



Holyhead

Teach What Matters

Disciplinary Policy

Autumn 2020

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Disciplinary Policy & Procedure

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Disciplinary Policy & Procedure

1. Aim of this Policy and Procedure

This policy and procedure is designed to help and encourage all employees of Holyhead to achieve and maintain appropriate and acceptable standards of conduct and to ensure a fair and consistent approach in managing conduct issues.

2. Scope

This Policy applies to all employees of Holyhead School. It does not form part of your contract of employment and may be varied from time to time by the Governing Body.

If you have less than 24-months continuous service, the school reserves the right to dismiss you for unsatisfactory attendance levels without following the Disciplinary Procedure.

3. Exclusions

- These procedures do not apply to matters more appropriately dealt with under separate procedures. Attendance and capability issues dealt with in accordance with Holyhead's Attendance Management or Capability policies and procedures
- Issues of conduct arising during the probationary period

Additionally, where there is a potential disciplinary case against a Trade Union representative, no action under this procedure, other than precautionary suspension when gross misconduct is alleged, will be taken until the full time official of the Trade Union has been informed of the case.

4. Principles

Wherever possible and appropriate, first occurrences of minor breaches of discipline / standards, should be dealt with informally, either through the normal course of management counselling and supervision or the informal procedure set out in Paragraph 5.1.

No disciplinary action will be taken against an employee until the case has been sufficiently investigated and a disciplinary hearing has taken place. The employee will be advised in writing of the nature of the complaint against them and the arrangements for the hearing.

The employee will be given the opportunity to set out their case and respond to allegations before any decision is made.

Under this policy and procedure, no employee will be dismissed for a first breach of discipline except in the case of gross misconduct when the penalty can be dismissal without notice.

An employee will have the right to appeal against any disciplinary penalty imposed. The procedure may be implemented at any stage if the employee's alleged misconduct warrants such action; i.e. the disciplinary sanctions are not necessarily sequential.

Being suspended or interviewed as part of the investigatory process is not to be regarded as prejudging the matter. Nor is it to be considered a disciplinary measure.

The employee will have the right to be accompanied by a work colleague or trade union representative at all formal stages of the procedure with the exception of Step 1 of the formal procedure where immediate precautionary action is required and after having attempted to arrange representation, companions are unavailable.

HR Advisors may be present at any of the stages of the procedure.

The intimidation or victimisation of persons prior to or following any complaint/allegation will not be tolerated and is a disciplinary offence in itself.

All matters will be dealt with confidentially and within the requirements of the Data Protection Act 1998. (*Amend in April 2018*) This is a responsibility of all parties involved.

Any complaints/allegations found to be malicious or vexatious will be treated as a disciplinary matter.

The timescales within the procedures will be adhered to wherever possible and there is an obligation on all parties to allow for matters to be dealt with without delay. However, where there are good reasons, e.g. the need for further investigation or the lack of availability of witnesses or companions, each party may request that the other agrees to an extension of the permitted timescale.

Holyhead will review this policy annually to ensure the process is operating fairly, consistently and effectively.

5. Procedure

5.1 Informal Procedure

Unless the matter causing concern is sufficiently serious to justify formal action, managers should, in the first instance, deal with the issue through informal discussions. This is with a view to agreeing on corrective action without recourse to the formal procedure. The informal discussions may take place on more than one occasion and are not regarded as forming part of the formal disciplinary procedure. A file note should be made of the discussions including details of any agreed actions and the manager should put in writing to the employee details of the corrective action, the timescale over which improvements are expected and the possible consequences of the employee failing to meet the corrective action.

5.2 Formal Procedure

5.2.1 Step 1 – Commencement of the Formal Procedure

The employee will be informed of the following:

- The allegations made against them and the basis of the allegations
- That the formal disciplinary procedure is to be used and that step 2 of the procedure is to commence
- Of any suspension from work and the conditions of suspension

This will be confirmed in writing and the employee will also be supplied with a copy of the Disciplinary Policy and Procedure.

5.2.2 Step 2 – Investigation

The line manager or other nominated manager where appropriate will promptly investigate the alleged disciplinary matter. In certain circumstances, the manager may commission an independent investigation.

Where an employee is called to attend an investigatory interview, the employee will be informed at the outset of the interview that this is an investigatory interview and not a disciplinary hearing.

The employee will be given appropriate notice of the interview in writing and will be informed of:

- The purpose of the interview and that it will be held under Holyhead's disciplinary procedure
- The nature of the alleged misconduct
- Their right to be accompanied
- The arrangements for the interview

On conclusion of the investigation, the manager will determine the next steps. Where there is no disciplinary case to answer, the employee will be notified of this decision in writing and the disciplinary procedure will end. Where there is a disciplinary case to answer, the employee will be notified of this decision and a disciplinary hearing will take place.

5.2.3 Step 3 – Disciplinary Hearing

Disciplinary hearings, other than those which could result in an employee's dismissal, will be heard by a member of the Holyhead's Leadership Team. The employee will be given a minimum of 5 working days notice of the hearing. The notice will be in writing and will inform the employee of:

- The purpose of the hearing and that it will be held under Holyhead's disciplinary procedure
- The nature of the alleged misconduct
- Their right to be accompanied
- The arrangements for the hearing

- The witnesses to be called
- The date for the exchange of documents, where applicable

All paperwork to be presented at the hearing, including the investigation, will be enclosed with the invite letter.

