

GDST Disciplinary Policy and Procedure for Staff

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1. Introduction

1.1 This policy and procedure applies to all employees of the Girls' Day School Trust (GDST) other than Heads (to whom a separate policy and procedure applies).

1.2 It is intended to ensure that all employees are treated fairly and are aware of the steps to be followed in the event that they fail to achieve or maintain the standards of conduct expected by the GDST. This procedure will not be applied in situations of poor performance, redundancy, sickness absence or ill health and it is not applicable during an employee's probationary period other than in cases of gross misconduct. However, the GDST reserves the right to follow whichever procedure it thinks the most appropriate in the circumstances.

1.3 Any disciplinary action (i.e. written warnings or dismissal) other than informal action to resolve minor issues of misconduct will only be taken after a hearing and in accordance with this disciplinary procedure.

1.4 Disabled employees may request reasonable adjustments so that they may attend investigatory meetings and/or disciplinary and appeal hearings.

2. Informal action

2.1 With the exception of cases of serious misconduct, it is expected that employees will have received informal guidance from the line manager to whom they report, before entering into the formal disciplinary procedure.

2.2 An appropriate level of investigation depending on the circumstances will be undertaken before taking any informal action.

2.3 Where improvement in conduct is required, it is recommended to confirm the details in writing. This does not constitute a formal warning.

2.4 Where appropriate, notes of any informal discussions or guidance may be placed on the employee's personnel file and may be referred to in future disciplinary hearings.

2.5 An employee who wishes to appeal against any informal action taken should use the grievance procedure.

3. Investigation

3.1 Before any formal action is commenced, any investigation necessary to establish the facts of the case and determine whether formal disciplinary action is appropriate will be conducted without unreasonable delay.

3.2 The person who investigates the matter will not chair any disciplinary or appeal hearing in the formal procedure.

3.3 Where an investigatory meeting is held solely to establish the facts of a case, that meeting is not part of the formal disciplinary process and the right to be accompanied therefore does not apply.

3.4 The person who investigates will interview the employee(s) concerned who must cooperate fully and promptly with any investigation and will be asked to make a signed written statement. Part of the investigation will also be to check whether the employee has any previous warnings that have not expired. As far as is reasonably practicable, other persons who witnessed the incident or have evidence which is directly relevant to the case will also be interviewed. Where interviews are not held, written signed statements will be obtained as far as reasonably practicable. A written record of any investigatory meeting will be kept.

3.5 Where an employee admits misconduct as part of an investigation, a judgment should be made whether to complete a full investigation or whether enough evidence has been gathered to confirm the admission. Even if an employee admits misconduct, a disciplinary hearing, configured as set out in this procedure, must still be held if a warning or penalty is to be issued.

3.6 Depending on the circumstances, the GDST will not usually wait for the outcome of any prosecution before deciding what action, if any, to take. Where an employee is unable or has been advised not to attend an investigatory meeting or disciplinary hearing or say anything about a pending criminal matter, the GDST may have to take action based on the available evidence and/or the particular circumstances of the matter.

3.7 Once the investigation is concluded, the person investigating will decide whether or not, on the balance of probability, there is evidence to suggest there is a case to answer. If there is no such evidence, the employee(s) concerned will be advised that no further action will be taken and records of the investigation and its outcome will not be kept on the employee's file. If there is such evidence, the person investigating will:

- Either refer the employee to their line manager for informal action
- Or, refer the employee to their line manager for a formal disciplinary hearing.

4. Suspension

4.1 In some circumstances (for example, in cases of gross misconduct, or where relationships have broken down, or there are statutory or practical reasons why an employee should not be allowed to be at work), the line manager or other authorised senior employee may suspend an employee on full pay. The arrangements for suspension will be confirmed to the employee in writing.

4.2 Suspension will be for no longer than is necessary and will be kept under review. If suspension continues for longer than a 30-day period, there is the right to a review by the Head (*for school staff*) or by the Chief Executive (CEO) (*for Trust Office staff*) at that time and thereafter at 30 day intervals. Suspension is not in itself regarded as disciplinary action.

