

Glasllwch Primary School

Staff Discipline Conduct Policy

This policy is a	School Policy using LA template / WG guidelines
This policy is	Statutory
Key references	NCC HR Policies
Staff Area / Subject Leader	Chris Jackson
Link Governor	Stephen Morris CoG
Key Personnel in Policy	
Training / Accreditation	
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Aims of Policy

- To outline a Disciplinary Code of conduct for all staff
- To outline procedures to follow in the event of a disciplinary issue
- To outline procedures to follow in the event of gross misconduct
- To outline the process for appeals against a disciplinary or gross misconduct issue
- To provide examples of standards and conduct
- To provide examples of standards of gross misconduct
- To outline Hearings and Appeals procedures

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STAFF DISCIPLINE AND CONDUCT POLICY

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This policy has been produced from guidance supplied by Newport City Council Human Resources Department.

1 Statement of Policy

- 1.1 It is the view of the Governing Body that the maintenance of discipline is essential for the effective conduct of the school's affairs, and for the safety and well-being of employees and of others affected by the school's activities.
- 1.2 In order to maintain discipline, the school expects its employees to conduct themselves within the law, any code of ethics or practice associated with their profession or trade; any rules specifically relating to the employees workplace or activities - and within generally accepted standards of social and moral behaviour. The general standards of conduct and behaviour are set out in Annex A.
- 1.3 The school will assist employees so far as is practicable in achieving acceptable standards of conduct by bringing to their attention rules of the workplace and by providing such training as is deemed necessary to assist them in undertaking their work effectively and safely.
- 1.4 The school will, however, not hesitate in taking appropriate action if an employee fails to meet required standards of conduct or behaviour generally related to in point 1.2 above. In order to ensure the fair and equitable treatment of employees subject to disciplinary action, the school has adopted and issued this disciplinary code, in conjunction with the appropriate Trade Unions. The procedure will be used as necessary and will apply to all employees within its scope.
- 1.5 It must be emphasised that in the interests of all parties involved, all disciplinary issues should be dealt with in an expeditious manner by management and by the trade union where it is involved.

2 Scope of the Procedure

- 2.1 The procedure applies to all employees of the school in circumstances where disciplinary action is necessary. The procedure does not apply to the following instances:
 - i. termination of a fixed term contract of employment, where the term of that contract expires without being renewed
 - ii. termination of a temporary appointment where the reason for termination is that the need for the employee's service has ceased, or is about to cease
 - iii. termination during, or at the end of a probationary period, whether or not extended beyond its originally specified period
 - iv. termination of employment by reason of redundancy
 - v. resignation by the employee, or other termination by mutual consent. However, where disciplinary proceedings have commenced they may be continue even though an employee resigns.
- 2.2 This code applies to Head Teachers but where disciplinary proceedings are necessary the Chair of Governors would conduct the investigation.



STAFF DISCIPLINE AND CONDUCT POLICY



3 General Principles

- 3.1 The primary aim of the Code is to provide a method for dealing with short comings in conduct and behaviour. Issues relating to performance will be dealt with under the school's Capability Procedure. The general standards of conduct and behaviour expected of employees are set out in Annex A and further information can be found in the Employee Code of Conduct.
- 3.2 It is the policy of the school to encourage self-discipline for employees, for them to accept that it is their responsibility to make a contribution to the effective conduct of the school's activities and to eliminate, as far as is practical, the necessity for disciplinary action.
- 3.3 The Disciplinary Code provides a means for dealing with disciplinary issues which rise in a way which is fair and consistent and without delay.
- 3.4
- i Except in the case of gross misconduct, the principal purpose of disciplinary action should be to counsel the employee to overcome a problem or a deficiency
 - ii No disciplinary action will be taken against an employee until the case has been investigated.
 - iii At every stage of the procedure the employee will be advised of the nature of the complaint against them and will be given the opportunity to state their case before any decision is made.
 - iv An employee will have the right to appeal against any disciplinary action/penalty taken against them.
 - v At any of the formal stages of the code the employee will be advised of their statutory right to be represented by a trade union representative or a work colleague.

