



**Plymouth Nursery Schools Federation**

## **Disciplinary Policy and Procedure**

**Head of School**

**Dated**

**10/07/2024**

**Chair of Governors**

**Dated**

**10/07/2024**

**To be Reviewed- July 2025**

## **CHANGES**

March 2009: Policy Implemented

June 2010: Styling revised in line with corporate guidelines

October 2010: Minor amendments

June 2012: Updated examples of gross misconduct

January 2016: Revision to reflect implementation of the Capability policy for support staff and revised Managing Attendance policy for teaching staff. Plus minor amendments to reflect revised Corporate Disciplinary policy & procedure including the addition of Appendix C; (Examples of 'Some Other Substantial Reason')

June 2020: full review, including amalgamation of policy and procedure. Change of scope

October 2020: reviewed corporate document shared with TUs

May 2021: Corporate policy made live following consultation with Support Staff TUs

September 2021 School's policy to consultation with Teaching TUs

November 2021: School's policy made live for Governing Bodies to adopt, following formal consultation with Teaching TUs

## **CONTACTS**

If you have any questions regarding this policy please contact the school's HR Provider.

If you would like help understanding the contents of this policy, please speak to your line manager for assistance.

**N.B. References in this policy to Managing Attendance (Teachers') Policy or Capability Support Staff |(Attendance) are denoted by an asterisk\* and the school will need to delete as applicable, depending on which policies have been approved by the Governing Body.**

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## I. INTRODUCTION

1.1 The public is entitled to expect the highest standards of conduct from Council school employees. All employees are entitled to expect the same high standards from their colleagues, at all levels. It is important that Council school employees give a good impression of themselves and the Council/school by:

- Giving the public the highest possible standards of service;
- Maintaining the good reputation of the Council/school;
- Behaving honestly; and
- Following policies and procedures.

1.2 The aim of this policy is to help maintain and improve the standards of behaviour and conduct of employees and encourage an employee whose conduct is unsatisfactory to improve. However, if unacceptable behaviour and/or an alleged breach of the rules and/ or standards of conduct occurs, employees should be aware that these may be dealt with under the school's Disciplinary Policy and Procedure.

1.3 It is important that employees read and understand this document. If employees are not sure about any part of it, they should ask their line manager, who will provide the necessary clarification.

## 2. SCOPE OF POLICY

### 2.1 In Scope

This policy and procedure applies to all **Plymouth Nursery Schools Federation** employees employed under the provisions of the following negotiating bodies as amended locally:

- NJC for Local Government Services
- JNC for Youth and Community Workers
- Soulbury terms and conditions
- NHS Agenda for Change
- Centrally Employed Teachers on NEOST terms and conditions
- School Teachers' Pay and Conditions Review body

### 2.2 Out of Scope

Support Staff in their probationary period for whom such concerns should be managed in accordance with the school's Probation Policy.

Dismissals relating to the Managing Attendance Policy (Teachers)\* and Capability Policy (Teachers) and Capability (Attendance - Support Staff) and Managing Performance (Support Staff)\*, please refer to Plymouth Nursery Schools Federation policies. Guidance on the above situations can be sought from your School's HR Provider.

### 2.3 Contractual status

This policy and procedure does not form part of any employees' contract of employment and may be amended from time to time, except for the provisions in paragraphs 9.3, 9.4, 9.5 which have contractual force.

### **3. KEY PRINCIPLES AND RESPONSIBILITIES**

This disciplinary policy and procedure fulfils the statutory requirements laid down by Government as set out in the Employment Act 2008 and complies with best practice as detailed in the Advisory, Conciliation and Arbitration Service (ACAS) codes of practice <https://www.acas.org.uk/acas-code-of-practice-on-disciplinary-and-grievance-procedures>.

An employee who is subject to the disciplinary process, will have access to the Employee Assistance Programme (EAP) basic level. Some schools purchase the all-inclusive model with access to the Counselling service as well, who can support their wellbeing during the process.

#### **3.1 Responsibilities of Employees**

All employees of Plymouth Nurseries Federation have a responsibility to make sure they have read and understood the rules governing their behaviour in the workplace. They also have a responsibility to meet the required standards as a representative and employee of the school.

All employees involved in any aspect of the disciplinary procedure will respect the confidentiality and privacy of others. Individuals raising complaints maliciously may be subject to disciplinary action.

