



DISCIPLINARY PROCEDURE

This document sets out the procedures that will be followed when managing staff conduct within the Willow Learning Trust. These procedures will ensure that decisions affecting employees are well thought out, understood and consistently and fairly applied and contribute to good relations between the Trust, their employees and their representatives.

Staff Expectations

Expectations of appropriate conduct are set out for teachers in the Teachers Pay & Conditions Document, their Statement of Particulars of Employment and their job description, and for support staff in their Statement of Particulars of Employment and their job description. It is the employee's responsibility to be aware of these.

In addition, the Board of Trustees expects all staff to:

- a) Be aware of and observe their contract of employment and management directives, policies and procedures applicable to their employment (refer to offer letter; statement of particulars of employment; code of conduct; STPCD; directives from the DfE and government).
- b) Perform their duties to the best of their ability as directed by their line manager.
- c) Comply with procedures regarding the confidentiality of information (refer to code of conduct).
- d) Comply with health and safety procedures and have due regard to their own safety and to the safety and welfare of others (refer to Health & Safety Policy; Educational Visits Policy).
- e) Observe agreed working hours; obtain prior approval for any foreseeable absence from work and inform their line manager or relevant member of Senior Leadership Team as soon as practicable, of the reasons for and the expected duration of any unplanned and unavoidable absence from work (refer to Statement of Particulars of Employment; Additional Leave Policy; Sickness Absence Management Policy).
- f) Send to the relevant member of staff responsible for HR, medical certificates, including self-certification forms, covering periods of sickness absence as required (refer to Sickness Absence Management Policy).
- g) Conduct themselves in a manner consistent with the maintenance of sound working relationships and the good reputation of the School (refer to Code of Conduct).
- h) Abide by the Trust's Code of Conduct for staff.

The Board of Trustees aims to ensure that there is a fair and systematic approach to enforcing the standards of conduct of all members of staff.

A breach of any of the above expectations may constitute a disciplinary offence for which action may be taken by a line manager, Headteacher, Chief Executive Officer (CEO) or the Board of Trustees.

The CEO, and Headteachers of schools within the Trust have delegated authority from the Board of Trustees under the School Staffing (England) Regulations 2009 to dismiss staff.

Cases of gross misconduct will normally be dealt with by the CEO, Headteacher of the relevant school or a Lead Manager delegated by one of the above, who will decide whether or not there is a case for dismissal.

The disciplinary procedures will not be used for consideration of poor performance issues. These will be addressed through the Trust Capability Policy.

Principles

- i No disciplinary action will be taken against an employee until the case has been fully investigated.
- ii At every stage of the procedure the employee will be advised of the nature of the complaint against them and will be given the opportunity to state their case at a disciplinary hearing before any decision is made.
- iii At all stages the employee has the right to be accompanied by a trade union official or colleague from their school during any investigation or disciplinary hearing.
- iv No employee will be dismissed for a first breach of discipline except in the case of gross misconduct when the penalty may be dismissal without notice or payment in lieu of notice.
- v An employee will have the right to appeal against the disciplinary finding and penalty imposed.
- vi The procedure may be implemented at any stage if the employee's alleged misconduct warrants such action.
- vii Should an investigation show that there is no case to answer, the matter will rest with no further disciplinary interview.

Procedure

Minor infringements of school policies and procedures will be dealt with informally but where the matter is more serious the following procedure will be used.

The Disciplinary Process will be implemented by the following individuals holding the roles shown below:

Member of Staff	Lead Manager
Staff:	<p>In the case of alleged misconduct by a member of staff, the Line Manager, Headteacher or Deputy Headteacher in their absence, will be the Lead Manager and will follow the procedure below.</p> <p>An appeal by a member of staff against a penalty awarded by the Headteacher will be heard by a panel according to the penalty awarded:</p> <ul style="list-style-type: none"> • Oral/first written warnings: Panel of Local Governors • Final written warnings/dismissal: Panel of Trustees <p>The panel will consist of individuals with no previous involvement in the procedure.</p>
Deputy Headteacher	<p>In the case of alleged misconduct by the Deputy Headteacher, a member of the school's SLT/a Headteacher from another WLT school or Independent Investigator will be the Lead Manager and follow the procedure below.</p> <p>An appeal by a Deputy Headteacher against a penalty will be heard by a panel according to the penalty awarded:</p> <ul style="list-style-type: none"> • Oral/first written warnings: Panel of Local Governors • Final written warnings/dismissal: Panel of Trustees <p>The panel will consist of individuals with no previous involvement in the procedure.</p>
Headteacher	<p>In the case of alleged misconduct by the Headteacher, the CEO will be the Lead Manager supported by the Chair of Trustees and will follow the procedure below.</p> <p>An appeal by the Headteacher against a penalty awarded by the CEO will be heard by a panel of Trustees who have had no previous involvement in the procedure.</p>
CEO	<p>In the case of alleged misconduct by the CEO, the Chair of Trustees will be the Lead Manager, supported by two Trustees and will follow the procedure below.</p> <p>An appeal by the CEO against a penalty awarded by the Chair of Trustees will be heard by a panel of members of the Board of Trustees who have had no previous involvement in the procedure.</p>

