

January 2021 – January 2023

The Governing Body of Cedars Academy adopts formal procedures relating to staff grievance and discipline. The governing body is responsible for ensuring that fair, consistent and objective procedures are in place for these matters.

Mission statement

Ours is a community of learning, where secure partnerships create opportunities for students, staff, governors, parents and carers alike to participate and grow to become intellectually, emotionally and socially fit for life.

A Introduction

1. The procedures in this document are based on the ACAS Code of Practice on Grievance and Discipline at work. They are not intended for use with collective grievances¹ or complaints relating to pay². ACAS does not suggest time scales for actions, but the Academy has recommended suitable time scales where ACAS wording is 'without unreasonable delay'
2. Governors should read the general introduction to all the National Society Guidance on procedures before formulating their own policy
3. **Grievances** are concerns, problems or complaints that employees raise with their employers
4. Employees should raise and Employers should deal with issues promptly and should not unreasonably delay meetings, decisions or confirmation of those decisions

B Grievance procedures

1. Every effort should be made to resolve a grievance as quickly and amicably as possible. Normal working practices should be maintained until all stages of the procedure have been exhausted
2. A person against whom a grievance is made must be informed of the nature of the grievance and have an opportunity to respond; this would normally be done once the person investigating the grievance is clear about the nature of the grievance
3. Grievances might relate to:

¹ Collective grievances should be dealt with through normal employer/union negotiations

² Procedures for responding to complaints relating to pay should be considered within the school's Whole School Pay Policy

- Terms and conditions of employment
 - Health and safety
 - Work relations
 - Bullying and harassment
 - New working practices
 - Working environment
 - Organisational change
 - Equal opportunities
4. If an employee raises a grievance during a disciplinary process, the disciplinary process may be suspended temporarily so that the grievance can be dealt with
 - a. However, where grievance and disciplinary cases are related, it may be appropriate to deal with both issues concurrently
 5. Where possible, issues raised should be dealt with informally
 6. Notes should be kept by the person investigating the grievance of all informal discussions, which will be placed on file and be available to all parties

Formal Meeting

7. If it is not possible to resolve a grievance informally, the staff member (grievant) should raise the matter formally and without unreasonable delay (recommended within 5 school days) with the headteacher or a manager who is not the subject of the grievance. This should be done in writing, setting out the nature of the grievance, and including any relevant documents
8. The headteacher or line manager will arrange a formal meeting to be held within 5 school days after the written notice of the grievance is received
9. The headteacher or line manager, grievant and their respective companions³ should make every effort to attend the meeting
10. Grievants should have the opportunity to explain their grievance and how they think it should be resolved. It may be necessary to adjourn the meeting to enable an investigation to be carried out
11. If the grievant is accompanied to the meeting by a companion or Trade Union representative, the companion should be allowed to address the meeting and to put and sum up the employee's case, and to respond on the employee's behalf to any views expressed during the meeting. He/she may also confer with the grievant during the meeting
 - a. The companion or Trade Union representative does not have the right to answer questions on the grievant's behalf, or to address the meeting if the grievant does not wish it
 - b. He/she may not prevent the employer from explaining their case
12. A written record of the meeting must be made (and, if possible, agreed between the parties concerned)

1. ³ a companion may be: a fellow worker, an official employed by a trade union, or a trade union representative certified by their union as being competent to accompany a worker.

Decision

13. Following the meeting, the headteacher or line manager will decide on what action, if any, to take. The grievant will be informed as soon as possible of the decision in writing and of their right to appeal if they are not satisfied with the decision
14. Where appropriate, the letter will set out what action the employer intends to take to resolve the grievance

Appeal

15. If the grievant is not satisfied with the outcome of the action taken by the headteacher or line manager, he/she may write to the Chair/Clerk of Governors within 10 school days of receiving the decision, asking to have the grievance considered by a committee of the governing body
16. The appeal will be arranged within 15 school days of the clerk receiving the request
17. Copies of all relevant documents must be sent to all parties involved in the hearing 5 school days before the hearing
 - a. Copies of relevant documents should be sent to the Chair of Governors. They should also be informed of the date of the hearing
18. Grievants may be accompanied by a companion to a hearing
19. If the grievant wishes to appeal against the decision of the governors' committee, s/he may send a written notice of appeal to the Chair/Clerk to the Governing Body, within 10 school days of the meeting, stating the grounds for appeal
20. The Chair/Clerk to the Governors will arrange for a meeting of the Appeal committee to be held within 15 days of the receipt of a written appeal
 - a. Documents will be circulated to all parties as before

Headteacher's grievance with the governing body

21. Where the headteacher has a grievance with the governing body, s/he should first try to resolve the matter with a direct approach. If this does not settle the issue, the matter should be discussed with his/her union /legal representative
22. Where actions of the Chair have provoked the grievance and this cannot be resolved by a personal approach, s/he should discuss the matter with the Vice-Chair of the Governing body

Where the Headteacher is subject of a grievance

23. Where a grievance is made against the headteacher, the grievant should inform the Chair of the governing body. This should be done in writing, setting out the nature of the grievance, and including any relevant documents
24. The Chair of the governing body shall arrange a formal meeting within five school days after the written notice is received.