Employees are reminded that it is not permitted to secretly record disciplinary hearings or meetings. Any breach of this rule will be taken seriously, which could lead to separate disciplinary action being taken and may also be in breach of the Data Protection Act 2018.

There is a requirement for employees to declare any conflict of interest that arises if they are involved in disciplinary matters.

#### **3.2 Responsibilities of the CEO/Head of School/Managers**

CEO/Head of School/Managers are responsible for maintaining and setting standards of conduct and behaviour. They are also responsible for ensuring that disciplinary rules are in place and that employees are aware of and have access to these rules.

All CEO/Heads of School/Managers who participate at disciplinary hearings and either present the management case or act as chair at disciplinary hearings should have either undertaken appropriate training or received a briefing by the school's HR Provider.

#### **3.3 Responsibilities of Human Resources Provider**

To provide advice and guidance to CEO/Head of School/Manager dealing with disciplinary issues

To attend formal meetings as an adviser to the Head of School and/or Governors' Staffing Panel.

#### **3.4 Responsibilities of Trade Union**

To be supportive of the school in upholding standards of behaviour and conduct and to support their members at meetings, as agreed.

#### **3.5 Role of TU representative/official or workplace companion**

Accompaniment at an investigatory meeting will be restricted to one person only, except in exceptional circumstances. Employees have a right to be accompanied by either a work colleague or a recognised trade union (TU) representative/official during any formal meetings. The employee should advise the investigating officer/chair of their attendance prior to the meeting.

Acting as a companion is voluntary and colleagues are under no obligation to do so. If a colleague agrees to do so, reasonable time off from duties without loss of pay to act as a companion will be considered. The paid time off covers preparation, attendance at the hearing and familiarisation with the case. Reasonable time off should be agreed with their line manager.

Requests for other categories of companion, for example a friend or relative, will be considered only in exceptional circumstances as a reasonable adjustment, and the school reserves the right to decline such requests.

The companion/representative, with the employee's permission, is permitted throughout to address the hearing in order to do any or all of the following:

- Put the employee's case
- Sum up the employee's case
- Respond on the employee's behalf to any view expressed at the hearing
- Confer with the employee during the hearing.

It is good practice to allow the companion/representative to participate as fully as possible in the hearing, including asking witnesses questions. However, the companion/representative is not permitted to:

- Answer questions on the employee's behalf
- Address the hearing, if the employee does not wish it
- Prevent the employee from explaining their case.

## **4. INFORMAL ACTION**

4.1 Cases of minor misconduct may be dealt with informally at the discretion of the CEO/Head of School/Manager who may need to seek advice from the school's HR Provider depending on the particular circumstances of the case.

4.2 Minor misconduct can be dealt with by having an informal conversation explaining the reason and the changes needed. This may be done by talking to the employee but it must be made clear that it is being undertaken under the informal stage of the disciplinary procedure.

4.3 This may also result in the CEO/Head of School/Manager giving clear written 'management words of advice' to the employee describing the standard of behaviour expected. It's a good idea for the employer to still keep a confidential written record of informal or verbal warnings for future reference as a record of a conversation.

4.4 Where there is a reoccurrence of unsatisfactory conduct during the period when the informal or verbal warning is in force, or the employee's conduct lapses very soon thereafter (and/or where a pattern emerges, and/or there is evidence of abuse), the employee's disciplinary record shall be borne in mind in deciding whether formal disciplinary action is undertaken or, if appropriate, how long any further preliminary informal warning(s) should last.

4.5 An employee may be accompanied if they wish, by a workplace colleague, Trade Union Representative or Trade Union Official.

4.6 The CEO/Head of School/Manager will keep a copy of the written instruction on the employee's file for their reference in the future.

4.7 If related to performance, the Managing Performance Policy and Procedure will be used for NJC support staff and Capability policy for Teachers.

4.8 If, during the informal discussion, it becomes apparent that formal action may be necessary, CEO/Head of School/Manager must explain to the employee that the meeting needs to stop and why. An investigation will need to be commissioned and the school allows the employee to be accompanied at a formal investigation meeting. The manager should discuss with the CEO or Head of School as to whether a formal investing action is required.

## **FORMAL PROCEDURE**

### **5. PRELIMINARY INVESTIGATION**

5.1 When an alleged disciplinary matter of a more serious nature arises, or an informal disciplinary procedure has been exhausted, a preliminary investigation must normally be undertaken at the earliest opportunity. For a non-exhaustive list of examples of what could constitute misconduct and gross misconduct, see Appendix A.