Where formal action against the CEO/Headteacher is contemplated under this procedure, care must be taken to ensure that the role of Trustees and Governors in handling any subsequent appeals is not prejudiced. For this reason, matters regarding the alleged misconduct of the CEO /Headteacher should not be discussed at Trust meetings.

Investigation

The purpose of an investigation is to establish a fair and balanced view of the facts relating to any disciplinary allegations against an employee. The amount of investigation required will depend on the nature of the allegation and will vary from case to case. Investigations are purely factfinding and no decision on disciplinary action will be taken until after the disciplinary hearing. The Lead Manager will instruct a member of the school's SLT or a suitably qualified, independent person to undertake the role of Investigating Officer.

The employee must co-operate fully and promptly with any investigation. This will include informing the school of the names of any relevant witnesses, disclosing any relevant documents and attending investigatory interviews if required. Failure to do so may result in disciplinary action.

If the Investigating Officer recommends that the matter should move forward to a formal disciplinary hearing, a disciplinary hearing will be arranged and conducted by the Lead Manager.

Notification

If it is decided that there is a disciplinary case to answer, the employee will receive a written notification 5 working days before the hearing. The hearing could be sooner if it is agreed by both parties. If it is not possible to meet during working days due to school holidays, an alternative date in the school holidays may be arranged. The notification will include:

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

The Lead Manager will conduct the hearing.

Disciplinary Hearing

Before the hearing, the employee will receive a copy of all evidence that will be relied upon during the procedure. In some circumstances, it may be necessary to redact evidence in order to protect any witnesses or other individual involved in the process from retaliation and/or any other detrimental, intimidating or hostile treatment. This will depend on the circumstances of the case and the nature of the allegations being investigated.

The employee will be informed of the nature of the complaint and such evidence as may exist. At the hearing, the Lead Manager conducting the hearing will explain the case against the employee and go through the evidence that has been gathered. The investigating officer may present the management's case.

The employee will be allowed to set out their case and answer any allegations that have been made. The employee will also be given a reasonable opportunity to ask questions, present evidence and call

relevant witnesses. They will also be given an opportunity to raise points about any information provided by witnesses.

If it is decided that disciplinary action should be taken, the employee will be told of the decision within 24 hours, and this will be confirmed in writing within 48 hours. This warning, which may or may not be accompanied by some disciplinary measure, will give details of the offence, any improvement required and the time scale. It will warn of the potential to move to the next stage penalty if there is no satisfactory improvement and will advise of the right of appeal. A copy of the warning will be sent to the HR Manager or Office Manager to place on the employee's file, warnings will be disregarded for disciplinary purposes following satisfactory conduct and performance as follows:

- | | |
|--------------------------------|------------|
| • Oral warning | Six months |
| • First written warning | One Year |
| • Second/final written warning | Two years |

The right to be accompanied

The employee has the right to be accompanied at the disciplinary hearing by a work colleague or union representative and to support their case with written representation if they have not done so already.

The work colleague or union representative may address the meeting to put, and sum up the employee's case, respond on behalf of the employee to any views expressed at the meeting, ask questions and confer with the employee during the meeting. They will not be able to answer questions on the employee's behalf, address the meeting if the employee does not wish it or prevent the employer from explaining the case.

A work colleague will be allowed reasonable time off from duties without loss of pay to attend the meetings as part of the disciplinary procedure.

If the employee's chosen trade union representative or work colleague is unable to attend on the date set, the employee can suggest an alternative date not more than 5 working days after the original date. If this is not possible the employee will be asked to select another companion.

