. The members of staff nominated to hear the case will be accompanied by the HR Manager who will advise on procedure.

3 Principles

Formal disciplinary action will only take place after an investigation into the

circumstances surrounding an alleged breach of acceptable conduct. At every stage of the disciplinary procedure the member of staff will be advised of the nature of the complaint against them and will be given the opportunity to state their case before a decision is made.

Staff have the right to be accompanied at disciplinary hearings by a trade union representative or a work colleague. The employee has the statutory right to be accompanied at this meeting, and any subsequent formal meetings, by a work colleague or trade union representative and should be provided with a copy of the procedure in order to understand the context of the meeting. Employees must make the request to be accompanied in advance of the meeting to allow the school to prepare and to ensure the employer knows who the companion will be. The companion can address the hearing to put and sum up the employee's case, respond on behalf of the employee to any views expressed at the hearing 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. The companion will be permitted reasonable time to confer privately with the employee either in the hearing room or outside. Reasonable adjustments will be made to enable those with a disability to attend and participate fully in any disciplinary meeting.

Staff who act as witnesses in disciplinary investigations will be expected to cooperate fully with the Investigating Officer. They will be required to attend meetings as requested and to provide a signed witness statement. They may also be required to attend any disciplinary hearing to answer questions, if necessary. There is no entitlement for witnesses to be accompanied at meetings, however we will try to accommodate reasonable requests for them to be accompanied to disciplinary hearings. If it is apparent that a witness is distressed by the line of questioning or the questioning is excessive or aggressive, the Chair has the right to intervene.

No member of staff will be dismissed for a first breach of discipline except in cases of gross misconduct.

The disciplinary procedure may be implemented at any stage if the alleged misconduct warrants such action.

Staff will have the right to appeal against any disciplinary penalty imposed.

4 Investigations

- 4.1 When an employee raises a grievance, either under the Informal Step or formally under Stage 1 of this procedure, the relevant manager may consider that further investigation is required. It is for the relevant manager to determine how such investigations should be conducted. Where necessary, an investigating officer can be assigned to undertake the investigation or the relevant manager may conduct the investigation themselves. It may be deemed appropriate to use an external investigating officer.
- 4.2 For example, it may require the relevant manager or Investigating Officer to:
 - gather any further information they feel is relevant in as confidential a manner as possible;

- request written responses from any other parties they consider appropriate;
- meet with the other relevant parties to discuss the grievance and obtain relevant information;
- produce an investigation report to capture the key issues and findings arising from the investigation and suggested resolution where appropriate;
- to be impartial and unconnected with the grievance.

5 Suspension

- 5.1 The Headteacher, in consultation with the HR Manager may suspend a member of staff for alleged gross misconduct or other good and urgent cause. In the case of the Headteacher, this role will fall to the Chair of Governors or in their absence, the Vice Chair. Suspension will be on full pay for such a period as is necessary to carry out an investigation. This does not however constitute disciplinary action and should not be viewed as such. A decision to suspend will not be made until alternative courses of action have been considered, such as transfer to an alternative post or temporary allocation of other duties.
- 5.2 Suspension will only be considered in extreme circumstances and where the presence of the member of staff in school:
- makes a fair investigation impossible
 - represents a serious risk to the safety of others or themselves
 - represents a serious risk to Brookfields School's operation
 - seriously undermines the reputation of Brookfields School.
- 5.3 Whenever reasonably practicable, a member of staff called to a meeting to be informed of suspension should be offered the opportunity to be accompanied by a trade union representative or a work colleague. The reason for the suspension will be confirmed in writing within 5 working days. A member of staff who is suspended may seek support from their trade union representative or in the absence of a trade union representative a nominated contact at Brookfields School.
- 5.4 The contract of employment remains in force during a period of suspension, however, access to IT systems, the employee's security pass and keys will temporarily be removed. The employee will not be permitted to enter school property or contact anyone associated with the school without the consent of the Headteacher (or Chair of Governors in the case of the Headteacher).
- 5.5 Any suspension should be lifted as soon as reasonably practicable by either convening a disciplinary hearing or enabling the member of staff to return to work if a disciplinary hearing is not being pursued or in the event that the initial investigation finds the allegation not as serious as originally thought. Support will be offered to the member of staff to enable them to reintegrate back into the workplace.
- 5.6 The Headteacher or Chair of Governors, in consultation with the HR Manager, may lift the suspension. A member of staff who has been suspended is required to be available to attend any investigatory or occupational health meetings as may be necessary during their normal working hours