5.2 Allegations of theft or misappropriation of school/Council property must be reported to Devon Audit Partnership within one working day of the opening of the investigation. Where external investigations are being pursued, for example by the Police, Legal Services should be notified.

5.3 A Commissioning Manager (usually the Head of School or a designated Governor) will commission an investigation and appoint an investigating officer to gather the facts and take statements from witnesses, as appropriate. The employee will be given the opportunity to provide a statement. Every effort must be made to ensure that all statements are signed and dated, wherever possible. Witnesses will be expected to confirm their evidence at a hearing if required to do so.

5.4 An investigation does not constitute disciplinary action in itself, but is designed to provide management with information on an allegation of misconduct as to whether or not there are grounds for disciplinary proceedings to be progressed to a hearing.

5.5 An employee whose conduct is under investigation has the right to be accompanied by a workplace colleague, Trade Union Representative or Trade Union Official.

5.6 Vulnerable individuals (eg service users), should not be interviewed unless absolutely essential, and then only in the presence of a representative or companion of their choosing, for example a social worker or specialist.

5.7 Reasonable adjustments should be made where needed for anyone involved who has a particular requirement in accordance with the Equality Act 2010.

### **6. SUSPENSION**

6.1 In cases where there are allegations of gross or very serious misconduct and attendance at work that would be likely to be prejudicial to the satisfactory operation of the school or the conduct of the investigation, the commissioning manager may decide that the employee should be suspended from duty on full pay pending the outcome of the investigation.

A decision to suspend an employee will be taken by the CEO, Head of School, designated Governor or panel of the Governing Body, who will arrange to meet with the employee and explain why suspension is being considered.

Any responses the employee may wish to give as to why they should not be suspended should be considered prior to a decision being taken. An employee should be given the opportunity to be accompanied by a friend or union representative at this meeting.

Where the employee concerned is the CEO or Head of School, the Chair of Governors should consult with the School's HR Provider before deciding whether to suspend.

Suspension is not a form of disciplinary action, nor does it infer any guilt or represent any prejudgement of the outcome. Care should be taken to have regard to the circumstances of the incident when deciding whether to suspend and to keep under review any suspension decision.

An impact assessment should be completed to inform the decision to suspension, ensuring that alternatives to suspension have been considered, with support from the school's HR Provider.

6.2 It may be appropriate to suspend an employee from their substantive post in the following circumstances:

- Allegations of gross misconduct
- Where an employee's presence in the workplace may hinder or compromise the quality of an investigation
- Where relationships have broken down
- Where there are safeguarding concerns
- Where an employee's presence in the workplace places them and/or others at risk
- Alleged or committed criminal activity outside the workplace. (see section 13 below)

*The situations above are purely illustrative and the list is not exhaustive. CEO, Head of School or committee of the Governing Body reserve the right to suspend according to individual circumstances.*

6.3 This confirmation of suspension letter must be sent by the CEO, Head of School, designated Governor or Panel of the Governing Body within three working days of the suspension date and the letter sent by special delivery to ensure receipt, stating:

- The reason(s) for suspension;
- That the employee is advised to consult their Trade Union Representative, as appropriate; and
- That the matter will be dealt with as quickly as possible.
- That alternatives to suspension had been considered

6.4 In exceptional circumstances a manager may consider suspension without pay. This should be discussed first with the school's HR Provider.

6.5 If during the course of an investigation an individual is suspended from duty and wishes to contact another employee as part of the gathering their own evidence, they must seek the prior approval of the CEO or Head of School before making contact. Alternatively, the employee would advise the Investigating Officer of the names of witnesses.

6.6 Victimisation of witnesses will constitute a disciplinary offence.

6.7 The period of suspension should be kept as brief as possible. The CEO or Head of School will review the employee's suspension from duty every 28 days and make a decision whether it will continue or not. In the event of the CEO or Head of School being involved in the investigation, the review will be conducted by the Chair of Governors. The employee should be given a point of contact for support and queries and to keep the employee updated about the length of the suspension.

6.8 In the event that a Trade Union Representative is suspended, the full time official of the union concerned will be informed by the CEO or Head of School

6.9 The suspension letter should mention that alternatives to suspension were considered, giving the reasons why not appropriate. Please refer to the school's HR Provider for advice.

