



# **Thistly Meadow Primary School**

## **DISCIPLINARY POLICY**



**Leicestershire  
Traded Services**

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# Disciplinary Policy

**This policy applies to all staff including the Head teacher.**

**For Maintained Schools: The Local Authority has the right to be represented at any hearings and this will normally be a member of the LTS HR team acting in an advisory capacity. The panel must consider any advice offered by the Local Authority when making their decision. The school must notify both the employee and the LA of their decision where any dismissal takes place.**

**This policy does not form part of employees' terms and conditions of employment and therefore may be subject to change at the discretion of the Governing Body.**

**For the purposes of this policy the Head Teacher/Principal will be referred to as 'Head Teacher' and school/academy will be referred to as 'school'.**

## **1. Purpose**

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1.1 The school requires all employees to achieve and maintain appropriate standards of conduct and behaviour. This policy provides a fair and consistent method of dealing with matters where disciplinary action is considered necessary.

## **2. Safeguarding**

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2.1 Any allegations of misconduct that involve potential safeguarding issues will be dealt with in accordance with 'Keeping Children Safe in Education – statutory guidance for Schools and Colleges' and the school's safeguarding policy. If an allegation is connected to the safeguarding of children, then the LADO will be contacted.

2.2 A referral will be made to the Disclosure & Barring Service (DBS) at the appropriate point in the process and to the Teaching Regulation Agency (TRA) (for Teaching staff) where necessary. Information provided by the Police or other agencies (e.g. investigation outcome, statements) will be shared with the employee where possible, unless specifically advised otherwise, particularly if this information will form part of the management case at a subsequent disciplinary hearing.

## **3. Investigating Officer**

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3.1 An independent investigating officer will be appointed to carry out a thorough investigation into the alleged misconduct to establish the facts of the case and collate appropriate information.

3.2 An 'Investigating Officer', will either be:

- The employee's Line Manager,
- A member of the SLT,
- An independent/competent manager, Governor or Trustee, or
- An externally commissioned Investigating Officer

3.3 The Head teacher/Governor will only be the Investigating Officer in circumstances where they will not be responsible for making any decisions about the sanction.

## **4. Initial Discussion**

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- 4.1 The purpose of this discussion is to ascertain the employee's immediate response to the concern(s) raised against them and to establish the initial facts to determine whether any further action (e.g. further investigation or suspension) is required. It is important to note that this meeting forms part of a manager's day to day responsibilities to manage their employees and as such is not a formal meeting.
- 4.2 Whilst it is not necessary to take notes at this point, any notes which are taken by the person conducting the initial discussion and which may be referred to at a later date, must be brief. The employee must also have sight of these notes prior to the end of the discussion and receive a copy.
- 4.3 The potential outcomes of the conversation are:
- a) No further action is necessary,
  - b) Deal with the matter informally, e.g. via a good practice discussion/expectation letter, mediation, training,
  - c) Refer the matter to a Formal Investigation Meeting (possibly including suspension of the employee).
- 4.4 In cases where gross misconduct (see Appendix B) is alleged, the manager may bypass the initial discussion meeting and progress directly to a Formal Investigation Meeting.

## **5. Suspension**

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- 5.1 Suspension is not a disciplinary penalty. It will not pre-determine in any way the outcome of any investigation. Employees may be suspended at any stage during the investigation process.
- 5.2 Suspension will only be considered if where there are genuine and serious concerns about the employee remaining in the work place. Any suspension will be kept under regular review and the duration will be kept to a minimum. The reason for the suspension will be made clear to the employee and confirmed in writing.

## **6. Formal Investigation Meeting**

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- 6.1 No formal disciplinary action will be taken until the matter has been fully investigated which may include the employee attending a Formal Investigation Meeting. The organisation reserves the right to dispense with an investigation meeting and to proceed directly to a disciplinary hearing.
- 6.2 At least 5 working days' written notice will be given for a formal investigation meeting at which the employee has the right to be accompanied by a work colleague or Trade Union representative. The letter inviting the employee to the meeting will outline the nature of the concerns. Notes will be taken at this meeting and a copy sent to the employee for agreement.
- 6.3 At the meeting the Investigating Officer will:

- Make clear to the employee what concerns have been raised,
- Ask the employee to respond to the concern(s) against them,
- Advise the employee that the matter may result in a formal disciplinary hearing at which they will have the right to be accompanied by a work colleague or Trade Union representative

The employee will:

- Respond to the investigating officer's questions,
- Produce evidence that supports their position,
- Provide the names of any witnesses (if applicable) to support their case.

