



THE FULHAM BOYS SCHOOL

DISCIPLINARY POLICY

RESPONSIBLE COMMITTEE

Personnel Committee

RATIFIED BY GB

Spring 2021

REVIEW DATE

Summer 2022

The master copy of this document can be found on the FBS Google Drive, under the "Policies" folder. This is one of a number of policies that are reviewed by the Governing Body, the full list can be found on the FBS Google Drive in the Policies Folder. Minor revisions that just adjust factual items (eg contact details / names) can be made by the author without formal review, and must be recorded in the Revisions table at the back of this policy.

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I. POLICY

- 1.1 This Policy will be interpreted in line with the Christian values and ethos of the school and must be read consistently with all other material policies of the School. For the purposes of all School policies please refer to the definitions guide (not all defined terms will be material to all policies or the procedures authorised by the governing body under it).
- 1.2 The aim of the School is to provide an outstanding education in every respect to the boys and, so far as reasonably possible, to provide appropriate pastoral support, working conditions and resources to its employees to enable each of them to fulfil their own potential in achieving that outcome.
- 1.3 If an employee breaks specific legal, contractual or professional rules about behaviour this will be considered as misconduct and a matter of discipline. If the School's expectations about the way employees do their job are not met, this will be considered as poor performance, or lack of capability and will be dealt with under the appropriate policy and procedures.
- 1.4 This policy and the procedures implementing it are not concerned with issues such as lengthy or frequent short-term sickness absences or alcohol or drug-related problems or a combination of these which are dealt with by the School's Staff Sickness and Absence and Professional Conduct policies and procedures for managing such matters.
- 1.5 The procedures adopted under this policy are intended to be workable, transparent, consistent, objective and fair so that they merit the confidence of all teaching and non-teaching employees and other stakeholders.
- 1.6 The School will closely adhere to its policy and procedures and the senior leadership team and governors involved in implementing the procedures will undertake appropriate training.
- 1.7 The governing body will take all reasonable steps to ensure that the rights to privacy of employees and other persons who may be affected are protected in the course of any proceedings and that such proceedings are carried on in a proper manner and governors and other persons who may be involved as committee members or otherwise in making formal decisions are not tainted.
- 1.8 The governing body will ensure that it obtains and takes proper advantage of

appropriate independent professional advice and assistance at all stages in relation to grievance and disciplinary matters and will further obtain appropriate insurance cover against all losses, damage, costs, fees and expenses arising out of or related to internal procedures and/or related litigation whether in courts or tribunals.

- 1.9 The governing body will cooperate where legally required or otherwise reasonable to do so with all relevant public authorities.
- 1.10 The currently approved procedures under this policy are set out below and will be subject to review and amendment from time to time by the governing body.
- 1.11 In this policy Headteacher refers to Executive Headmaster / Head of School / Principal as may be appropriate.

2. DISCIPLINARY PROCEDURES

2.1 General

- 2.1.1 A disciplinary issue will arise when a staff member has not behaved to the standard expected of them. Section 4 of this policy describes the disciplinary process.
- 2.1.2 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. These are addressed in our [performance and capability policy](#).
- 2.1.3 Where the Headteacher is the subject of a complaint the procedures described in this document are to be adapted so that the chair of the governing body, or other designated governor or independent investigator as the case may be, replaces the Headteacher in initiating any action that has to be taken.
- 2.1.4 In cases of gross misconduct, a disciplinary proceeding should start with a consideration of any investigation report by the Headteacher or the chair of the governing body.
- 2.1.5 Where it becomes necessary for the Headteacher or a Committee to

consider initiating a further disciplinary action while a warning for a different matter exists on record, the warning on file should be disregarded unless and until step of consideration of the appropriate sanction should the later allegation(s) be proved or admitted.

- 2.1.6 The Headteacher may be accompanied at any Committee hearing by a companion who may co-present the case on behalf of the School.
- 2.1.7 The Headteacher is responsible for keeping up-to-date and accurate records on file for each employee.
- 2.1.8 Employees have the right to examine their personnel records if they ask to do so, but they do not have access to confidential matters relating to other people, unless the other people consent to disclosure. This should always be arranged through the Headteacher.
- 2.1.9 The School accepts that the law on unfair dismissal requires employers to act reasonably when dealing with disciplinary issues and the School will use its best endeavours to act reasonably at all times. What is classed in law as reasonable behaviour will depend on the circumstances of each case, and where the reasonableness or otherwise of the School's actions in relation to discipline is contested the School recognizes that the ultimate arbiter is the appropriate level of court or tribunal.