## **7. INVESTIGATION REPORT**

Once an investigation is concluded, the Investigating Officer will prepare a report for the Commissioning Officer. The report will be used as part of a pack of documents at a Disciplinary Hearing.

The report shall be factual and specific, and focused around the terms of reference. It should contain comprehensive notes, witness statements and reports from other sources, if appropriate, for example PCC's Legal Services or Devon Audit Partnership. Witness statements should be signed and dated and notes taken at all formal meetings.

The Commissioning Officer will give consideration to a range of outcomes in response to the allegations and the investigation findings and decide what further action, if any, to take. The employee will be advised of any of the following outcomes in writing:-

- No case to answer. Having conducted a full investigation, the Commissioning Officer may decide that there is no case to answer.
- Remedial action, such as further training and supervision or a referral to Occupational Health or Counselling (if the school purchases this service). This may also involve transferring the employee to another job within the school, however this can only occur if another post is identified and the employee agrees to the move. Further guidance can be sought from the school's HR Provider.
- A formal structured process of mediation, requiring employee involvement to decide a mutually agreeable way forward or solution. This can be undertaken internally by the employee's line manager/supervisor or, if appropriate, another manager not previously involved in the case or externally by a professional mediator.
- Further investigation, during which the parameters of any employee suspension or temporary redeployment/alternative duties may need to be reconsidered or redefined.
- A formal disciplinary hearing.

## **8. DISCIPLINARY HEARING**

### **8.1 Preparation for Hearing**

If, following an investigation, it is decided to proceed with a formal disciplinary hearing, a mutually convenient date will be set for the hearing as soon as possible. The employee will be informed in writing before the hearing of:-

The disciplinary allegations and whether any of these could be construed as gross misconduct\* leading to the possibility of dismissal;

- The time and place of the hearing (a minimum of 5 working days' notice will be given to an employee of the hearing). If this date is not suitable a second and final date will be offered, usually not more than five working days after the original date. No other date will be made available unless there are extenuating circumstances.
- Who will be present, including any witnesses (statements of evidence to be confirmed by witnesses must be provided by either side at least 2 days before the date of hearing);

- They may be accompanied by a trade union representative/official or workplace colleague and consideration should be given to the trade union representative's availability.

The Investigating Officer collates the disciplinary pack and this is either sent out with this letter or shortly afterwards. It is circulated to all relevant parties in advance of the hearing. This must include a list of the witnesses to be called by both management and the employee at the disciplinary hearing.

This will include that if either party wish to submit any additional or new information or evidence, it should be submitted not less than 48 hours prior to the hearing to avoid any potential delay on the day of the hearing.. The Chair will consider later submissions if relevant, to enable a full and thorough hearing with due consideration of the evidence.

\*For a non-exhaustive list of offences that could constitute gross misconduct, see appendix A

## **8.2 Attendance at Hearing**

The employee must take all reasonable steps to attend the hearing. Should employees fail to attend the hearing without reasonable notice and without good reason, it may be held in their absence. In these circumstances, the employee can be represented in their absence by a trade union representative/official or work colleague, and/or provide a written submission.

Sickness may be a reason given for non-attendance, but is only valid if the employee is too ill to attend the disciplinary hearing. An employee may not be well enough to work but fit enough to attend a hearing. Where appropriate timescales allow, an occupational health referral should take place if the employee is certificated as sick by their general practitioner or specialist.

## **8.3 The Hearing**

The hearing will be before the CEO, Head of School or a panel of Governors (minimum of three, none of whom will have had direct involvement in the case) acting as the Governors' Staffing Panel, depending on the circumstances:

- If the CEO or Head of School has not undertaken the role of Commissioning Officer or Investigating Officer, s/he may hear the matter, unless a possible outcome may be dismissal.
- The Governors' Staffing Panel may hear allegations of gross misconduct and/or where the outcome could be dismissal. An LA representative must also be present in these circumstances.
- The matter can be heard by the Governors' Staffing Panel where the CEO, Head of School or the employee believe it will provide a more impartial and/or objective forum.
- The Governors' Staffing Panel will hear the matter if the Commissioning Officer is of the view that the circumstances warrant it.

