

Disciplinary Policy and Procedure

ISP School Battle



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1. Aims

This policy aims to:

- Help and encourage all employees to achieve and maintain satisfactory standards of conduct
- Set out the procedures for when an employee's conduct falls below the expected standard
- Ensure that all employees are treated fairly and consistently when a disciplinary issue is being dealt with

2. Legislation and guidance

These disciplinary procedures are based on the [disciplinary and grievance code of practice from Acas](#).

3. Definitions

- **A disciplinary issue** will arise when a staff member has not behaved to the standard expected of them
- Appendix 1 sets out a non-exhaustive list of examples of what we define as **misconduct and gross misconduct**. For the purpose of this policy, misconduct does not cover staff capability or poor performance issues.

4. Disciplinary procedures

Minor disciplinary issues/low level concerns will be dealt with informally at first, and will be escalated only where:

- There has been no resolution
- The issue is more serious
- There are repeated or multiple instances of misconduct
- There is suspected gross misconduct

When dealing with an issue informally, the employee's line manager will organise a brief meeting with the employee and set out the concerns. They will remind the employee of the expected standard of behaviour and consider what support is needed to help them improve. Notes will be taken and retained.

If the issue cannot be dealt with informally, formal procedures will begin. The employee will be notified of this in a face-to-face meeting with the operational manager.

This will be followed up in writing.

All concerns whether low level or otherwise will be discussed in the Head Teachers weekly meeting with the HR Business Partner and within the Head Teachers weekly SLT meeting with the Director of Education.

4.1 Suspension

In some circumstances it will be appropriate to suspend a member of staff temporarily, for example, where there is suspected gross misconduct. This will be a neutral act in that, in itself, it does not amount to guilt or constitute disciplinary action.

Where this is necessary:

- The Head Teacher must authorise the suspension. If it is the Head Teacher who is the subject of the disciplinary procedure, the governors must authorise the suspension
- The staff member will be informed of the suspension in a face-to-face meeting, followed by a notification in writing within 5 working days
- The employee will be permitted to be accompanied to the meeting by either a colleague or trade union representative
- The staff member will be suspended on full pay

4.2 Investigation

An independent investigating officer will be appointed.

Before a disciplinary hearing takes place, the investigating officer will gather the facts of the case and evidence. The investigating officer will, if necessary, hold investigatory meetings.

The employee will be informed of the outcome of the investigation in writing.

If the investigating officer determines that the matter should move forward to a formal disciplinary hearing a disciplinary officer will be appointed. This will be a person independent from the investigating officer.

4.3 Notification

If it is decided that there is a disciplinary case to answer, the employee will receive written notification 5 working days before the hearing. The meeting could be sooner if it is agreed by both parties. The notification will include:

- Details of the alleged misconduct and its possible consequences
- Copies of any written evidence, including witness statements
- The time, date and location of the disciplinary meeting
- A statement that the employee has the right to be accompanied by a colleague or a trade union representative
- Notification that the employer intends to call witnesses (if relevant)

If the employee intends to call a witness, they should notify the employer.

4.4 Disciplinary hearing

Before the hearing, the employee will receive a copy of all evidence that will be relied upon during the procedure.

At the hearing, the person conducting the hearing will explain the case against the employee and go through the evidence that has been gathered. The person may choose to have the investigating officer present the management's case.

The employee will be allowed to set out their case and answer any allegations that have been made. The employee will also be given a reasonable opportunity to ask questions, present evidence and call relevant witnesses. They will also be given an opportunity to raise points about any information provided by witnesses.

Employees have a statutory right to be accompanied at a meeting that may result in a formal warning being issued, disciplinary action being taken, or the confirmation of either of these.

The employee has the right to be accompanied by a colleague or a trade union representative. Employees must make the request in advance of the meeting, to allow the school to prepare and to ensure the employer knows who the companion will be.

If an employee's chosen companion will not be available to meet at the proposed time, the hearing will be postponed to a time proposed by the employee, as long as the alternative time is reasonable and not more than 5 working days after the original date.

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.

4.5 Taking appropriate action

The hearing will be adjourned and a decision about whether further disciplinary action is necessary will be taken. The employee will be informed of the decision in writing within 5 working days.

Actions taken may be:

- **A verbal or informal warning** where it is decided that the action was not serious enough to warrant a formal written warning. This may be accompanied by a notification that arrangements will be put in place to improve the staff members' behaviour, such as a training course or occupational health support
- **A first written warning** for a first instance of misconduct. A further instance may result in a final written warning. A first written warning will remain on the employee's personnel file for 6 months. The written warning will explain that a further instance of misconduct or no change in behaviour within a given timeframe will result in a final warning
- **A final written warning** where the employee has already received a first warning, or where the employee's misconduct was sufficiently serious. A further instance may result in demotion or dismissal
- **Dismissal** where there has been gross misconduct or a final written warning has already been given

We will refer a case of teacher gross misconduct to the DfE Teaching Regulation Agency (TRA)) if we believe the case is so severe that the TRA should consider whether the teacher should be prevented from teaching. We will also refer cases to other relevant authorities where appropriate.