Potential Outcome

Stage 1 - Oral Warning

Minor breaches of discipline, misconduct, poor time keeping etc will result in an ORAL WARNING given by the Lead Manager. A note of the warning will be made and sent to the HR Manager and placed on the employee's file. It is expected that in most cases this oral warning will quickly resolve most difficulties.

Stage 2 - Written Warning

Where there is a serious case of misconduct or an employee fails to respond to an oral warning, the matter will be referred to the Lead Manager who as far as possible, arrange for an Investigating Officer to investigate the facts of the alleged offence. The employee concerned will be offered the opportunity to explain the alleged actions during the investigation. The time scale for the investigation will not normally exceed fourteen days.

Stage 3 - Final written warning

Further misconduct

In the case of alleged further misconduct following a formal written warning, or where the employee's misconduct was sufficiently serious. A further instance may result in demotion or dismissal.

Dismissal

Where there has been gross misconduct, or a final written warning has already been given.

When consideration is being given to the dismissal of a member of staff, the employee concerned is entitled to at least ten days' written notice of the date of hearing.

Gross misconduct

In the case of alleged gross misconduct by an employee, the Lead Manager, or an Investigating Officer appointed by the Lead Manager, shall make immediate inquiry as to the facts of the case. The Lead Manager may, at his/her discretion, suspend the employee on full pay if this will aid the proper conduct of the investigation. Should the initial inquiry suggest that the alleged offence is unlikely to lead to dismissal, but is sufficiently serious to justify disciplinary action, the employee will be invited to attend a disciplinary hearing conducted by the Lead Manager. Five working days' written notice of the time and place of the hearing will be given and the hearing will follow the procedures set out above to establish the facts and hear the case for the employee.

Some examples of actions that the Trust considers constitute gross misconduct are listed in Appendix A.

Additional Disciplinary Measures

Disciplinary measures which may be additional to written and final warnings include: loss of incremental point, freezing of current pay at the next pay review, or withdrawal of responsibilities and payment for such.

Formal Action Leading to Dismissal

The Headteacher/CEO has the power to dismiss staff. Should it appear to the Lead Manager that the seriousness of the offence is one for which the employee could be dismissed. He/she/they may immediately suspend the employee on full pay pending a full investigation. A suspended employee will be notified in writing of the period of suspension. The Chair of Trustees will be notified of the suspension and possible dismissal.

Suspension during the disciplinary process at this stage is not a disciplinary penalty.

If at the hearing, on completion of the investigation and the full disciplinary procedure, the Lead Manager is satisfied that gross misconduct has occurred, the result will normally be summary dismissal without notice or payment in lieu of notice.

In the case of Chief Executive Officer this decision will be made by the Chair of Trustees.

Suspension

The Headteacher/CEO has the power to suspend an employee at the school. Suspension of an employee may be used as a facility to enable the investigation of the alleged misconduct. Suspension itself is not to be regarded as a disciplinary measure.

Suspension, on full pay, may be considered under the following circumstances:

- When the initial investigation identifies possible gross misconduct.
- Where serious allegations have been made and further time is required to undertake a more detailed investigation into the matter.
- In special circumstances where there are grounds for doubt as to the suitability of the employee remaining at work.
- Where the Lead Manager considers that dismissal is warranted.

A decision to suspend an employee may have to be taken quickly but will be confirmed, in writing, to the employee within three working days. The letter will state the reason(s) for the suspension; will advise the employee to consult his/her/their trade union representative; and will state that the matter will be dealt with as quickly as possible.

Suspensions may be ended by a decision of the Headteacher/CEO depending on which party initiated the suspension. During a suspension, an employee will receive their full rate of normal pay, including any allowances.

If, after a period of suspension and following an investigation into the alleged misconduct, it is found that no misconduct has occurred, the school will provide support and/or counselling to the employee in order to assist them on their return to work.

In the case of alleged misconduct by the Headteacher, the decision to suspend will be taken by the CEO. The CEO will appoint a suitably qualified person to undertake an investigation and will notify the Chair of Trustees of the suspension.

In the case of alleged misconduct by the CEO, the decision to suspend will be taken by the Chair of Trustees. The Chair of Trustees may appoint a suitably qualified person to undertake an investigation.