Where the employee cannot attend on the date proposed and provides a good reason for failing to attend, the hearing will be adjourned to another day and normally within 5 working days of the original date of the hearing. The new arrangements will be confirmed in writing to the employee. Unless there are special circumstances mitigating against it, if the employee is unable to attend the rearranged hearing, the rearranged hearing will usually take place in the employee's absence. The employee's companion (work colleague or Trade Union representative) may attend in such circumstances and will be allowed the opportunity to present the employee's case. The employee will also be allowed to make written submissions in such a situation.

The employee will provide management with all relevant written information that he / she intends to rely upon during the hearing not less than 3 working days in advance of the hearing

At the conclusion of the disciplinary hearing, the manager hearing the case will determine one of the following:

- That the employee has given an adequate explanation and / or there is no real evidence to support the allegations. In this case no further action is necessary.
- That the evidence supports the allegations, and / or the employee has not given an adequate explanation. In this case disciplinary action against the employee may be necessary.

The manager will inform the employee of their decision and of any disciplinary action to be taken, giving an explanation for any sanction, as soon as possible after the conclusion of the hearing. All decisions will be confirmed in writing, together with notification of the employee's right of appeal under this procedure.

5.2.3.1 Disciplinary Actions

The following disciplinary actions may be taken.

Stage 1 - First Written Warning

If the offence is a serious one, or if a further offence or no improvement occurs following informal discussions, a first written warning will normally be given. The warning will state that any further misconduct / failure to improve may lead to more severe disciplinary action.

A record of the warning will be kept but disregarded for disciplinary purposes after 12 months, subject to the employee's satisfactory conduct and the conditions set out in paragraph 6.

Stage 2 - Final Written Warning

If the offence is sufficiently serious to warrant only one written warning but insufficiently serious to justify dismissal, or a further offence or no improvement occurs within 12 months of the first written warning, a final written warning will normally be given. The warning will state that dismissal or an alternative to dismissal may result where there is any further misconduct or a failure to improve within 18 months of the final written warning being issued.

A record of the warning will be kept but disregarded for disciplinary purposes after 18 months, subject to the employee's satisfactory conduct and the conditions set out in paragraph 6.

Stage 3 - Dismissal and Alternatives to Dismissal

Any hearing which may result in dismissal will be heard by the Principal. In certain circumstances this may not be possible or appropriate, in which case the matter will be referred to a panel of Governors.

If it is the case that previously a Final Written Warning has been issued and a further offence or no improvement has occurred within the period the Final Written Warning is 'live', dismissal will normally result. Dismissal in these circumstances will be with notice or with payment in lieu of notice. The decision to dismiss will be confirmed in writing as soon as practically possible and within 5 working days of the decision.

However, action short of dismissal may be considered if there are exceptional mitigating circumstances and they are:

- Disciplinary transfer accompanied by a second Final Written Warning
- Demotion accompanied by a second Final Written Warning

These alternatives will be discretionary and subject to the availability of suitable posts.

Gross Misconduct

Cases of Gross Misconduct may result in dismissal if proven on the balance of probabilities and therefore will be heard by the Principal. In certain circumstances this may not be possible or appropriate, in which case the matter will be referred to a panel of Governors.

Examples of gross misconduct may include:

- Theft, fraud, deliberate falsification of records or dishonesty
- Falsification of qualifications references
- Acts of violence, obscene or abusive behaviour or enticing others to do so (including fighting or assault on another person or animal)
- Acts of bullying, harassment or discrimination
- Deliberate or unauthorised use of or damage to School property or equipment

- Serious negligence which may cause unacceptable loss, damage or injury and willful negligence
- Unprofessional conduct and / or failure to disclose the same
- Serious non-compliance with financial or other statutory or Holyhead regulations, including rules on email and internet usage
- Serious breach of health and safety rules
- Serious acts of insubordination
- Unauthorised entry to computer or other records and / or disclosure of confidential information / matters to public sources
- Serious incapability at work brought on by alcohol or illegal / non-prescribed drugs.
- Possession of or sale of illegal substances
- Conviction of a criminal offence (committed inside or outside of work) that makes the employee unsuitable or unable to carry out their duties
- Serious breach of trust and confidence

This list is not exhaustive.

Where an allegation of gross misconduct is made against an employee, it may be appropriate to consider suspending the employee while the disciplinary procedure is being conducted. Suspension is without prejudice and must therefore be on full contractual pay. The aim of the suspension is;

- To allow an investigation to take place
- To prevent the tampering of evidence
- To prevent intimidation of witnesses
- To underpin the seriousness of the allegations
- To allow continuation of the effective management of the school/department
- To prevent a repeat of the alleged offence.

If the continued presence of the employee at work, even if they are found alternative duties, compromises one or more of the above, then suspension without prejudice should take place.

If, on completion of the investigation and the full disciplinary procedure, the Principal/Disciplinary panel is satisfied that gross misconduct has occurred, the result will normally be summary dismissal without notice or payment in lieu of notice.

6. Warnings Issued to Employees Working with Children

Where the misconduct relates to work with children, warnings will be retained on a separate file. In the event of further misconduct at any time during the person's employment in a job role where they are required to work with children these warnings will be taken into account in disciplinary proceedings.

7. Appeals

If the employee wishes to appeal against a disciplinary decision they must do so in writing within 10 working days of receiving written notification of the decision. All notices of

appeal must be submitted to the Holyhead's Governing Body and must state the ground(s) on which the disciplinary decision should be reviewed.

The Governing Body will write to the employee, inviting the employee to attend an appeal hearing.

The decision of the Panel hearing the appeal is final and will be confirmed in writing as soon as possible after the hearing.

The Governing Body approved this policy on date: December 2020

Signed: Chair of Governors

Signed: Principal