C Disciplinary Procedures

1. **Disciplinary procedures** should not be thought of just as a means of imposing sanctions or leading to dismissal. Their aim is to encourage all employees to achieve and maintain high standards of conduct. When rules about behaviour are broken, this can lead to disciplinary proceedings against a staff member on the grounds of misconduct
2. The following are examples of misconduct or gross misconduct. The lists are not exhaustive, and are for guidance only
3. Examples of misconduct:
 - a. Failure to comply with terms and conditions of employment and the contract of employment, without sufficient cause
 - b. Leaving place of work during normal working hours without permission
 - c. Frequent failure to attend work punctually
 - d. Failure to notify the school in reasonable time when absence is due to sickness
 - e. Making unauthorised private phone calls or sending emails or personal mail at the school's expense
 - f. unauthorised use of the internet
 - g. Insubordination
 - h. Refusal to exercise proper control or supervision of pupils
 - i. Abusive behaviour or language towards staff, parents, pupils or members of the public
 - j. Victimisation and intimidation of other staff members in the course of duty
 - k. Unlawful discrimination against other staff, pupils or members of the public in the course of duty
 - l. Dishonesty
 - m. Wilful attempt to mislead
4. Examples of gross misconduct:
 - a. Theft, fraud, deliberate falsification of records
 - b. Fighting, assault on another person; violent or intimidating conduct
 - c. Deliberate damage to school property
 - d. Serious incapability through alcohol or being under the influence of illegal drugs
 - e. Serious breach of confidence
 - f. Bringing the name of the employer into serious disrepute
 - g. Serious breach of health and safety rules
 - h. Child abuse
 - i. Serious misuse of the internet
 - j. Serious negligence that causes unacceptable loss, damage or injury
 - k. Serious act of insubordination
 - l. Serious acts of unlawful discrimination against other employees, pupils or members of the public in the course of duty
 - m. Unauthorised entry to computer records
 - n. Continued and repeated offences
5. In cases of gross misconduct, some stages of the disciplinary procedures may be omitted. Headteachers, line managers and governors must be prepared to explain in writing why this course of action has been taken

Investigation

6. It is important that necessary investigations of potential disciplinary matters are carried out without unreasonable delay to establish the facts of the case
7. This may require an investigatory meeting with the employee before proceeding to a disciplinary hearing. The employee may be accompanied by a companion. This meeting should not by itself result in any disciplinary action
8. In some cases, the investigatory stage will be a collation of evidence by the Academy (Headteacher, line manager or chair of governors, as appropriate) to use at a disciplinary hearing
9. The report of the investigation should include:
 - a. A list of all the people spoken to during the investigation, giving dates and times
 - b. A list of written, signed and dated statements attached
 - c. A chronological summary of incident(s) giving rise to the investigation and the stages of the investigation
 - d. Conclusions
 - e. Decision on the next step:
 - i. No further action required
 - ii. Headteacher/line manager/chair to deal with the matter himself/herself
 - iii. Formal written warning
 - iv. Refer to a disciplinary committee
10. Where practicable, the investigation and the disciplinary hearing should be carried out by different people

Suspension

11. In cases of misconduct or gross misconduct, where a suspension with pay is considered necessary, the period should be as brief as possible and should be kept under review. It should be made clear to the employee that suspension is not considered a disciplinary action; it is a neutral act and does not assume guilt. Careful consideration should be given to the case before suspending an employee. If the offence is dismissible, then suspension will normally apply
12. Suspension should only be applied where the circumstances of the case make it unacceptable for the employee to remain in school while the facts are ascertained. These circumstances may include:
 - a. Where children are considered at risk
 - b. Where allegations are so serious that dismissal for gross misconduct is possible
 - c. Where it is necessary for the investigation to proceed unimpeded
13. An interview with the employee and his/her companion or Trade Union representative should be arranged as soon as possible to inform the employee of the suspension and the reasons for it. S/he must be given the opportunity to make representations concerning the suspension, adjourning the meeting if necessary to allow the employee to prepare a response
14. A written confirmation of the suspension must be sent within one working day and should include:

- a. The date from which the suspension becomes effective
 - b. The reasons for the suspension
 - c. Copies of any relevant documents
 - d. Details of the procedures which will be followed
 - e. Confirmation that full pay will be maintained during the period of suspension
 - f. Details of the procedures for lifting the suspension
15. Advice should be sought from the LA before informing parents of the absence of a suspended member of staff.
16. The suspension period should be as brief as possible and investigations started immediately.
17. Support for the employee should be provided during the period of suspension, including the name of a contact at the school or LA, counselling and/or pastoral support if requested.