Allegations will be put with any supporting evidence to the employee. The Chair of the Panel will be supported by the school's HR Provider. The employee must be given every opportunity to state their case using supporting evidence, including witnesses if required. If more time is needed to consider the matter or further investigation necessary, the hearing should be adjourned and resumed at later date.

The Chair/Panel will come to a decision in terms of what is fair, reasonable and practicable in considering all the circumstances.

At the end of the hearing, the employee will be verbally notified by the Chair of their decision, wherever possible.

## **9. DISCIPLINARY OUTCOMES**

The Chair will need to determine the appropriate sanction considering the seriousness of the offence and any other factors including any extenuating circumstances and/or mitigation put forward by the employee or their representative.

The Chair must write to the employee within 5 working days of the date of the hearing (unless otherwise agreed between both parties and/or if additional time is required to consider any other factors) with the outcome, including the right of appeal and stating the time limits for submission of an appeal. This will be sent securely to ensure receipt by email or posted by special delivery.

It should be made clear to the employee that the situation will be monitored and reviewed regularly, where appropriate.

If further issues come to light, or there is a failure to improve, further disciplinary action may be taken, which may ultimately lead to dismissal.

### **9.1 No case to answer**

In this situation, no further action will be necessary.

### **9.2 Written or final written warnings**

A written warning will normally be valid for 12 months, and will be time-expired after this period, providing there is no repetition of the offence. Please also refer to paragraph 10.4.

In cases where conduct is at the limit of acceptable standards laid down by the school/Council, the warning may be extended beyond 12 months.

### **9.3 Dismissal (with notice or pay in lieu of notice)**

In cases of serious misconduct or repetition of misconduct, the decision may be taken to dismiss with notice. This sanction may be used in cases where a previous written warning has not resulted in the required level of improvement. This sanction may require the employee to work their notice period or be paid in lieu of notice, giving an earlier termination date. No employee will be dismissed for their first offence, unless in cases of gross misconduct, dismissals for 'some other substantial reason', or breaches of a statutory enactment.

### **9.4 Summary dismissal (without notice)**

This sanction will be administered in cases of proven gross misconduct (see appendix A).

### **9.5 Other outcomes**

In addition to the above outcomes, a number of other remedies may be considered by the Governors' Panel or Governors' Appeal Panel or in addition to the outcomes above, for example:

- Redeployment within the school that will take effect from the date of the disciplinary confirmation letter.
- Withhold incremental progression.
- Demote an employee within the same job with no protection of salary.
- Repayment of fraudulent claims, in accordance with the Council's financial regulations.

## **10. APPEALS**

All employees are given the right of appeal against a decision taken in a formal disciplinary meeting.

If the employee wishes to appeal they must do so in writing within 5 working days of receiving the written confirmation of the decision to the Clerk to Governors.

The employee must state whether the appeal relates to facts, levels of sanction or whether the procedure was followed. In relation to the facts of the case, there are occasions when additional information could have come to light that was not available for the initial hearing.

Appeals can be submitted by the TU Representative/official where they have explicit permission from the employee.

### **10.1 Preparation for Appeal Hearing**

A letter of acknowledgement will be sent to the employee. Appeals will be heard by a Governors' Appeal Panel containing at least an equivalent number of Governors to the Governors' Staffing Panel at the Hearing. The Appeal Panel will consist of Governors who have not taken part in the original decision, one of whom will be nominated to act as Chair.

In cases of dismissal, a representative of the Director of People has the right to attend the Appeal and give advice, which must be considered. Normally the Employee Relations Specialist for schools will attend the Appeal Hearing for cases of dismissal.

The manager from the original hearing will prepare an appeal bundle, comprising of:-

- 1) management's response to the grounds of the appeal
- 2) any relevant appendices

This manager will send the pack to the employee, appeal panel, including the school's HR Provider and Employee Relations team (schools' specialist) at least 5 working days before the hearing.

### **10.2 Appeal Hearing**

Plymouth Nurseries Federation is committed to ensuring the appeal is heard as soon as possible, therefore the Chair of the Appeal Hearing may set time-limits for each stage of the proceedings and will make sure that any delays are dealt with appropriately

The Chair of the Appeal will ensure that the necessary arrangements are in place to hold the hearing and, if necessary, will make the final decision on evidence or witnesses relevant to the case.

The employee has the right to be accompanied by a Trade Union Representative or work colleague at the Appeal Hearing.