3.5 Trade Union Officials

For the purposes of this code a trade union official is defined as one of the following:

- a full time officer employed by a Trade Union
- a lay trade union officer or workplace representative, subject to certification by the Union that they have received training or are experienced in acting as a worker's companion

- 3.6 No disciplinary action or suspension should be taken against a trade union official until the circumstances have been discussed with a full-time officer of the appropriate trade union.
- 3.7 The procedure allows for a series of stages, ranging from counselling and informal warnings through to dismissal. Frequently, a counselling session or the issue of a warning will resolve the problem. In other circumstances it might be necessary, over a period of time, to pursue several or all of the stages of the procedure in order to resolve the matter. On other occasions, an instance of serious or gross misconduct will require the immediate operation of an advanced stage of the procedure.
- 3.8 Criminal offences outside employment should not be treated as automatic reasons for dismissal regardless of whether the offence has any relevance to the duties of the individual as an employee. The main considerations should be whether the offence is one that makes the individual unsuitable for their type of work or unacceptable to other employees. Employees should not be dismissed solely or automatically because a charge against them is pending or because they are absent through having been remanded in custody.



STAFF DISCIPLINE AND CONDUCT POLICY



4 Counselling

- 4.1 Counselling of employees is the responsibility of all line managers and Head Teachers and should be a regular feature of the employee / manager relationship.
- 4.2 An employee may expect to receive informal advice and guidance on minor incidents and/or minor problems with standards and conduct as part of the normal working relationships. This is not part of the formal disciplinary procedure. However, it should be made clear to the employee that if there is no improvement the next stage will be to implement the formal disciplinary procedure.
- 4.3 Line managers and Head Teachers have the responsibility to advise employees at any level if work standards and/or behaviour need improving. If necessary the support of the LEA can be provided when counselling employees.

5 Disciplinary Procedure

5.1 General

- i. This code will only be applied when previous attempts at counselling have failed, or a matter is considered so serious as to make counselling inappropriate.
- ii. Whenever possible minor disciplinary matters will be dealt with by the managers below Head Teacher level.
- iii. Repeated minor offences and serious matters may be referred to the Head Teacher.
- iv. Any line manager dealing with a disciplinary matter may, if they consider the case serious, refer it to the Head Teacher.
- v. All breaches of discipline, will be dealt with on the merits of each case, taking into account the employee's past record.
- vi. At any disciplinary interview an employee will be told why their conduct is unsatisfactory and be given an opportunity to explain themselves. Where an employee is being invited to an investigatory interview they must be notified in writing of the allegation and told that they have a right to accompanied by a trade union representative or a work colleague.

5.2 Investigation

- i. Where an employee's work and/or conduct are thought to be such as to warrant formal disciplinary action, their line manager or another appropriate manager shall carefully investigate the case. This will involve interviewing the employee concerned. If this is so they should be given the right to representation by a trade union representative or work colleague.
- ii. Suspension:

Where a Head Teacher decides that a case may be, or is so serious that the possibility of dismissal may arise, or where there are grounds for doubt as to the suitability of the employee continuing at work while investigations are in progress they have the right to suspend the employee on full pay. Such suspension shall be confirmed by letter which should state the



STAFF DISCIPLINE AND CONDUCT POLICY



grounds for the action taken and be signed by the Head Teacher/ Chair of Governors.

The employee shall continue to be suspended on full pay until a decision is made regarding what action should be taken following the disciplinary hearing.

5.3 Disciplinary Hearing

- i. If the manager carrying out the investigation is satisfied that the facts they have gathered are sufficient for disciplinary action to be taken against an employee, then a disciplinary hearing should be conducted.

Disciplinary action up to a final written warning may be taken by the Head Teacher. However, where the Head Teacher has been the investigating officer they are not able to impose a sanction and the matter would need to be referred to Governors. This is why, wherever possible, disciplinary investigation should be undertaken by managers below Head Teacher level.

Decisions to dismiss under the disciplinary code must be carried out by Governors. Therefore, where an act of gross misconduct has occurred it is most appropriate for the Governor panel to hear the disciplinary as it may result in dismissal.

It is usual that the officer carrying out the investigation presents the case at the hearing. This will either be to the Head Teacher or a panel of Governors.

- ii. Before any disciplinary hearing takes place an employee shall be informed that the hearing is in accordance with this disciplinary procedure. They shall be informed of the complaint against them and shall be informed of their right to be accompanied during the interview by their trade union representative or official or by a work colleague of their choice. They will also be given the date, time and location of the hearing. Such information shall be given to the employee in writing, giving ten calendar days notice of the date of the hearing. Included with the letter will be a copy of the investigation report and a list of the witnesses to be called. Prior to the hearing the employee should notify the Investigating Officer of any witnesses they intend to call.