6 Discipline Procedure

Stage One

- 6.1 Where the support provided has failed to bring about sufficient improvement, or where the concerns or allegations are considered too serious to be dealt with informally, this procedure will be instigated, in the majority of cases commencing at Stage One. When an appropriate level of investigation has ascertained that there is a case to answer, the Headteacher or other senior manager as nominated, will arrange a formal meeting, giving at least 5 working days' notice in writing to the employee. The employee has the statutory right to be accompanied at this meeting, and any subsequent formal meetings, by a work colleague or trade union representative and should be provided with a copy of the procedure in order to understand the context of the meeting. Employees must make the request to be accompanied in advance of the meeting to allow the school to prepare and to ensure the employer knows who the companion will be. The companion can address the hearing to put and sum up the employee's case, respond on behalf of the employee to any views expressed at the hearing 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.
- 6.2 At a formal meeting held under Stage One of the procedure, the Headteacher or manager will be able to consider a range of possible outcomes short of dismissal. Dismissal is a last resort and is only likely to be an appropriate consideration at this early stage in cases where the alleged conduct is likely to constitute gross misconduct. In such cases, the Headteacher will refer the matter to the Board of Governors for consideration at a governors' hearing under Stage Three of the procedure. Suspension of the employee must also be considered in such circumstances.
- 6.3 At the formal meeting under Stage One, the Headteacher or manager will:
- identify the alleged misconduct;
 - allow the employee and his/her companion the opportunity to state their case and respond to the concerns or allegations raised;
 - give clear guidance on the standard of conduct required to enable the member of staff to avoid being subject to further stages of the procedure;
 - explain, where relevant to the circumstances, what support will be available to help the member of staff improve their conduct;
 - in some cases, outline the timetable for improved conduct and how progress will be monitored;
 - explain the consequences of a failure to improve.
- 6.4 The meeting will be adjourned if new facts come to light which the Headteacher or manager decide to refer for further investigation.
- 6.5 After the meeting, the Headteacher or manager will review the evidence and discussion which took place and decide, on balance of probability, whether the concerns or allegations are founded and what appropriate course of action to take from the following options:

- No formal action: this may be applicable where allegations are determined to be unfounded or unsubstantiated or where informal management action is deemed to be a more appropriate response to the concerns about conduct.
- First written warning: this will be issued where there is serious concern about the allegations of misconduct are found to be justified and informal management action alone is deemed to be an insufficient response.
- Final written warning: this will be appropriate in cases of very serious concern about conduct where the employee's actions have had, or are liable to have by their continuation, a harmful impact on the school, such as on the education of pupils or the safety or welfare of others.

6.6 The employee will be notified of the decision as soon as possible following the meeting and, in any event, in writing within 5 working days. They will be informed, either at the same time or as soon as possible thereafter, of any arrangements for assessment and monitoring. The letter to the employee will confirm the period during which any written warning issued will remain live and the employee's right to appeal the decision in writing within 5 working days of receipt. The appeal may be heard by the Headteacher, if they were not involved in the initial decision, otherwise it will be directed to the Clerk to the Board of Governors who will convene a governors' hearing for the purpose (see also 'Appeals', section 10).

6.7 Stage Two of the procedure will not be instigated unless and until a formal warning has been issued under Stage One and therefore more than one formal meeting may be held under Stage One if appropriate to the circumstances.

7 Assessment & Monitoring Period

7.1 In some circumstances an assessment and monitoring period will follow a formal meeting held at any stage of the procedure at which a decision was made either to take informal management action or to issue a written warning. The length of this stage will depend on the circumstances of the individual case but, in straightforward cases, it will last for between four and six weeks. Monitoring, evaluation, guidance and support will continue during this stage.

7.2 At, or towards, the end of the assessment period, the manager tasked with monitoring the employee during this period will be expected to reach a judgement on the level of progress made:

- Conduct Reaches Required Standard: Where conduct has reached the required standard by the end of the assessment period, a meeting will be convened at which the employee is informed that the formal procedure is now ending and confirming any ongoing arrangements for informal monitoring and support.
- Conduct Fails to Reach Required Standard: Where acceptable progress has not been made by the end of the assessment period, or at any time during the assessment period if there is a serious deterioration in conduct, the member of staff will be invited to another formal meeting in accordance with the next appropriate stage of the procedure.