During the Appeal Hearing the employee will only be able to refer to the grounds of appeal specified in their appeal letter.

The Appeal Hearing will be an opportunity for the employee to state the grounds of their Appeal, and for the manager involved in the original decision to respond. The Chair will be able to ask questions of either party and any witnesses, if relevant.

### **10.3 Appeal Decision**

Following the Appeal Hearing, the Appeal Panel will consider the facts of the case and may uphold or dismiss an Appeal.

The Appeal decision will be given to the employee either on the day or in writing. The decision letter will be from the Chair of the Hearing and will give the reason(s) for the decision.

The decision letter will be sent to the employee within 5 working days of the hearing; the letter must be securely delivered to ensure receipt (email or Special Delivery).

The above procedure can be amended by the Chair of the appeal if it is deemed appropriate to do so, provided that all parties are in agreement.

The Appeal decision is final and is the end of the school's internal process.

If further procedures are invoked, for example through ACAS Conciliation or at an Employment Tribunal, any statements may be disclosable and parties will be advised of such disclosure.

#### **10.4 Records of disciplinary outcomes**

Records of disciplinary outcomes will be retained on the employee's file in line with the Council's retention schedule. The employee file refers to paper as well as electronic information held by the school/Council.

For employees who are dismissed or summarily dismissed, and their appeal against the dismissal has not been upheld, the employee must be notified that (if considered necessary) their name will be added to a list of individuals whose re-employment by Plymouth City Council will be restricted.

Monitoring information will be held by HROD, in accordance with the Data Protection Act 2018 and employment legislation.

Warnings issued will become time expired after the specified period, providing there is no repetition of the offence.

Where the allegations potentially involve behaviours that may have placed a vulnerable adult or child at risk of harm or harmed, a summary is kept indefinitely on the employee's personal file. This should include a summary of any allegations made, details of how the allegations were followed up and resolved, and any action taken and decisions reached. The Safeguarding Vulnerable Groups Act 2006 will be followed, including when a caution or conviction for a relevant offence needs to be referred to the Disclosure and Barring Service. Further guidance can be sought from the school's HR Provider.

#### **10.5 Notification to professional bodies.**

As relevant, referrals will be considered to professional bodies or other relevant organisations. Further guidance can be sought from the school's HR Provider.

### **11. DISCIPLINARY MATTERS RELATING TO A TRADE UNION REPRESENTATIVE**

Normal disciplinary standards apply to the conduct of trade union representatives and learning representatives. However no disciplinary action will take place against a branch official, local steward, learning representative or safety representative until a full time official of the union concerned has been notified.

This does not prejudice management's right to suspend an employee on full pay pending an investigation, if such action is considered appropriate, as suspension is not a disciplinary sanction.

## **12. OVERLAPPING DISCIPLINARY AND GRIEVANCE ISSUES**

Where an employee raises a grievance during the disciplinary procedure, the disciplinary procedure may be temporarily suspended in order to deal with the grievance. However, where the grievance and disciplinary issues are related, it may be appropriate to deal with both issues concurrently. Advice should be sought from the school's HR Provider.

## **13. CONDUCT OUTSIDE OF THE WORKPLACE**

### **13.1 Criminal Charges or Convictions**

Whilst being charged with, or convicted of, a criminal offence is not in itself a reason for disciplinary action, there are circumstances in which the matter may warrant starting the disciplinary procedure. Failure by an employee to notify their manager and/or Head of School at the earliest opportunity of a criminal investigation which may have an impact on their job or ability to carry out their job and/or of being or having been convicted of a criminal offence that may seriously affect an employee's suitability for their job. Being subject to criminal investigations and/or being convicted of a criminal offence (unless under the terms of the Rehabilitation of Offenders Act 1974 the conviction is spent) may seriously affect an employee's suitability for their job.

Where the alleged misconduct involves a potential criminal matter, suspension may be considered. This will not necessarily mean that an internal investigation is delayed until the outcome of a prosecution is known. But where there is reasonable doubt as to the veracity of any allegation, that disciplinary action would not normally be concluded until the criminal matter has been dealt with.

A criminal offence could also include driving offences where the employee's driving licence may be endorsed and where their job requires them to drive, or where they may be convicted of an offence affecting their employment. For example, if the employee was charged with theft and their job involved dealing with money, or they were charged with an assault and their job involved working with vulnerable clients.