Where an employee's representative is unavailable to attend the hearing an alternative date should be arranged, this should be within a week of the original date. The person arranging the hearing may wish to contact the employee's trade union representative prior to sending out the letter to check availability to avoid having to rearrange a hearing.

- iii. An employee will be given adequate opportunity to explain and defend themselves in a disciplinary hearing. In particular they, or their representative, shall be allowed:
 - a) to question any witnesses giving evidence, including the investigating officer;
 - b) to present their defence calling any witnesses that they think appropriate who may in turn be questioned by the disciplining officer/ panel of Governors; and
 - c) to have the right of final summing up.

- iv. At the conclusion of a disciplinary hearing the Head Teacher/ Governors conducting the hearing shall, either immediately or in any event by the end of the following working day, determine the appropriate action taking account of all the circumstances of the case, the employee's record and any other relevant factors, and shall communicate their decision to the employee. This



STAFF DISCIPLINE AND CONDUCT POLICY



decision will be confirmed in writing.

5.4 Disciplinary Action

Where the facts of a case call for disciplinary action the following **outcomes** will be considered:

Warnings

Oral Warning

An oral warning will be considered where a minor offence has occurred which is sufficiently serious to justify such a warning, or where previous advice and guidance have failed to correct a persistent problem. When an oral warning has been issued it shall be entered, for reference purposes, on to the personal file. A witness should initial the note. This warning shall remain in force for a specified period of usually not more than three months. Repetition of this, or any other offence during the specified period will be subject to full consideration of the circumstances and, if appropriate, the next stage of the Code will be implemented.

Written Warning (First Written Warning)

A written warning will be considered where, despite the issue of an oral warning, the employee has failed to improve to the standard expected or where the issue or conduct justifies a written warning for a first offence. When a written warning has been issued it shall be attached to the personal file and remain in force for a specified period usually not more than twelve months.

Repetition of this, or any other offence during the specified period will be subject to full consideration of the circumstances and, if appropriate, the next stage of the Code will be implemented.

Final Written Warning

A final written warning will be considered either where, despite the issue of a previous written warning the employee has failed to improve to the standard expected, or where the issues or conduct is more serious and justifies a final written warning for a first offence. When a final written warning has been issued it shall be attached to the personal file and remain in force for a period of usually not more than twelve months.

Repetition of this, or any other offence during the specified period will be subject to full consideration of the circumstances and if appropriate, the next stage of the procedure will be implemented, which may include dismissal.

Stage 4 Further Action (including Dismissal)

An employee shall not expect to be dismissed (other than for gross misconduct) for a first breach of discipline. Where a final written warning has failed to bring about the required improvement, the further action is likely to include dismissal.

In case of established gross misconduct an employee may be immediately dismissed, without notice. This will take place following an investigation and hearing.

Where dismissal is decided as an appropriate form of action, any mitigating circumstances will be taken



STAFF DISCIPLINE AND CONDUCT POLICY



into account and if dismissal is not seen to be appropriate in view of these circumstances, alternative disciplinary action short of dismissal may be taken.

Disciplinary action short of dismissal may include reduction in rank or status or redeployment. These actions should only be taken in consultation with Human Resources.

5.5 Notification of Disciplinary Action

- i. Where a formal warning is given the written notification should specify:
 - * The nature of the misconduct
 - * Any period of time given for improvement and the improvement expected.
 - * The disciplinary penalty and how long it will last.
 - * The likely consequences of further misconduct.
 - * The timetable for lodging an appeal, how it should be made and to whom.
- ii. A disciplinary letter shall be given to the employee concerned in duplicate so that they may, if they wish, forward a copy to their trade union or other representative. Alternately, they may request that a copy be forwarded directly to their Trade Union Representative or work colleague.

5.6 Appeals

1. An intent to appeal shall be notified in writing within seven days of the date of disciplinary action.
2. An employee who is aggrieved by disciplinary action has the right to appeal to the *Governors Appeal Panel*. The letter of appeal should be addressed to the Clerk to the *Governing Body*, Newport City Council, Civic Centre, Newport NP20 4UR.
5. The appeal hearing is a re-hearing of the case and will include consideration of whether the penalty imposed is appropriate. If the decision is that action should be taken of a lesser nature the extent of that action will be specified.

Appeal hearings will follow the model procedure set out in Annex B of this code.



STAFF DISCIPLINE AND CONDUCT POLICY



Annex A

Examples of Standards and Conduct

The following list provides examples of the standards and conduct expected, breaches of which will normally lead to disciplinary action, other than dismissal, for a first offence.