3. DISCIPLINARY OUTCOMES

3.1 Verbal Warning

Cases of alleged minor misconduct may result in a discussion to establish the actions required to improve. A note of this discussion will be placed on the employee's file for six months and it should be made clear that this is the first stage of the disciplinary procedure. An informal, verbal warning may be issued by the Headteacher.

3.2 First written warning

This will be issued when the employee has failed to improve or where there is a case of more serious alleged misconduct. The warning will remain on file for 12 months. A first written warning may be issued by the Headteacher or a panel of governors.

3.3 Final written warning

If there are further complaints about the employee's conduct or serious or gross misconduct then a final written warning may be issued by the Headteacher or a panel of governors. The warning will remain on file for 24 months and in some exceptional cases may remain on file longer (for example if there has been a breach of safeguarding policies and school management need additional reassurance about mitigating against the risk of further breaches).

3.4. Dismissal

Further complaints about the employee's conduct or alleged gross misconduct may also result in dismissal. The panel will decide whether or not notice will be paid. Dismissal will usually be decided by a panel of governors but may also be delegated to the Headteacher.

4. THE DISCIPLINARY PROCESS

4.1 Informal Process

4.1.1 Minor disciplinary issues 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.

4.1.2 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.

4.1.3 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 their line manager or the Headteacher. This will be followed up in writing and an investigation will be commenced.

4.1.4 A verbal warning may be issued as part of the informal process.

4.2 Investigation

- 4.2.1 In matters other than allegations of criminal misconduct and where the informal process has been exhausted or not appropriate, the line manager must undertake or arrange for the appointment of an investigator to carry out a full investigation of matters relating to any instance of misconduct or a complaint as to conduct of an employee. This should be carried out as soon as possible after the allegation has been made.
- 4.2.2 The employee must, save in exceptional circumstances, be informed of the nature of the alleged misconduct or complaint and that an investigation is taking place. If the employee is interviewed during the course of the investigation they must be informed that they may be accompanied by a companion who must not be a colleague whose presence would prejudice the hearing or who might have a conflict of interest nor one from a geographically remote location when someone suitably qualified will be available on site. Any request to be accompanied does not have to be in writing.
- 4.2.3 The aim of the investigation is to establish the facts of the case and the identity of the people affected by the alleged misconduct. Any witnesses should be asked to make written statements and to sign and date their statements. The investigator should sign and date the statements as evidence of receipt if these are submitted in printed form.
- 4.2.4 The employee should be invited by the investigator to identify any persons who may have information relevant to the investigation.
- 4.2.5 If necessary to do so the investigator may take an oral statement from a pupil or pupils, with the express prior permission of their parent(s) or legal guardian. A request for permission need not be in writing but a written record must be made of the request and the response. A request must include an invitation to attend any interview at which the statement is intended to be taken or to agree to the attendance of a named responsible adult other than the investigator. Save where reasonably necessary no pupil who has made a statement may be asked to attend any Committee hearing arising out of an investigation.
- 4.2.6 The investigator must make a written report of the results of the investigation and should include in her/his report:

- a) a list of names of people spoken with during the investigation, giving dates and times
- b) a list of the written, signed and dated statements copies of which should be attached
- c) a chronological summary of incident(s) or complaints giving rise to the investigation and the stages of the investigation
- d) the conclusions drawn from the investigation
- e) a decision as to what step to take next, for example:

- i. to take no further action;
- ii. to recommend that the employee is issued with a verbal warning or first written warning;
- iii. to instigate formal disciplinary procedure

4.2.7 The investigator's report together with copies of related documents must be retained on file for the same length of time as any resultant warning is kept on the file. Where an investigation does not result in formal proceedings, papers relating to the investigation must not be kept on file for longer than 3 months after the date of the investigator's report.

4.3 **Formal Disciplinary Procedure**

4.3.1 If, after completing investigations, the Headteacher or other investigator decides that a formal hearing is appropriate in all the circumstances, they must ask the Clerk to convene a hearing either by the Headteacher or other investigator or a Committee as they shall decide after discussion with the chair of the governing body.

4.3.2 The Clerk must give written notice of the hearing to all parties not less than 10 working days before the date of the meeting unless in a complex case it is appropriate, with the agreement of the employee, to extend the period of notice to a maximum of 20 clear working days.