4.6 Dismissal

The power to decide that members of staff should no longer work at this school has been delegated to Head Teacher in consultation with HR Business Partner and/or Director of Education and the Governing Body.

4.7 Appeals process

The employee has the right to appeal any sanction. Appeals must be made in writing within 5 working days of the decision, setting out at the same time the grounds for appeal.

A disciplinary appeals officer/panel will be appointed.

Appeals will be heard without unreasonable delay and at an agreed time and place. Employees' statutory right to be accompanied by a companion will apply as with formal disciplinary hearings. Notes will be taken and a copy sent to the employee.

The appeal will be dealt with impartially and by senior leaders or governors who have not previously been involved in the case.

The employee will be informed in writing of the results of the appeal hearing within 5 working days.

4.8 Special cases

If the employee who is subject to disciplinary procedures raises a grievance about the disciplinary allegations or the procedure itself, the grievance procedure will run concurrently.

If the employee who is subject to disciplinary procedures raises a grievance about something unrelated to the disciplinary, consideration will be given to pausing the disciplinary while the grievance is addressed.

5. Record keeping

Minutes will be kept of all interviews and meetings. Where possible, these will be confirmed as an accurate reflection of what was discussed during the meeting.

Records of all materials relating to the disciplinary process will be kept securely for as long as necessary in line with the Data Protection Act 1998.

If disciplinary action is taken, a record of this will be added to the employee's personnel file.

We will disclose any proven disciplinary offences by a staff member if a reference is requested by a future employer.

6. Monitoring arrangements

This policy will be reviewed annually, but can be revised as needed.

This policy will be approved by the local governing body.

7. Links with other policies

This policy links with our policies on:

- Staff code of conduct
- Staff grievance procedures
- Safeguarding

Appendix 1: Instances and behaviours classed as misconduct

The following lists are not exhaustive.

Instances of misconduct include:

- Unauthorised absence or persistent lateness from work
- Using bad language in front of pupils
- Failure to follow the policies, practices and requirements of the school
- Unsatisfactory standards of work (not related to capability)
- Inappropriate use of school facilities
- Failure to comply with reasonable instructions from senior staff

Instances of gross misconduct include:

- Physical violence or assault
- Discrimination, harassment, victimisation and/or bullying of pupils, colleagues or visitors
- Theft
- Sexual offences or misconduct
- Inappropriate relationships with pupils or any other actions that would be classed as a serious safeguarding issue
- Serious breaches of confidentiality
- Deliberately acting in a way that will cause damage to the school's reputation
- Deliberately damaging school property

[Teacher misconduct guidance](https://www.gov.uk/government/publications/teacher-misconduct-the-prohibition-of-teachers--3) (<https://www.gov.uk/government/publications/teacher-misconduct-the-prohibition-of-teachers--3>) from the National College for Teaching and Leadership and the Teaching Regulation Agency explains that, among other things, the following offences will be serious enough to warrant prohibition of teaching:

- Serious departure from the personal and professional conduct elements of the Teachers' Standards
- Misconduct seriously affecting the education and/or wellbeing of pupils, and particularly where there is a continuing risk
- Actions or behaviours that undermine fundamental British values
- Abuse of position or trust (particularly involving vulnerable pupils) or violation of the rights of pupils
- Sustained or serious bullying, or other deliberate behaviour that undermines pupils, the profession, the school or colleagues

Appendix 2: Conflict of interest - governors

Governors (including local governors), trustees and associate members must declare any conflicts of interest and allow them to be published online.

If a governor, trustee or associate member with a conflict of interest is present when the governing body is talking about or making a decision that relates to the conflict, they must leave the room and not vote on the matter.

Most conflicts of interest can be “managed” by the governor leaving the room; they do not automatically prevent a person from joining the governing body. The exception to this is when conflicts are so major they are likely to arise frequently and interfere with the responsibilities of the governor.

Conflict of Interest Addendum:

Policy Amendment Statement

ISP School, Battle is committed to ensuring that its decisions and decision making processes are, and are seen to be in the best interest of our School at all times, and do not unfairly benefit any individual connected to the School. This addendum sets out the guidelines and procedures for identifying, monitoring and managing actual and potential or perceived conflicts of interest and has been adopted to ensure that: - its activities and those of its governors, staff and volunteers are, and are seen to be conducted to the highest standards of ethics and integrity, and - the individuals to whom this addendum applies, are able to recognise activities that might give rise to conflicts of interest or the perception of conflicts of interests, declare any conflict that may arise, and manage all arising conflicts, so that such conflicts do not affect the decision making of the School.