5. Disciplinary action against Trade Union representatives

5.1 Where disciplinary action is being considered against an employee who is a trade union representative, the normal disciplinary procedure will be followed. In these circumstances, the GDST will notify an official employed by the trade union, after obtaining the employee's agreement.

6. Notification of a formal disciplinary hearing

6.1 A disciplinary hearing will be held without unreasonable delay, but allowing the employee reasonable time to prepare his or her case. Employees will usually be given at least five working days' notice in writing of the date and time of any disciplinary hearing and:

- (i) informed of the complaints or allegations made, including being provided with copies of any documents to be relied upon at the hearing;
- (ii) provided with a copy of this disciplinary procedure and;
- (iii) advised of his/her rights to be accompanied and to call any relevant witnesses.

7. The right to be accompanied

7.1 Employees have the right to bring a companion – either a work colleague or qualified trade union representative or official - to any disciplinary or appeal hearing. If the outcome of a disciplinary or appeal hearing could result in the employee being excluded from working in his/her profession (for example, where it is likely to lead to a referral to the Independent Safeguarding Authority or any equivalent body), the employee may be permitted to be accompanied by a legal representative if s/he so requests.

7.2 To exercise the right to be accompanied, the employee must make a reasonable request, detailing the name of any proposed companion. What is reasonable will depend on the circumstances of the case but it will not normally be reasonable for an employee to insist on being accompanied by a companion who: (i) would prejudice the proceedings by his or her presence; (ii) has to travel from a remote geographical location (if there is a suitable alternative companion on site); or (iii) is unavailable at the time the hearing is scheduled and will not be available for more than five working days after that date.

7.3 Employees may, at the GDST's discretion, be allowed to bring a companion who is not a colleague or trade union representative (for example a family member) where this will help to overcome a particular difficulty caused by a disability or where the employee has difficulty understanding English.

7.4 Employees and their companions should make every effort to attend the disciplinary or appeal hearing. If the employee is unable to attend the hearing through circumstances outside her/his control, another date should be arranged, but normally only one postponement will be permitted. If the employee's companion cannot attend on a proposed date, the employee can suggest another date so long as it is reasonable, and is not more than five working days after the date originally proposed. This time limit may be waived by mutual agreement.

7.5 During a formal disciplinary or appeal hearing, the employee's companion will be allowed to:

- Put the employee's case;
- Sum up the employee's case;
- Respond on behalf of the employee to any views expressed during the meeting; and
- Confer with the employee during the meeting.

The employee's companion will not have the right to:

- Answer questions on the employee's behalf;
- Address the meeting if the employee does not wish it; or
- Prevent the employee from explaining the case.

8. Procedure at formal disciplinary hearings

8.1 Disciplinary hearings will usually be held by the line manager, the person specified in the employee's contract of employment or another senior member of staff (including the Head). In the case of a member of the Trust Office SMT, the hearing will be held by the Chief Executive (CEO). The person conducting the disciplinary hearing will be different from the person who investigates the matter / presents the management case. Other appropriate persons (i.e. a member of the HR team and/or another manager or senior administrative staff member) may also be present in an advisory capacity and/or to take notes.

8.2 At the disciplinary hearing, the complaint and/or allegations made against the employee will be explained and any evidence gathered will be produced in the form of the management case and may be presented by the person who has conducted the investigation. Notes will be made at the hearing.

8.3 The employee will be given an opportunity to present his or her case and answer any allegations made before any decisions are reached. This will include asking questions, presenting evidence, calling witnesses and making points about information provided by witnesses if relevant. Where either the GDST or the employee wishes to call witnesses, reasonable notice should be given in advance of the hearing.

8.4 If the employee fails to attend a disciplinary hearing without good reason, the disciplinary hearing may take place and a decision may be made in the employee's absence based on the evidence available.

8.5 The employee will be informed in writing of the decision of any disciplinary hearing, usually within five working days of the hearing. Where appropriate, the outcome may also be explained to the employee in person. Notes of the disciplinary hearing will be provided.

9. Disciplinary penalties

9.1 Where misconduct is confirmed following a formal disciplinary hearing, the usual penalties are set out below. Examples of what the GDST considers to be disciplinary offences include, but are not limited to, those listed in Appendix A of this procedure.

9.2 **First written warning.** A first written warning will usually be appropriate for a first act of misconduct where there are no other active written warnings on file.