The notice of hearing must include the following:

- a) the time and place of the meeting;
- b) the purpose of the meeting;
- c) the identity of the people attending the meeting
- d) the nature of the allegations;
- e) the relevant time limits by which the employee should submit her/his own written evidence;

- f) the employee's entitlement to be accompanied by a companion or if appropriate a legal representative;
 - g) the names of any people who may be called as witnesses
 - h) copies of any written evidence or relevant documents currently available
 - i) details of the procedure to be followed during the meeting
- 4.3.3 The notice of hearing should identify the persons who are entitled to and will be attending the hearing being:
- a) the Headteacher or other investigator or the members of the Committee hearing the matter as the case may be and any professional or independent advisers to them
 - b) the parties and any companions or legal representatives
 - c) any witnesses
- 4.3.4 As soon as possible but in any event not less than five working days before the hearing date the Clerk shall send to all persons attending the hearing copies of all material documents received.
- 4.3.5 The Headteacher or other investigator or the chair of the Committee as the case may be is in control of the hearing and shall make such decisions as they think fit as to the conduct of the hearing in the exercise of their reasonable discretion and in accordance with the principles of natural justice.
- 4.3.6 The Headteacher or other investigator or the chair of the Committee as the case may be in conducting the hearing should:
- a) welcome and introduce those present
 - b) state that the hearing is private and all information and representations are confidential to those present
 - c) outline and if reasonably possible obtain agreement to the procedure to be followed
 - d) ask the parties to remain available for an agreed period after the Committee withdraws at the end of the hearing in case further information or clarification is required on any material point stating that in that case the hearing will resume with all parties present for that purpose
 - e) explain the process for notifying the parties of the Committee's final decision.

- 4.3.7 The Headteacher or investigator or chair of the Committee as the case may be may adjourn the hearing for any good reason including the presentation of new evidence or the making of further representations which requires further time for consideration or investigation by any party in which case the Headteacher or other investigator or the chair of the Committee as the case may be shall give directions for the adjourned hearing including further written notice and the making of further written representations and provision of material documents.
- 4.3.8 Following the hearing the Headteacher, investigator or the Committee as the case may be must make one of the following decisions:
- a) **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
 - b) **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 twelve (12) 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.
 - c) **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.
 - d) **Dismissal** where there has been gross misconduct or a final written warning has already been given
- 4.3.9 The Headteacher or investigator or the chair of the Committee as the case may be either notifies the parties of the decision orally at the end of the hearing or that they will be notified later in writing.
- 4.3.10 Written confirmation of a decision notified orally at the hearing or written notification of the decision shall be given by the Clerk to the parties as soon as reasonably possible after the hearing and shall include a statement of the reasons for the decision and of the right to appeal specifying the last date for making such an appeal.

4.3.11 In giving written confirmation or notice of the Committee's decision the Clerk must take account of the requirement to protect the employee from prejudice.

4.4 **Appeal Process**

4.4.1 If the employee wishes to appeal against the decision they must send written notice of appeal to the Clerk within 10 clear working days after receipt of written confirmation or notice of the decision stating the grounds upon which the appeal is being made.

4.4.2 After consulting with the chair of the governing body, the Clerk must convene a meeting of an Appeal Committee. The Appeal Committee will be constituted of three members of the governing body, or, if appropriate, the Headteacher alone. If the appeal is against dismissal, then this will consist of three members of the governing body, or where there is a problem with the availability of governors, governors from another LDDBS school may be invited.

4.4.3 The Appeal Committee meeting must be held within 15 clear working days of the date of the employee's notice requesting an appeal hearing.

4.4.4 The Clerk must send written notice of the appeal hearing to all parties not less than ten clear working days before the date of the hearing. The notice shall include:

- a) the date, time and place of the hearing;
- b) the purpose of the hearing;
- c) the name of any person who might give evidence;
- d) a list of all written representations, evidence or other relevant documents already received by the Clerk from the Committee (copies must also be supplied with the notice of hearing)
- e) details of the procedure to be followed during the hearing
- f) a request that the aggrieved employee provide to the Clerk any further written representations or evidence or other documents intended to be relied upon not less than seven clear working days before the appeal hearing
- g) a statement of the employee's right to attend with a companion.