Right of appeal

An employee may appeal against any disciplinary finding or penalty. Appeals will be heard by a Panel of Governors/Trustees as detailed in Appendix B

Any employee who wishes to appeal against a decision must inform the Governance Professional, in writing, within ten working days from the date of receipt of the notification of the penalty, setting out, at the same time, the grounds for appeal. Appeals will be referred to the appropriate Governors/Trustees (Appendix B) who will convene an Appeal Committee, **with exception** of appeals by the Chief Executive Officer and those who report directly to the CEO, whose appeal will be referred to a panel of Trustees.

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

Appeals will be organised and attended by the WLT HR Manager; 5 working days' notice will be given to the appellant and Headteacher of the appeal hearing.

The hearing will follow the procedure below:

- All parties will provide all relevant papers at least two days in advance of the appeal hearing.
- The Chairperson will introduce everyone, explaining why they are there if necessary.
- They will explain the purpose of the meeting, how it will be conducted and what powers the person hearing the appeal has.
- Ask the appellant to explain the reason for appeal and why they view the outcome as unfair.
- Ask the Headteacher or CEO to explain the procedure that has been followed and what are reasons for the decision.
- Look at new evidence, if there is any.

The Chairperson will summarise the points and end the hearing.

The panel will then need to consider if:

- the original outcome was fair and procedurally correct.
- they need to change the original outcome, if it's clear it was not right.
- further investigation is needed to find out more before making a final decision.

Evidence can be given in person or in writing by both parties. On the rare occasion it is not possible to complete the appeal process on working days due to school holidays, it may be necessary to organise a meeting during the school holidays.

The decision of the Appeal Panel will be confirmed in writing and will be final.

The employee will be informed in writing of the results of the appeal hearing within 5 working days. At the appeal, any disciplinary penalty previously imposed will be reviewed but cannot be increased.

Rights at Hearings

A person whose dismissal is being considered, is entitled to make representations in writing; is entitled to appear at the meeting for the purposes of making oral representations; and is entitled to be accompanied by full time trade union official or work colleague.

Except in relation to his/her/they own dismissal, the Chief Executive Officer, or Headteacher is entitled to attend an appeal Panel for the purposes of giving evidence but he/she/they shall not be a member of the Trust Discipline Panel and he/she/they is not allowed to take part in the Panel's decision making.

If it is deemed appropriate, the Chair of Trustees will seek legal advice before instigating the disciplinary procedure against the CEO

Long term and persistent illness/absence

Should the employee suffer from long term or persistent illness/absence during the disciplinary process the Trust will refer to the Sickness Absence Policy. However, it may be necessary for formal procedures to continue during a period of absence.

Support

If an employee has difficulty at any stage of the procedure because of a disability, they should discuss the situation with their line manager or HR Manager as soon as possible. Should reasonable adjustments be required these will be made to accommodate the employee.

It is acknowledged that this can be a difficult time for an employee. Should support be needed this can be sourced through an individual's trade union, the Trust's Employee Assistance Programme or the free confidential Employee helpline available at www.educationsupport.org.uk, telephone number 08000 562561.

Special cases

If the employee involved in a disciplinary procedure is also the trade union representative, we will notify the union and discuss the matter with an official employed by the union before action is taken, after obtaining the employee's agreement. The procedure will continue as normal.

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

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

Record keeping

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

Records of all materials relating to the disciplinary process will be kept securely, only for as long as necessary and in line with data protection law, our privacy notices and Data Retention Policy.

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

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

Equality

This policy will be implemented in accordance with the Equality Act 2010.

Confidentiality

All matters relating to the disciplinary will be kept as confidential as possible but to ensure that a fair investigation it may be necessary to disclose existence and content of the disciplinary. All parties will always be reminded of the need for confidentiality.

The School may commence this procedure at any stage depending on the circumstances and the seriousness of the allegations under investigation. From time to time it may also be necessary to vary the time scales set out in the procedure. If this becomes necessary the employee will be notified in advance and provided with the reason why the time scales need to be varied.

This procedure does not form part of any contract of employment or other contract to provide services, and it may be amended at any time.