8 Stage Two

8.1 If, following the Stage One meeting and any resulting assessment and monitoring period:

- a. the required standard of conduct has not been reached,
- b. the standard of conduct has deteriorated further, or
- c. there are further allegations of misconduct,

another formal meeting will be convened, giving the employee at least 5 working days' notice in writing. If dismissal is a potential outcome, either as a result of a final written warning being issued at Stage One or because of the seriousness of the concerns, the matter should instead be referred directly to Stage Three for consideration by governors.

- 8.2 The meeting will usually be conducted by the same person (Headteacher or manager) responsible for conducting the formal meeting(s) held under Stage One of the procedure and the substance of the meeting will be similar, whilst recognising the increased level of concern and the implications for the employee of a failure to improve.
- 8.3 After the meeting, the Headteacher or manager will review the evidence and discussion which took place and decide, on balance of probability, whether the allegations are founded and what appropriate course of action to take from the following options:
 - No formal action: this may be applicable where allegations are determined to be unfounded or unsubstantiated or where some concerns remain but there has been sufficient improvement in standards of performance or conduct that informal management action is now deemed to be a more appropriate response.
 - Final written warning: this will be appropriate where serious concerns about the standard of conduct remain, in spite of any further support or guidance provided.
- 8.4 The employee will be notified of the decision as soon as possible following the meeting and, in any event, in writing within 5 working days. They will be informed, either at the same time or as soon as possible thereafter, of any arrangements in place for assessment and monitoring. The letter to the employee will also confirm the period during which any written warning issued will remain live and the employee's right to appeal the decision in writing within 5 working days of receipt. The appeal may be heard by the Headteacher, if they were not involved in the initial decision, otherwise it will be directed to the Clerk to the Board of Governors who will convene a governors' hearing for the purpose (see also 'Appeals', section 10).
- 8.5 More than one formal meeting may be held under Stage Two if appropriate to the circumstances.

9 Stage Three

- 9.1 If, following the Stage Two meeting and any resulting assessment and monitoring period:
 - a. the required standard of conduct has still not been reached,
 - b. the standard of conduct has deteriorated further, or
 - c. there are further allegations of misconduct,

or at any stage where the matter has been referred for consideration by the Board of Governors, the Clerk to the Board of Governors will convene a governors' hearing, providing at least 10 working days' notice in writing to the employee. Consideration should be given at this stage as to whether suspension of the employee is appropriate.

- 9.2 The meeting may be adjourned if, in the view of the chairperson of the hearing, the meeting cannot continue until either new evidence is investigated or a witness who is absent is called.
- 9.3 As with all formal meetings held in accordance with the procedure, the employee will be entitled to be accompanied by a trade union representative or workplace colleague and will have the opportunity to challenge evidence, question relevant witnesses and state his/her case.
- 9.4 After the meeting, the governor(s) will consider all the evidence presented to them and reach a decision. As part of the decision-making process the governor(s) will determine whether, on the balance of probabilities, the concerns about the individual's conduct are justified and, if so, what outcome is most appropriate in all the circumstances of the case.
- 9.5 Where dismissal is being considered, the governor(s) will first discount options which could be put forward as an alternative to dismissal, such as demotion or transfer to another post.
- 9.6 The employee will be notified of the decision as soon as possible and, in any event, in writing within 5 working days. The letter will include confirmation of whether the governor(s) found there to be a case to answer and, what, if any, formal action is being taken.
- 9.7 Where the outcome is not dismissal but where there are still concerns, the letter will outline what actions and improvements are needed to obviate the need for a further formal meeting and the employee will subsequently be notified of any further arrangements for assessment and monitoring. The letter to the employee will also confirm the period during which any written warning issued will remain live and the employee's right to appeal the decision in writing within 5 working days of receipt. An appeal against a decision made by governors will be referred to the Clerk to the Board of Governors who will convene a hearing by different governors, uninvolved in the previous decision (see also 'Appeals', section 10).
- 9.8 Following a decision to dismiss, the school will issue notice of termination in accordance with the employee's contractual or statutory notice period (whichever is greater). As a general rule, the employee will not be expected to attend work during the notice period. In cases of gross misconduct, the employee may be summarily dismissed (without notice).

The HR Manager will notify the local authority of any likely or planned dismissals regardless of the reason.