4.4.5 The notice of hearing should identify the persons who are entitled to and will be attending the hearing being:

- a) the members of the Appeal Committee and any professional or other independent advisers to the Appeal Committee;
 - b) the Headteacher or other investigator and any companions;
 - c) the employee and any companion.
- 4.4.6 Not less than five clear working days before the appeal hearing date the Clerk shall send to all persons attending the hearing copies of all material documents received to attendees.
- 4.4.7 The chair of the Appeal Committee is in control of the hearing and shall make such decisions as they think fit as to the conduct of the hearing, exercise reasonable discretion and act in accordance with the principles of natural justice.
- 4.4.8 The chair of the Appeal Committee in conducting the hearing should:
- a) welcome and introduce those presents
 - b) state that the hearing is private and all information and representations are confidential to those present
 - c) outline and if reasonably possible obtain agreement to the procedure to be followed
 - d) ask the parties to remain available for an agreed period after the Appeal Committee withdraws at the end of the hearing in case further information or clarification is required on any material point stating that in that case the hearing will resume with all parties present for that purpose
 - e) explain the process for notifying the parties of the Appeal Committee's final decision
 - f) The chair of the Appeal Committee may adjourn the appeal hearing for any good reason including the presentation of new evidence or the making of further representations which requires further time for consideration or investigation by any party in which case the chair shall give directions for the adjourned hearing including further written notice and the making of further written representations and provision of material documents.
- 4.4.9 Following the /-appeal hearing the Appeal Committee must make one of the following decisions:
- a) confirm the outcome of the disciplinary process
 - b) impose a lesser but not a more severe penalty, or

- c) order that no action be taken, or
- d) allow the appeal in its entirety

4.4.10 The chair of the Appeal Committee either notifies the parties of the Appeal Committee's decision orally at the end of the hearing or that they will be notified later in writing.

4.4.11 Written confirmation of a decision notified orally at the hearing or written notification of the Appeal Committee's decision shall be given by the Clerk to the parties as soon as reasonably possible after the hearing and shall include a statement of the Appeal Committee's reasons. If the decision is to issue a first written warning the employee must also be informed in writing that any future misconduct could lead to a more severe penalty, up to and including dismissal and of her/his right to appeal .

5. SPECIFIC AREAS OF DISCIPLINARY ACTION

5.1 Suspension

5.1.1 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 Headteacher must authorise the suspension. If it is the Headteacher 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.

5.2 Child Protection

5.2.1 If alleged misconduct or a complaint relates to physical or sexual abuse of any child, the investigator must contact the local authority's Children's Services or equivalent to discuss the matter before taking any further

action. The investigator must suspend their investigation if the local authority decides that an investigation by the Child Protection Team is appropriate. Such a decision would constitute exceptional circumstances justifying suspension of the employee until the outcome of the local authority or other statutory investigation is known.

5.3 Criminal Offences

- 5.3.1 When an allegation or complaint is that a criminal offence has taken place while the employee was on duty, and the matter is being investigated by the police, the Headteacher and the chair of governors should make a decision as to whether or not it is reasonable to refrain from instituting disciplinary action against the employee and, further, whether to suspend the employee pending the outcome of the police investigation and before taking any other or further step under these procedures.
- 5.3.2 When there is a connection between an allegation or complaint that an employee has committed a criminal offence whilst not on duty and an allegation that they are by reason of that offence not reasonably capable or suitable for continued employment by the School whether such offence comprises or includes abusive or immoral behaviour the Headteacher should investigate such allegations but only once it is clear that there will be no prejudice to any ongoing police investigation or prosecution relating to the same matters.
- 5.3.3 When the allegations relate to child abuse local authority and inter agency guidelines must be followed by the governing body and the Headteacher and legal or other relevant professional advice obtained immediately.

5.4 Joint Proceedings

- 5.4.1 Cases involving more than one employee and arising out of the same facts and/or similar allegations against each shall be dealt with by a single joint hearing at the point at which under Steps 1 and/or 2 and/or 3 above at which any formal hearing becomes necessary whether by the Headteacher or other investigator or a Committee or on appeal.
- 5.4.2 The procedures set out above in relation to formal hearings shall be adapted so far as reasonably necessary to enable:

- a. each and every of the relevant employees and their companions to be present at the relevant hearing at the same time ensuring that one should not be present without the other(s)
- b. each and every of the relevant employees calling her/his own witnesses
- c. each and every of the relevant employees asking questions of the other employee(s) and their witnesses, if any, and of whoever is presenting the School's case, if any.

Thus ensuring that the Headteacher or other investigator or the Committee as the case may be is in a position to reach different decisions and/or impose different sanctions in relation to each of the employees having heard all the relevant evidence and representations of all in the presence of the others.