Scope

This addendum applies to all governors, staff and volunteers of the School (collectively referred to as “Individuals” in this addendum and separately an “Individual”) and sets out guidelines and procedures for identifying, monitoring and managing actual and potential or perceived conflicts of interest. It is the responsibility of each Individual within the scope of this addendum to comply with its requirements. If any Individual is uncertain about how this addendum may affect his or her activities or has any questions about its application, he or she should contact the Clerk to the Governing Body.

Recognising Conflict of Interest

A conflict of interest arises where the commitments or obligations that an Individual owes to the School are likely to be compromised, or may appear to be compromised by that Individual’s personal gain, or gain to an immediate family member or person with whom the Individual has a close personal relationship, whether financial or otherwise.

There may be situations where a conflict of interest does not actually exist but appears to exist. In evaluating a potential conflict, Individuals should therefore consider how it might be perceived by others.

A conflict of interest may be ongoing or it may be a one-off. An example of the former is where an Individual serves in the same capacity at the School as he/she does at another competing local organisation. An example of the latter is where a one-off contract is awarded to someone or an entity/organisation with whom/which an Individual has a close personal or other relationship. Some ongoing conflicts may affect an Individual's ability to participate in decisions so often or to such an extent that it is impractical for the Individual to continue in post or to accept the post from the outset. Conflicts of Interest may be financial, non-financial or both.

Procedure

It is the duty of every Individual to disclose any conflict or any circumstances that might reasonably give rise to the perception of a conflict. All interests, and any gifts or hospitality received in connection with an Individual's role in the School must also be disclosed on an annual basis or when any changes occur. As a general rule, with the exception of committee business, disclosure should be made at the time the conflict first arises, or it is recognised that a conflict might be perceived, in writing to the Clerk to the Governing Body. If the Clerk to the Governing Body has an interest in the matter, the disclosure should be made to the Chair of the Governing Body.

It will be appropriate to deal with some situations by way of a declaration by the Individual in the School's register of pecuniary and personal interests (hereinafter "the Register"). As regards governors, the completion of the Register is a mandatory requirement.

The Register will be maintained by the Clerk to the Governing Body in line with best practice guidance and will be published on the School's website and updated on a termly basis.

The Clerk to the Governing Body will either in person, or through the Chair of the Governing Body, declare any known interests on behalf of any Individual who fails to declare an interest.

Some situations will need to be dealt with by agreeing how the conflict can be actively managed. The approach adopted should be documented and copies provided to the relevant Individuals. One or more of the following measures may be appropriate to manage the conflict:

- not taking part in discussion of certain matters;
- not taking part in the decision making of certain matters;
- referring decision making to others;
- not taking part in a particular project or activity. It is the responsibility of Individuals affected to comply with the agreed conflict management approach.
- If related to the Head Teacher, the Health and Safety governor (Head Teacher's husband) will refrain from attendance of the meeting, will not be sent the minutes and will not communicate with other governing body members

Committee and Governing Body Meetings

At the first meeting of the academic year, each Committee within the School will have a standing item on its agenda about conflict of interest. This item will explain what a conflict of interest is and how they should be declared and managed as appropriate. It is the responsibility of members of committees and member of the Governing Body to declare any interest that could give rise to a conflict in relation to any item on the agenda at the beginning of the item. Any interest disclosed will be recorded in the minutes, including:

- the nature and extent of the conflict;
- an outline of the discussion; and
- the actions taken to manage the conflict.

If the chair of the meeting deems it appropriate, the Individual shall absent himself or herself from all or part of the committee's discussion of the matter. To facilitate frank and open discussion, Individuals affected by a conflict must leave the room while related discussion or decision-making is taking place unless there is a good reason for them to stay.

Individuals shall not vote on matters directly affecting their own interests. A quorum must be present for the discussion and decision. Interested parties will not be counted in the determination on whether the meeting is quorate.

Quorum

A 'quorum' is the minimum number of governors that must be present at a full governing board or committee meeting in order for official decisions to be made. When a quorum is present, the meeting is sometimes said to be 'quorate.'

If there aren't enough governors at a meeting to make a quorum, or if a member of the quorum has to leave for some reason (e.g. a conflict of interest), the meeting becomes inquorate.

Inquorate meetings and discussions can take place and be minuted, but **votes cannot be taken unless it's quorate.**

In our case at ISP School, Battle, if there is a conflict of interest, it is likely to arise as a consequence of a complaint (or something similar) and the meeting would be unlikely to be an ordinary Governors' meeting, more a 'sub committee'. The 'sub-committee' should consist of three governors though, but this would need to be arranged at a time suitable for the three governors (also within the time frames required, according to the issue being 'investigated').