10 Appeals

- 10.1 There shall be a right of appeal against any decision to impose a written warning or other formal sanction as a result of action taken by the employee's manager, the Headteacher or by governors. In exercising this right, the employee must confirm the grounds on which they are making the appeal.
- 10.2 Appeals against warnings issued during Stage One or Stage Two will be heard by the Headteacher or one or more governors, in accordance with the scheme of delegation in place and bearing in mind the need to secure impartiality at every stage of the process. No person will hear an appeal against his/her own decision. Appeals against dismissal, or against formal warnings or sanctions determined by governors, will always be heard by one or more governors with delegated powers. References to the Appeals Panel hereafter may therefore be interpreted accordingly, although the 'panel' could in some cases consist of one person.
- 10.3 The appeal hearing will be arranged to take place as soon as is reasonably practicable, allowing the employee at least 5 working days' notice of the date (or 10 working days where the appeal is against a dismissal decision).
- 10.4 The purpose of the meeting is for the Appeals Panel to consider the grounds for appeal and to review the fairness of the outcome of the original meeting. New evidence may be considered at the appeals stage but no additional grounds for action against the employee may be introduced.
- 10.5 Within 5 working days of the appeal hearing taking place, the employee will be notified in writing of the outcome and any actions which have been determined. There is no further right of appeal.
- 10.6 If a dismissed employee is reinstated on appeal, his/her salary will be back paid to the date of the original termination, minus any monies already paid in respect of notice.

11 Raising Awareness of This Policy

We will raise awareness of this policy via:

- Inductions for new staff
- the Staff Handbook
- meetings with school staff

12 Equality Impact Assessment

Under the Equality Act 2010 we have a duty not to discriminate against people on the basis of their age, disability, gender reassignment, marriage and civil partnership, pregnancy or maternity, race, religion or belief, sex and sexual orientation.

This policy has been equality impact assessed and we believe that it is in line with the Equality Act 2010 as it is fair, it does not prioritise or disadvantage any person and it helps to promote equality at this school.

13 Monitoring the Effectiveness of this Policy

This policy and procedure will be reviewed every two years.

14 Management of policy

The Headteacher has overall responsibility for the maintenance and operation of this Policy.

Appendix 1

Examples of Misconduct

Please note this is not exhaustive but provides examples of the types of conduct where formal action will be taken.

- Failure to comply with a reasonable management instruction
- Failure to observe the Council's and/or School's standing orders, financial or other operational regulations
- Failure to observe School policy
- Breach of the Code of Conduct
- 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 timekeeping
- Misuse of School property and equipment including misuse of IT and telephone equipment
- Failure to follow the School's sickness notification procedures and certification requirements
- Failure to comply with the School's medical referrals procedure
- Actions during a period of sick leave likely to inhibit recovery or return to health
- Being under the influence of alcohol or drugs
- Improper use of information obtained in the Council's/School's employment
- Abusive or inappropriate behaviour towards students, parents, fellow employees or members of the public
- Misconduct that brings the school into disrepute
- Creating or contributing to unsanitary conditions
- Smoking in a smoke-free area.

Examples of Gross Misconduct

Please note this list is not exhaustive but provides you with examples of the types of conduct which will be considered gross misconduct and if proven will lead to 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, students or members of the public or other acts of dishonesty
- Serious breach of duty concerning the handling of confidential information
- Improper use of social media including breach of the school's Electronic Communications and Social Media Policy or any social media activity with the potential to have an adverse impact on the reputation of the school, colleagues, students, parents or the wider school community
- Making unauthorised statements to the press or news media relating to school business

- Making malicious or unfounded allegations of a serious nature
- Serious breach of health and safety rules
- Failure to provide a safe working environment for children and young people
- Taking drugs on School premises 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 timesheets, overtime claims, invoices, accounts, records or medical certificates
- Fighting, violent, offensive, abusive or indecent behaviour
- Unlawful acts of discrimination in the workplace
- Bullying and/or harassment
- Unauthorised removal of and/or serious misuse of and/or deliberate damage to School property including IT and telephone facilities
- Improper or unlawful use of internet indicating a breach of trust in the staff member's commitment to safeguarding
- Sexual misconduct at work
- Aiding or abetting any of the above
- Other actions which fundamentally breach the relationship of trust and confidence which exists between employer and employee
- Criminal offences and cautions outside of work including reprimands, final warnings or penalty notices
- Failure to disclose new or unspent criminal convictions including cautions and motoring offences.
- Failure to disclose personal or family involvement with social services, child protection or the police
- Any unauthorised recording of work related meetings
- Engaging in unauthorised employment during hours when contracted to work for the school or during periods of designated leave, for example annual or sick leave, time off for training, etc.
- Activities relating to radicalisation: defined as the process by which a person comes to support terrorism and forms of extremism leading to terrorism. (Please also refer to the school's Safeguarding Policy)
- Unlawful discrimination, bullying and harassment