Appendix I - Examples of Misconduct and Gross Misconduct

The following conduct if proved must be determined to be misconduct and, in severe cases, gross misconduct and treated as such but other conduct may be treated as misconduct if it is decided that it would be reasonable in all the circumstances to do so:

- failure to discharge, without sufficient cause, the obligations which statute, the terms and conditions of employment and the contract of employment place on the employee
- failure to remain at the place of work during normal working hours without permission
- frequent failure to attend work punctually;
- failure to notify the School as soon as is practicable when absence is due to sickness
- making unauthorized private telephone calls or sending personal mail or electronic communications at the School's expense;
- making unauthorised use of either the School's intranet or the Internet
- failure to follow a line manager's reasonable instructions
- failure to exercise proper control or supervision over boys;
- abusive behaviour or language that is directed to other employees, the Headteacher, governors, parents, pupils, members of the public or others
- victimisation and intimidation of other employees in the course of duty;
- unlawful discrimination against other employees, the Headteacher, governors, parents, pupils or members of the public or others when on duty
- dishonesty.
- a wilful attempt to mislead.
- behaving unprofessionally or inappropriately on social media - personal and professional accounts.

The following conduct if proved must be determined to be gross misconduct and treated as such but other conduct may be determined to be gross misconduct if it is reasonable in all the circumstances to do so:

- theft, fraud, deliberate falsification of records, facilitating or abetting;
- fighting or deliberate physical injury to another person;
- deliberate damage to School property;
- violent and/or intimidating conduct;
- serious incapability through alcohol or being under the influence of illegal drugs;

- serious breach of confidence;
- bringing shame on or serious reputational damage to the School;
- serious breach of health and safety rules;
- child abuse;
- serious misuse of the School intranet or the Internet;
- serious negligence that causes unacceptable loss, damage or injury;
- serious act of insubordination;
- serious acts of unlawful discrimination against other employees, the Headteacher, pupils, parents, members of the public or others when on duty;
- unauthorised entry to computer records;
- continued and repeated misconduct.

Committees (which includes Appeal Committees)

1. The membership of a Committee shall include not more than three nor less than one untainted governor appointed from time to time as necessary by the chair of the governing body acting impartially from the group of governors nominated for the purpose of appointment to Committees by a minuted annual decision of the governing body.
2. The chair of the governing body may appoint as additional members of any Committee such other independent person or persons as shall appear to be reasonably necessary for the purposes of that Committee but such additional members must be appointed at the time of constitution of the Committee.
3. The chair of the governing body must provide clear written terms of reference for a Committee upon constitution of the Committee including:
 - a) a statement of delegated powers of decision in relevant matters relating to formal hearings under employment procedures
 - b) strict confidentiality of the relevant matters to the members of the committee.
 - c) a requirement that the chair of the committee should provide a short written report to the next meeting of the governing body following conclusion of any inquiry, hearing or appeal as the case may be. This report should summarise briefly the nature of the concerns and the outcome of the procedure whilst respecting the employee's privacy.
4. The chair of a Committee shall be appointed from the members appointed to that Committee when it is constituted and must be a member of the governing body.
5. Any employee governor is entitled to be appointed to a Committee provided that they are not potentially biased by any possibility of direct or indirect personal gain from the Committee's proceedings whether by way of salary increase or promotion or by other conflict of interest.
6. The proceedings of a Committee including any hearing shall be attended by the Clerk and may be attended on the invitation of the Committee by other identified unprejudiced persons including such independent professional

advisers as the chair of the Committee shall think fit but only members of the Committee have decision-making powers.

7. The role of any Committee is to implement the relevant School policy and procedures in accordance with the law and the principles of natural justice and in performing that role the Committee must allow reasonable periods of time to enable an employee to prepare their case and for all parties to consider alternative approaches.
8. A Committee must take all reasonable steps to ensure that decisions are made and the correct procedures are followed at all times in compliance with material statutory and other legal obligations and the principles of natural justice.
9. The Clerk must carry out her/his role under these Procedures carefully and honestly and in doing so must ensure that a full and accurate contemporaneous note of the proceedings in or connected with any Committee meeting or hearing including discussions and decisions and the reasons for any decisions are recorded in writing and that copies of such records and of all related correspondence and other material documents including written representations and evidence produced to the Committee by or on behalf the School or any employee are put and kept on the Committee's files for so long as is legally necessary in each case dealt with by the Committee under these Procedures.

REVISIONS TABLE

Date	Description of Change/Item Edited
Spring 2021	Separation of Grievance Policy from Discipline Policy Simplification -of process steps