## **7. Completing the Investigation**

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- 7.1 Following the formal investigation meeting, the Investigating Officer will collect further evidence relevant to the case to ensure the matter has been thoroughly considered. This may include the collation of documentary evidence and/or witness statements (including evidence which may be in support of the employee) in order to establish whether there is an issue that needs to be addressed.
- 7.2 Once the investigation is complete, the investigating officer will consider, based on all available information, whether there is a case to answer. The potential outcomes of the investigation are:
- a) No further action is necessary,
  - b) Deal with the matter informally, e.g. via a good practice discussion/expectation letter, mediation, training,
  - c) Refer the matter to a formal disciplinary hearing (possibly including suspension of the employee).
- 7.3 Where the investigating Officer has been commissioned externally or does not have the authority to make such decisions on the outcome of the investigation, they will present their report back to the Commissioning/Decision Making Manager who will then decide how the case will proceed.

## **8. Disciplinary Hearing**

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- 8.1 At least 5 working days' notice will be given to attend a formal hearing. The invite letter will state:
- the reasons for the hearing,
  - the specific allegations to be considered at the hearing,
  - the names of any witnesses to be called by the management side,
  - the employee's right to be accompanied by a work colleague or Trade Union representative,
  - that a potential outcome of the hearing is dismissal.
- 8.2 The employee will also receive copies of any relevant documentation that will be used as evidence during the hearing, including the management's statement of case.
- 8.3 It is the employee's responsibility to give advance notice that they intend to invite relevant witnesses (if required) to support their case at the hearing. Management will ensure that such witnesses are

released from their duties to enable them to attend the hearing

- 8.4 During the hearing the employee will be given an opportunity to state their case, providing any relevant evidence and will be allowed to question both management and any witnesses.
- 8.5 Notes will be taken at the hearing and a copy sent to the employee. For the format of the hearing refer to the Appendix C.
- 8.6 The following outcomes are available to the panel or delegated person dependent on the seriousness of the offence and taking in to account any mitigation:
- a) No further formal action is necessary,
  - b) First written warning (which will remain on file for 6 months),
  - c) Final written warning (which will remain on file for 12 months).
  - d) Dismissal (with or without notice).
- 8.7 Employees will be dismissed with notice except in the case of gross misconduct. In the case of gross misconduct, the employee will be summarily dismissed with no notice.
- 8.8 The employee will be notified in writing of the outcome of the hearing. If the outcome is dismissal, the letter will include the reason for the dismissal and the date this is effective from. The letter will also include details of the employee's right to appeal.

## **9. Dismissal**

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### **9.1 Local Authority Schools**

The school will also notify the Local Authority of the decision and the reasons for it. The Local Authority will then write to the employee to dismiss them within 14 days of the date of the notification.

## **10. Right of Appeal**

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- 10.1 Individuals will have the right to appeal the decision. Appeals are to be made in accordance with the school's Appeal Policy.

## **11. Case Referral**

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- 11.1 Where a teacher/Headteacher is dismissed for misconduct or resigns prior to the completion of the disciplinary process, the Investigating Officer or panel/delegated person may consider making the appropriate referral to the Teaching Regulation Agency in accordance with the TRA's "Teachers Misconduct: Disciplinary procedures for the teaching profession" document (updated 20<sup>th</sup> May 2020) which sets out the procedures for the regulatory systems relating to teacher misconduct. Information regarding how to make a referral can be found: <https://www.gov.uk/government/publications/teacher-misconduct-referral-form>.

## **12. The Disclosure & Barring Service (DBS)**

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- 12.1 If the allegation against any member of staff (both Teaching and Support staff) is in any way connected to the safeguarding of children, a referral will be made to the Disclosure & Barring Service (DBS) by the Designated Safeguarding Lead in conjunction with the Investigating Officer.
- 12.2 If misconduct and safeguarding are both involved, a referral will be made to both the DBS and the TRA.

## Examples of Misconduct – Appendix A

The following list is not exhaustive but gives examples of offences which may amount to misconduct:

- Persistent bad timekeeping;
- Unauthorised absence from work;
- Failure to follow reporting procedures;
- Damage to school property;
- Failure to follow policies and procedures;
- Abusive or disruptive behaviour;
- Minor breaches of Health and Safety regulations;
- Misuse of school facilities;
- Insubordination;
- Failure to exercise proper control or supervision of students;
- Undertaking unauthorised employment;
- Failure to comply with the procedure for the notification of sickness absence;
- Improper behaviour or conduct towards colleagues, parents or members of the public;
- Unreasonable refusal to follow a management instruction;
- Showing inappropriate information/footage to students which is outside of the curriculum;
- Complaints from parents that have been upheld on balance of probabilities;
- Inappropriate use of social media which may affect your role in the school.
- Smoking and/or Vaping on school premises (including vehicles);

Serious examples of any of the above may amount to gross misconduct.