9.3 Final written warning. A final written warning will usually be appropriate for:

- (i) further misconduct where there is already an active written warning on file; or
- (ii) misconduct that the GDST considers to be sufficiently serious to warrant a final written warning even though there are no other active warnings on file.

9.4 A (first or final) written warning will set out:

- (i) the nature of the misconduct;
- (ii) the change in behaviour required;
- (iii) the timescale for improvement;
- (iv) the consequences of further misconduct (such as further formal disciplinary action or possible dismissal);
- (v) how long the warning will remain current; and
- (vi) the employee's right of appeal.

9.5 A first written warning will expire after one year and a final written warning after two years, provided that there has been no subsequent warning issued within that period.

9.6 Copies of warnings will be kept on the employee's personnel file, but will be disregarded for disciplinary purposes after the relevant period of the warning, subject to satisfactory conduct.

9.7 Dismissal. Dismissal will usually only be appropriate for:

- (i) further misconduct where there is an active final written warning on file. In such cases, the employee must be given written notice in accordance with the provisions of his/her contract of employment, and informed of the written reasons for the dismissal and of the right of appeal.

or:

- (ii) any gross misconduct regardless of whether or not there are active warnings on file. Gross misconduct will usually result in dismissal without notice or payment in lieu of notice (summary dismissal). Examples of what the GDST considers to be gross misconduct include, but are not limited to, those listed in Appendix B of this procedure.

9.8 Alternatives to dismissal. In some cases the GDST may, at its discretion, consider alternatives to dismissal. These will usually be accompanied by a final written warning. Examples include: demotion; a period of suspension without pay; a reduction in responsibilities; a reduction in pay; or loss of future pay increment. Written confirmation of preference for this sanction should be obtained from the employee in such cases.

9.9 An employee will not be dismissed automatically because a criminal charge against him or her is pending or because (s)he is absent through having been remanded in custody. Instead, the relevant case will be assessed on its facts. A criminal offence committed outside the GDST's employment will also not automatically be treated as reason for dismissal. The main consideration will be whether the offence is one that makes the employee unsuitable for his or her type of work. Employees are required to inform their line manager if they are charged with or summonsed to appear in court in relation to a criminal offence (with the exception of minor road traffic violations).

10. Right of appeal

10.1 An employee has the right to appeal a decision to take disciplinary action or to dismiss. To exercise this right, the employee should submit an appeal in writing, giving full grounds, to the Head (*for school staff*) or to the relevant member of the Trust Office senior management team (SMT) (*for appropriate Trust Office staff*), within ten working days of being informed of the decision. An employee who has been given a warning or dismissed by the Head or a member of Trust Office SMT has the right of appeal to the Chief Executive Officer. An employee who has been given a warning or dismissed by the CEO should submit an appeal to the Chairman of the Council of the GDST. An appeal may be made on the grounds of procedural irregularities or perceived unfairness of the decision.

10.2 If the employee raises any new matters in his or her appeal, the GDST may need to carry out further investigation. If any new information comes to light, the employee will be provided with a summary including, where appropriate, copies of additional relevant documents and witness statements. The employee will have a reasonable opportunity to consider this information before the appeal hearing.

10.3 The employee will be given at least five working days' written notice of the date, time and place of the appeal hearing and advised of the right to be accompanied as set out above in this document. Appeals will be heard without unreasonable delay and as soon as is reasonably practicable.

10.4 The appeal will be heard by the Head or his or her appointed nominee (*for school staff*) or a member of Trust Office SMT (*for relevant Trust Office staff*). In circumstances where the Head or a member of Trust Office SMT took the decision for disciplinary action or to dismiss, the appeal will be heard by the CEO or his/her appropriately senior nominee. Where the CEO took the decision for disciplinary action or to terminate employment the appeal will be heard by a panel of three members of the Council of the GDST. In any case, the appeal will be conducted by someone other than, and more senior to, the person who investigated the matter or held the disciplinary hearing. Other appropriate persons (i.e. a member of the HR team and/or another manager or senior administrative staff member) may also be present in any advisory capacity and/or to take notes.