Stages in the disciplinary procedure

Informal procedure

18. Where possible, minor discipline and conduct cases should be resolved with an informal discussion. If misconduct is identified, the headteacher or line manager must make clear to the employee the expectations of his/her conduct in the future. Notes of the informal discussions should be retained in case the informal action does not bring about improvement

Formal procedure

19. Employees have a statutory right to be accompanied by a companion where a disciplinary meeting or appeal meeting could result in
- a. A formal warning being issued; or
 - b. Disciplinary action being taken; or
 - c. The confirmation of a warning or some other disciplinary action (appeal hearings)
20. If the employee is accompanied to the meeting by a companion, the companion should be allowed to address the meeting and to put and sum up the employee's case, and to respond on the employee's behalf to any views expressed during the meeting. He/she may also confer with the employee during the meeting.
- a. The companion does not have the right to answer questions on the employee's behalf, or to address the meeting if the employee does not wish it.
 - b. He/she may not prevent the employer from explaining their case.
21. After the meeting, the headteacher or line manager will decide whether or not disciplinary or other action is justified and the employee will be notified in writing accordingly.
22. If misconduct is confirmed, a written warning will be issued. A further act of misconduct within a set period would normally result in a final written warning
23. If the first misconduct is sufficiently serious, it may be appropriate to issue a final written warning directly. This might be the case if the employee's actions have had or are liable to have a serious or harmful impact on the school or its pupils

24. These written warnings will set out the nature of the misconduct and the change in behaviour required with a timescale for that improvement. The employee will be told how long the warning will remain current and informed that further misconduct within that set period could lead to dismissal. The employee must be informed of the right to appeal

Governors' disciplinary hearing

25. If the misconduct continues or the behaviour does not improve, or the case is sufficiently serious, the employee will be asked to attend a hearing of the governors' disciplinary panel⁴
26. The meeting will consider the allegations made, review the evidence and decide whether to dismiss the employee
27. All records of formal and informal meetings and written warning will be kept on file in case of an appeal
28. The disciplinary panel must inform the employee of its decision in writing, giving reasons for the dismissal, the date on which the contract will end, the appropriate period of notice, and inform him/her of the right to appeal
29. In cases of gross misconduct, dismissal is likely to be without notice. A fair disciplinary process will always be followed before dismissing for gross misconduct
30. Where an employee is persistently unable or unwilling to attend a disciplinary meeting without good cause, the headteacher, line manager or disciplinary panel should make a decision on the evidence available

Appeals

31. An employee who wishes to appeal against the decision of the disciplinary panel should appeal in writing within 10 school days to the Chair/clerk of governors, stating the grounds for appeal
32. The appeal will be dealt with impartially by a different panel
33. The appeal panel may confirm the decision of the hearing panel, impose a lesser penalty, or order that no action be taken. The panel cannot impose a more severe sanction than that originally imposed
34. The employee will be informed of the decision of the appeal panel in writing as soon as possible after the hearing

Retention of written warnings

35. A warning is kept on file so that the headteacher or disciplinary committee can refer to it when reaching a decision on an appropriate sanction
36. **First written warning:** copies of the decision of the headteacher, line manager or disciplinary committee and clerk's letter to the employee remains on the employee's record for 12

⁴ Details of procedures for hearing panels are in a separate document

months, after which time it is removed. After such a record has been removed, it may not be referred to in any subsequent disciplinary action

37. **Final written warning:** copy of the notes of the hearing and clerk’s letter to the employee will remain on the employee’s record for 24 months, after which it will be removed, as in 36 above
38. In extreme cases where there is ongoing concern, the final written warning may remain permanently on file. In such a case, it will be made clear in writing that the warning can never be removed and that any recurrence would lead to dismissal

Referral to the Teaching Agency

39. Where an employee is dismissed or leaves/resigns before dismissal for gross misconduct, the headteacher has a legal duty to consider whether to refer the matter to the Teaching Agency.
40. A referral to the Disclosure and Barring Service (DBS) must be made if an employee has harmed, or poses a risk of harm to a child and who has been removed from working (paid or unpaid) in regulated activity, or would have been removed had they not left. Referrals should be made to both the DBS and the Teaching Agency in cases where there is alleged serious teacher misconduct, as well as harm or risk of harm to a child. Further details can be found on the [DfE website](#)

Author	MF Cedars Academy
Date	January 2021
Review date	January 2022