## Examples of Gross Misconduct – Appendix B

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The following list is not intended to be exhaustive and gives only an indication of the types of offences which could be considered as gross misconduct:

- Serious incapability as a result of being intoxicated by reason of alcohol, non-prescribed drugs, illegal drugs or prescribed drugs which may have an adverse effect on performance and safety;
- Deliberate falsification of documentation and/or records
- Theft, removal or unauthorised possession or deliberately aiding another person to remove or failure to properly account for any property or facilities belonging to the school or to another employee or student;
- Repeated and/or refusal to carry out duties or reasonable instructions
- Failure to comply with the school's policies and procedures;
- Serious damage deliberately sustained to school property or to the property of another employee or pupil;
- Repeatedly leaving school premises during normal working hours without obtaining the permission of the line manager;
- Any indecent act (which is defined as any act of a lewd, suggestive or indecent nature which could cause any person to be offended or feel threatened);
- Serious acts of insubordination;
- Serious breach of the school's policies and procedures concerning health and safety at work;
- Acts of bullying, harassment or discrimination;
- Any tampering with the school's computer systems which results in loss or damage to hardware or software or unauthorized exposure of confidential information including the accidental installation of virus programs. This also includes any contravention of the General Data Protection Regulations and the disclosure of any password or key to unauthorized persons or to install, run, load or download any pornography, unauthorised software or to copy, run, transfer or load software such as public domain programs or games of any description or to disregard any operating protocol;
- Serious negligence/incompetence which causes unacceptable loss, damage or injury;
- Personal behaviour which is likely to bring the School into serious disrepute and/or have an adverse effect on students;
- A criminal offence, which may (whether it is committed during or outside of the employee's hours of work) adversely affect the school's reputation, the employee's suitability for the type of work they are employed to perform, or their acceptability to other employees or students;
- Violent or threatening behaviour;
- Breach of the Safe Guarding Vulnerable Groups Act 2006;
- Inappropriate use of social media which may affect your role in the school;
- Maladministration.

1 - In certain cases drugs prescribed by a doctor or purchased from a chemist can induce drowsiness and will include the advice not to operate machinery. Employees must inform their line manager if they have taken such medicine and would normally be required to operate machinery or drive a vehicle during the course of their work.

## Appendix C: Procedure for Formal Hearings

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- The presenting officer, the employee and their representative will be invited into the room together.
- The chair of the panel will introduce all parties present and run through the procedure for the hearing.
- An employee who is not accompanied will be reminded of their right to representation by a work colleague or Trade Union representative.
- The presenting officer will present the evidence to the panel in the presence of the employee and representative. Witnesses may be called individually by the presenting officer in support of the case.
- The witnesses may be asked questions by the presenting officer.
- The presenting officer and any witnesses called may then be asked questions by the employee or their representative on the evidence presented.
- Members of the panel may ask questions of the presenting officer and witnesses on the evidence submitted.
- The employee or representative will state their case in the presence of the presenting officer. Witnesses may be called by the employee in support of their case.
- The employee and any witnesses called may then be asked questions by the employee or their representative.
- The witnesses may then be asked further questions by management.
- The panel may ask questions of the employee and their representative and any witnesses called.

**Note:** After completion of the above stages the witnesses will be:

- *instructed not to discuss the case outside of this process until after the hearing has been determined*
- *asked to retire. Unless otherwise determined by the parties to the hearing, the witnesses may be subject to recall*

- The presenting officer will then have the opportunity to sum up the case. No new evidence can be included at this point.
- The employee or their representative will have the opportunity to sum up on their behalf. No new evidence can be included at this point.
- The employee, representative and presenting officer shall then withdraw from the hearing.
- The Panel will then deliberate in private, only recalling the employee (and their representative) and the presenting officer to clarify points of uncertainty on evidence already given. If recall is necessary, both parties must return.
- After deliberating, the Panel will invite all parties back into the room to deliver the decision.
- The right of appeal against the decision will also be explained. The Panel will then formally write to the employee within 3 working days confirming the decision and any right of appeal.