Review Date: December 2022

Next review date: December 2024

APPENDIX A

EXAMPLES OF GROSS MISCONDUCT

The following are examples of actions that the Board of Trustees consider could constitute gross misconduct, any of which, if proved, could lead to dismissal:

- 1 Unauthorised use, or possession, of property of the school or Willow Learning Trust
- 2 Unauthorised use, or possession, of the property of a third party, whilst acting on, or purporting to act on, behalf of the school, the Local Governing Body or the Willow Learning Trust.
- 3 An inappropriate relationship with a pupil at the school.
- 4 Theft of the property of any fellow employee, or pupil, whilst on the school or Willow Learning Trust premises or during hours of duty, including, for this purpose, school trips for educational, sporting and recreational purposes.
- 5 In the case of staff responsible for a class of pupils, leaving the class without teacher supervision without a satisfactory reason.
- 6 Failure to safeguard the welfare and safety of pupils including failure to notify the relevant Safeguarding Lead of any safeguarding/child protection concerns.
- 7 Assault on any person whilst acting, or purporting to act, on behalf of the school or Willow Learning Trust, or assault on any fellow employee or pupil.
- 8 A criminal offence, for which an employee is convicted in a court of law, which by its nature detracts from the employee's ability to carry out his or her duties or calls into question the employee's fitness to continue in employment or where the penalty imposed by a court of law for any offence makes it impossible or impracticable to continue employment.
- 9 Refusal to comply with a reasonable management request/instruction or refusal to comply with Trust or school policies and procedures.
- 10 Misbehaviour at work constituting gross misconduct, such as verbal abuse, indecency, bullying, harassment including sexual and racial harassment, intimidation, discrimination or victimisation or insulting behaviour.
- 11 Dishonesty or fraud in such matters as completing time sheets, expense forms or other financial documents or tampering with completed examination scripts and course work.
- 12 Unauthorised absence without due cause or dishonesty in informing the school about an absence or persistent bad time keeping.

- 13 Serious negligence in discharging duties including giving advice or instructions without due care.
- 14 Unauthorised use or deliberate misuse (whether or not resulting in damage or injury) of vehicles, computers and related electronic equipment or other equipment belonging to the school or Willow Learning Trust.
- 15 The downloading of material from the internet which is deemed to be offensive.
- 16 Disclosure of computer password to another user without the authority of the senior network manager.
- 17 Unauthorised access to, or disclosure of, confidential information about the school, Willow Learning Trust, other employees or pupils.
- 18 Malpractice in the administration, management or assessment of exams.
- 19 Acceptance, without proper authorisation, of gifts or benefits from those with whom the school, the Local Governing Body or the Willow Learning Trust does business, except those of a token nature and insignificant in value (up to a value of £25). Gifts and benefits over a value of £25 must be recorded in the Gifts & Hospitality Book held by the Finance Manager or School Business Manager.
- 20 Undertaking work which the Willow Learning Trust considers detrimental to its interests or that of the schools within the Trust or which calls the reputation of the Trust or a school into disrepute.
- 21 Holding or failing to declare to the Headteacher or Clerk to the Local Governing Body or the Clerk to the Trustees any pecuniary, personal, or family interest either in any matters of official business, including any transaction, contract or appointment, which might affect, or might reasonably be interpreted as affecting, an individual's impartiality of judgement in carrying out his/her responsibilities to the school or the Willow Learning Trust.
- 22 Consistent repetitions of a disciplinary offence over a period of time despite previous warnings through the disciplinary procedure.

APPENDIX B

Disciplinary Personnel

	Investigator	Hearing	Appeal Panel
Member of Staff	Line Manager, member of the School's SLT or Independent Investigator	Headteacher	<p>An appeal by a member of staff against a penalty awarded by the Headteacher will be heard by a panel according to the penalty:</p> <ul style="list-style-type: none"> • Oral/first written warnings: a panel of local Governors • For final written warnings/dismissal: a panel of Trustees <p>The panel will consist of individuals with no previous involvement in the procedure.</p>
Deputy Headteacher	Member of the school's SLT/a Headteacher from a different WLT school or Independent Investigator	Headteacher	<p>An appeal by the Deputy Headteacher will be heard by a panel according to the penalty awarded:</p> <ul style="list-style-type: none"> • Oral/first written warnings: a panel of local governors • For final written warnings/dismissal: a panel of Trustees <p>The panel will consist of individuals with no previous involvement in the procedure.</p>
Headteacher	Chief Executive Officer or External Independent Investigator	CEO and, where possible, Chair of relevant Local Governing Body	Chair of Trustees plus 2 Trustees who have had no prior knowledge of previous proceedings.
CEO	External Independent Investigator	Chair of Trustees plus 2 other Trustees.	Three Trustees who have no prior knowledge of previous proceeding. And an Independent Consultant, if appropriate.