The disciplinary procedure may also be applied where membership of an organisation that leads an employee to behave in a way that seriously and adversely affects the way in which they carry out their work and represents a conflict of interest.

If a criminal offence has potentially been committed, the Investigating Officer should consult the school's HR Provider and Devon Audit Partnership. Where an irregularity involves finance or Plymouth City Council (PCC) property that may result in a loss to the school and/or Council, the Police may need to be involved. If the Police are notified, the Investigating Officer, taking advice from the school's HR Provider, who may wish the HR Provider to be present, should inform the employee who is being investigated.

It is not necessary for the school to wait for the outcome of a prosecution before taking disciplinary action. The school's/Council's interest only relates to the employee's employment and how the allegation affects that employment. If there is a clear case to answer, internal proceedings can continue, rather than waiting for the outcome of the separate criminal proceedings. However, depending on the nature of the allegations and investigations, it is important not to prejudice any future criminal proceedings. You should seek further advice from the school's HR Provider.

There can be occasions when the Police do not pursue a case but the school continues with internal proceedings into the allegations. Where a Court has found a person not guilty this verdict must be respected.

### **13.2 Inappropriate use of Social Media / Internet**

Posting inappropriate comments/images that can be linked to the school/Council on social media websites may lead to disciplinary action being taken.

Employees need to be aware that accessing and/or sharing extreme illegal material on websites outside work can lead to disciplinary action and can seriously affect their suitability for employment. The same may apply to the sharing of offensive content in online public forums.

The school will take disciplinary action in respect of behaviour outside work where the image or reputation of the school/Council has been damaged or brought into disrepute and/or where it is demonstrable that an adverse effect or impact has occurred/resulted (this does not affect an employee's human rights).

## APPENDIX A: EXAMPLES OF POTENTIAL GROSS MISCONDUCT

The public is entitled to demand the highest professional standards of conduct from local government officers, appropriate to their role. Failure to uphold such standards might be considered to be potentially gross misconduct even if the actions are not deliberate.

- The following are examples only:-Stealing from the school/Council or a colleague
- Serious misuse of school/Council property, including the school's computer resources and telephone services
- Sexual misbehaviour, obscene or indecent behaviour in the workplace
- Deliberate falsification of claims for financial reimbursement, with the intention of obtaining a payment to which the claimant is not entitled
- Deliberate and/or malicious damage to school and/or Council property
- Assault by an employee on any person
- Acting or failing to act by the influence of improper motives
- Serious breach of financial regulations or security
- Serious breaches of the school's Health and Safety Policy or acting in a manner dangerous to others
- Serious negligence or serious omission which causes unacceptable loss, damage or injury,
- Harassment, intimidation or bullying, including sexual or racial harassment
- Publication or distribution of offensive material relating to race, sex, age or other protected characteristics
- Breach of confidence (subject to the school's confidential reporting code). Disclosure of matters of a confidential nature, or breaking a trust to the school/Council's disadvantage
- Unauthorised access of the computer records of staff or customers
- Serious breach of information security policy and guidelines
- Bringing the council into serious disrepute
- Serious breach of the school's equal opportunities policy
- Incapability through the influence of drugs or alcohol at work
- Serious insubordination such as knowing/deliberate refusal to follow a reasonable formal legal management instruction.
- Misuse of the school's and/or Council's name
- Failure to report actual or suspected physical or sexual abuse of a child or other vulnerable person
- Serious breaches of professional codes of practice
- Serious breach of safeguarding measures
- Deliberate falsification of records

This list is not intended to be exhaustive, but should cover most circumstances that meet the criteria of gross misconduct. Neither is it intended to be prescriptive with most activities covering a range of behaviours of varying levels of seriousness. An action may potentially be gross misconduct but is not automatically defined as such by its appearance above.

## **APPENDIX B: PROCEDURE TO BE FOLLOWED AT A DISCIPLINARY HEARING**

### **Attendees at a Hearing**

Governors Panel (minimum of three Governors)

Adviser to the Panel; the school's HR Provider

Manager presenting the case, normally the Investigating Officer

Employee

Employee representative or accompaniment

Witnesses agreed in advance

A Local Authority representative from the Employee Relations team (normally the schools' specialist) to observe proceedings on behalf of Plymouth City Council, in cases where dismissal is a potential outcome

Note-taker (Plymouth City Council does not allow the recording of hearings by either side)

### **Sequence of Events:**

**Introductions:** Including procedural issues to be covered and confirmation of witness lists.

**Management Case:** The manager or management's representative will put his/her case in the presence of the employee and/or representative and may call witnesses.