- Time Keeping and Attendance** Employees are required to give constant and regular attendance and not be persistently late. Staff will be advised of the hours of work required in accordance with the Conditions of Service and methods of recording presence at work.
- Attendance at Place of Work** Employees will be advised of the procedure for notifying absence from duty including sickness, and can expect to be interviewed by their manager on return. Unauthorised absence, or leaving the premises without permission is not acceptable behaviour.
- Accidents and Safety at Work** Employees are expected to observe their responsibilities under the Health and Safety at Work Act and are required to notify accidents at their place of work. An entry in the Accident Book is sufficient notice of an accident. Accidents outside the place of work, but related to attending to authorised duty should be notified to the manager as soon as practicable.
- Other Employment** Employees are not precluded by their Contracts of Employment from accepting other employment outside their normal hours with other employers. However, such employment must not in any way hinder or conflict with the interests of their employment with the Council. Members of staff seeking such additional employment must notify their manager (as per the Employee Code of Conduct). Officers above SCP 28 shall devote their whole-time service to the work of the Council and shall not engage in any other business or take up any other appointment without the express consent of the Council.
- Management Instructions** Employees will not be expected to carry out any unlawful actions (eg in contravention of statutes, Health & Safety at Work Act 1974). Employees are required to carry out reasonable orders and instructions of management.
- Breaches of Confidence** Much information relating to the Council's business and personal information relating to staff is confidential and must not be conveyed to unauthorised persons by employees without prior authority. This will not be applicable in the event that an employee wishes to raise concerns with a Trade Union representative, which may include the disclosure of confidential information.
- Standards of Conduct** All employees are required to refrain from using offensive and abusive language or other behaviour likely to cause a nuisance. Employees are also expected to conduct their work in line with policies and procedures and any guidance and/or codes of practice issued, examples include: NEOST Guidance on Conduct; Joint NEOST / Teacher Union Guidance on Preventing abuse of Trust and on Education Staff and on Child Protection



STAFF DISCIPLINE AND CONDUCT POLICY



- Staff facing an allegation of abuse; Guidance of The Use of Reasonable Force to Control or Restrain Pupils; and the School's Restraint Policy.

Neglect of Health

When an employee, without sufficient cause neglects to carry out any instructions of a medical officer appointed by the authority or, while absent from duty on account of sickness, commits any act or adopts any conduct which will retard his/her return to duty.

Bullying and Harassment

All forms of bullying and harassment in the workplace.

Standards of Performance and Capability

Appropriate guidance and/or training as identified by the manager will be made available to correct recurring, continued defective or unsatisfactory work. Should the problems continue this should be dealt with under the Capability Procedure.

GROSS MISCONDUCT

Allegations of certain offences are so grave that an employee may expect that if the manager is satisfied that gross misconduct has occurred the result may be dismissal without notice or payment in lieu of notice. Gross misconduct is misconduct which is so serious that the Council is justified in no longer tolerating the employee's presence in work. The following list, although not definitive, provides examples of offences normally regarded as gross misconduct:

Indecent Behaviour

Misconduct giving gross offence including acts of gross indecency.

Theft

Unauthorised possession or theft of property.

Fraud

Fraudulent time-keeping, deliberate false recording of attendance or other records, abuse of sick pay regulations, or defrauding the Council, staff, or member of the public in the course of official duties.

Assault

Fighting with, or threatening behaviour with intent towards another person.

Deliberate Damage

Deliberate and destructive acts harmful to persons or damaging to property.

Bribery or Corruption

The receipt of money, goods, favours or excessive hospitality in respect of services rendered or to influence decisions.

Unfit for Duty

Serious incapability through alcohol or being under the influence of illegal drugs. The Council's Policy on Alcohol at Work and Drug and Substance Abuse Policy provides guidance on this issue.

Negligence

Any omission or act of serious negligence which threatens the health and safety of a member of the public or employee and causes unacceptable loss, damage and/or injury.

Smoking in Hazardous Areas

The Council has a policy that encourages employees not to smoke. Employees are forbidden to smoke in the vicinity of flammable substances or in areas where there are identified fire hazards.