10.5 The appeal may be a complete re-hearing of the matter or a review of the fairness of the original decision in light of the procedure that was followed and any new information that may have come to light since. In any case, the appeal will be considered impartially.

10.6 The person who investigated and/or the manager who conducted the disciplinary hearing will usually be present at the appeal hearing.

10.7 If it is necessary to carry out further investigations in light of any new points the employee raises at the appeal hearing, the appeal hearing may be adjourned to allow these investigations to take place. The employee will be given a reasonable opportunity to consider any new information obtained before the appeal hearing is reconvened.

10.8 Following the appeal hearing, either: (i) the original decision will be confirmed; (ii) the original decision will be revoked; and/or (iii) a different penalty will be substituted.

10.9 In any case, the employee will be informed of the decision in writing as soon as possible, usually within five working days of the appeal hearing. Where possible, the decision will also be explained to the employee in person.

10.10 The employee will be informed in writing that the decision of the appeal shall be final and there is no further right of appeal.

10.11 If a decision to dismiss is upheld, the date of the dismissal will be the original date of dismissal.

11. General

11.1 Occasionally it may not be reasonably practicable to comply with the time limits specified above in which case they may be varied by agreement between the GDST and the employee.

11.2 This procedure may be amended from time to time by the GDST, in order to reflect changes in statutory requirements or organisational changes within the GDST. Substantive changes will only be made following consultation with appropriate employee representatives.

11.3 The GDST aims to deal with disciplinary matters sensitively and with due respect for the privacy of the individuals involved. All employees must treat as confidential any information communicated to them in connection with a matter that is subject to this disciplinary procedure.

11.4 Neither the GDST nor the employee (including his or her companion) subject to this disciplinary procedure may make any electronic recording of any meetings or hearings conducted under this procedure.

11.5 Where an employee raises a grievance during a disciplinary process, the disciplinary process may be temporarily suspended in order to deal with the grievance if it is thought appropriate to do so. Where the grievance and disciplinary cases are related it may be appropriate to deal with both issues concurrently.

11.6 An independent third party or mediator can sometimes help to resolve disciplinary matters. Mediation is a voluntary process where the mediator helps two or more people in dispute to attempt to reach an agreement. If the GDST considers it appropriate, it may offer mediation as an option.

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APPENDIX A

Examples of what the GDST considers to be **disciplinary offences** include, but are not limited to, the following:

- persistent poor timekeeping
- unauthorised absence
- dishonesty
- deliberate or negligent minor damage to property belonging to the GDST, its employees or pupils
- failure to observe GDST procedures
- abusive or offensive behaviour or language
- unreasonable refusal to follow an instruction issued by a line manager
- unauthorised or excessive personal use of the internet

This list is not exhaustive and each case will be considered on its own merits, according to its particular circumstances.

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APPENDIX B

Examples of what the GDST considers to be **gross misconduct** include but are not limited to the following:

- wilful refusal to obey a valid instruction
- serious insubordination
- serious neglect of duty, causing loss, damage or injury
- a serious breach of rules and regulations affecting the employee's work or the GDST (including but not limited to the child safeguarding regime)
- a serious breach of health and safety rules or requirements
- serious misuse of the GDST's property or name
- improper disclosure of confidential information or personal data
- being unfit for work due to the influence of alcohol or non-prescription drugs
- possession, use or (attempted) supply of illegal drugs
- false claims as to qualifications, experience, previous employment or right to work
- theft, fraud, unauthorised removal of property and other offences of dishonesty
- offering, promising or giving a bribe
- requesting, agreeing to receive, or accepting a bribe
- intentional and serious damage to property belonging to the GDST, its employees or its pupils
- sexual misconduct at work or involving pupils of the GDST
- inappropriate communication(s), electronic or otherwise, with a pupil or parent
- misuse of GDST's information technology systems
- violent, abusive or intimidating conduct
- deliberately accessing internet sites containing pornographic, offensive or obscene material
- unlawful discrimination, bullying or harassment
- failure to disclose any arrest, police caution, reprimand or conviction received during employment
- conviction whilst an employee for a serious criminal offence that renders employment untenable
- other act or omission which could bring the GDST into serious disrepute.

This list is not exhaustive and each case will be considered on its own merits, according to its particular circumstances.