**Questions of management from employee:** The employee or representative will have the opportunity to ask questions of the manager and/or witnesses on the information given by them.

**Questions of management from the Panel:** The Panel and their Adviser may ask questions of the manager and/or witnesses.

**Employee Case:** The employee or representative will put their case including any mitigation in the presence of the manager and may call witnesses.

**Questions of employee by management:** The manager shall have the opportunity to ask questions of the employee and/or witnesses on the information given by them.

**Questions of employee from the Panel:** The Panel and their Adviser may ask questions of the employee and/or witnesses.

**Summing Up:** Any party present will have a final opportunity to ask questions of either the employee or manager prior to summing up. Both sides will have an opportunity to sum up their case. They may not introduce new information at this stage. The manager sums up first and then the employee/their representative have an opportunity to sum up their case. The employee or representative statement is the last submission.

**Withdrawal** All parties except the Panel and the school's HR Provider will withdraw to consider the evidence and decide on an outcome

**Recall all parties to clarify points of uncertainty, if necessary:** The Chair may recall the parties to clear points of uncertainty on information already given. If recall is necessary, all parties are to return, even if only one of them is concerned with the points giving rise to doubt.

**Decision and Outcomes** Notification of the Panel's decision will normally be given verbally to all parties concerned on the day and the reasons for the decision confirmed in writing within five working days from the date of the disciplinary hearing. This letter should include the right of appeal and be sent to the employee by special delivery.

After the case is closed, witnesses should be informed that the case is closed.

## **Appendix C: Sequence to be followed at all Appeal Hearings**

### **Attendees at Appeal Hearing**

Governors Appeals Panel (minimum of three Governors and at least the same number as the Governors' Staffing Panel)

Adviser to the Panel; the school's HR Provider

Chair from original Hearing who may also be accompanied by their School's HR Provider plus any witnesses  
Employee

Employee representative or accompaniment

A Local Authority representative from the Employee Relations team (normally the schools' specialist) to observe proceedings on behalf of Plymouth City Council

In cases of dismissal, a representative of the Director of People, Plymouth City Council, has the right to attend the Appeal and give advice, which must be considered.

Note-taker (Plymouth City Council does not allow the recording of hearings by either side)

### **Sequence of Events:**

**Introductions:** Including procedural issues to be covered and confirmation of witness lists.

**Employee Case:** The employee or representative will put their grounds of appeal in the presence of the manager and may call witnesses.

**Questions of employee by management:** The manager shall have the opportunity to ask questions of the employee and/or witnesses on the information given by them.

**Questions of employee from the Panel:** The Appeals Panel and the School's HR Provider or nominee may ask questions of the employee and/or witnesses.

The Panel and their Adviser may ask questions of the manager and/or witnesses.

**Management Case:** The manager or management's representative will put their response to the grounds of appeal in the presence of the employee and/or representative and may call witnesses.

**Questions of management from the employee:** The employee or representative will have the opportunity to ask questions of the manager and/or witnesses on the evidence given by them.

**Questions of management from the Panel:** The Appeals Panel and the school's HR Provider or nominee may ask questions of the manager and/or witnesses.

**Summing Up:** Any party present will have a final opportunity to ask questions of either the employee or manager prior to summing up. Both sides will have an opportunity to sum up their case. They may not introduce new information at this stage. The manager sums up first and then the employee/their representative have an opportunity to sum up their case. The employee or representative statement is the last submission.

**Withdrawal** All parties except the Appeal's Panel and the school's HR Provider will withdraw to consider the evidence and decide on an outcome

**Recall all parties to clarify points of uncertainty, if necessary:** The Chair may recall the parties to clear points of uncertainty on information already given. If recall is necessary, all parties are to return, even if only one of them is concerned with the points giving rise to doubt.

**Decision and Outcomes:** Notification of the Appeal Panel's decision will normally be given verbally to all parties concerned and will be communicated to the employee in writing as soon as possible and confirmed in writing within five working days from the date of the Appeal Panel. In the case of a decision not to uphold the employee's appeal, reasons will be provided in writing. This letter should be sent to the employee by special delivery.

After the case is closed, witnesses should be informed that the case is closed.