STAFF DISCIPLINE AND CONDUCT POLICY



Unauthorised Use	Employees are normally authorised to use appropriate facilities in the course of their work. They should not, outside of their authorised position, use or allow the improper use of Authority vehicles, plant, equipment or machinery.
Insubordination	Serious acts of insubordination.
Bullying and Harassment	<p>The Council has a Bullying and Harassment policy which seeks to eliminate all forms of bullying and harassment in the workplace.</p> <p><i>Bullying is defined as 'offensive, intimidating, malicious, insulting or humiliating behaviour, abuse of power or authority which attempts to undermine an individual or group of employees and which may cause them to suffer stress'</i></p> <p><i>Harassment is defined as 'improper, offensive and humiliating behaviour, practices or conduct, which may threaten a person's job security, create and intimidating, unwelcome and stressful work environment, or cause personal offence or injury'</i></p>
Data Matching Fraud	The Council is under a duty to protect the public funds that it administers. Any intent by an employee to gain financial benefit through defrauding the Council.
Abuse of internet /e mail	Transmission and/ or downloading of copyrighted material, threatening, obscene or libellous material, material protected by trade secrets, illegal activities or any activities which may put the Council at risk.
Criminal/ Serious Misconduct	Criminal or any other serious misconduct outside the workplace which reflects adversely upon the Council and/ or the employee's suitability for the post.
False Information	Provision of false information on any matter relating to the employee's employment with the Council.
Discrimination	Discrimination on the grounds of age, gender, race, colour, religion, disability, sexual orientation etc.
Failure to Disclose Information	Failure of an employee to disclose knowledge of/ suspicion of abuse/ neglect/ harm of a child/ client by another employee(s) of the Council. Any disclosure of such information will be considered in line with the Council's Disclosure of Malpractice 'Whistleblowing' Policy.
Potential Theft	To avoid suspicion of potential theft, employees should report to a senior manager any items at special risk. Where practicable, employees are asked not to bring shopping bags and parcels to their place of work. It is appreciated that there will be times when this is unavoidable, but in such instances, the Manager, internal auditor or another authorised officer may seek agreement to examine the bag or parcel while on the Council premises to exclude the possibility of Council property being misappropriated.



STAFF DISCIPLINE AND CONDUCT POLICY



These are examples of offences that could constitute gross misconduct. They are neither exclusive nor exhaustive, and each case will be determined on the individual facts.

Dismissal For

An employee may be dismissed if he or she cannot continue to be Employed in his or her present post because of:-

Other Reasons

- (a) contravention, either on his or her part, or on the part of the Council, of a duty of restriction imposed by, or under an enactment (e.g. where a person employed as a driver is disqualified from driving because of a road traffic offence), or
- (b) for some other substantial reason.



STAFF DISCIPLINE AND CONDUCT POLICY



Annex B

Procedure At Hearings and Appeals

Procedure to be followed at Disciplinary Hearings and Appeals.

1. The Head Teacher / Chair of the Governors' Panel introduces those present, explains that the hearing is to address allegations and to consider the evidence relevant to the case. They will explain the process to be followed and explain that adjournments may be requested at any stage of the hearing.
2. The Investigating Officer shall present the case in the presence of the employee and their Trade Union representative / work colleague and may call witnesses.
3. The employee (or a trade union representative / work colleague) shall have the opportunity to ask questions of the Investigating Officer on the evidence given by them and any witnesses whom they may call.
4. The Head Teacher / Governors' Panel may ask questions of the Investigating Officer and witnesses.
5. The employee (or representative) to put their case in the presence of the Investigating Officer and to call such witnesses as they wish.
6. The Investigating Officer to have the opportunity to ask questions of the employee and any witness.
7. The Head Teacher / Governors' Panel may ask questions of the employee and any witnesses.
8. The Investigating Officer and the employee (or representative) to have an opportunity to sum up their case if they so wish.
9. The Investigating Officer and employee and their representative and witnesses to withdraw.
10. The Head Teacher / Governors' Panel, with the Human Resources Advisor to deliberate in private. There may be a need to recall the Investigating Officer, the employee and witnesses on both sides to clear points of uncertainty on evidence already given. If a recall is necessary both parties will return to listen to the point which is being clarified
11. The Head Teacher / Governors' Panel will announce the decision to the parties personally or in writing as may be determined.
12. Following an initial hearing the employee must be advised of their right of appeal and the right to be represented at the appeal by a Trade Union Representative or work colleague. Following an appeal hearing the employee must be advised if this is the final stage of appeal under the internal process.

The meeting will be clerked by the Clerk to the Governing Body where the hearing is in front of a Governing Body Panel.