

Abberley Hall

Grievance, Capability and Disciplinary Policy

This is an all School Policy including Prep, Pre-Prep, EYFS, After School Care and Holiday Club

Reviewed by RPS Feb 16

Next Review Feb 17

CAPABILITY PROCEDURE

This procedure does not form part of your contract of employment, and may be amended from time to time.

1. Introduction

a. **Status:** The School will follow a fair and effective procedure where your capability is in question. The School is not obliged to follow the procedure in every instance. There may be occasions when the School considers it appropriate to change or omit parts of the procedure. If the School amends the procedure, you will be given advance notice of the amendments.

b. **Conduct:** This procedure does not apply to misconduct, or to incompetence, incapability or other poor performance that is attributable to misconduct.

2. The Procedure

a. **Investigation:** As a first step any capability issue will be investigated. If, after investigating the matter, it appears that there are no reasonable grounds for concern, you will be informed and, if relevant, allowed to return to work as normal.

b. **Next stage:** If it is considered necessary to take formal action in respect of issues relating to your performance, a Capability Meeting will be held. You will be given at least 5 days' advance notice of the Capability Meeting and will be told, in writing, the purpose of it and the nature of the concern.

c. **Right to be accompanied:** You may be accompanied to the Capability Meeting by a colleague or trade union official of your choice who may advise you and make a statement to the Capability Meeting.

d. **The Capability Meeting:** The Head will conduct the Capability Meeting and your Head of Department may be asked to attend. You will be able to ask questions and put forward your point of view. The meeting will address your performance and discuss any measures needed to correct and improve this. Whenever possible the School will offer reasonable assistance and time to help you improve. The following will be considered and discussed with you at the meeting:

- (1) Concerns relating to your performance;
- (2) Your response
- (3) Respects in which your performance has fallen short of the required standards
- (4) Suggestions as to any appropriate support/ training/ supervision which could improve your performance
- (5) The time in which performance must improve
- (6) The likely consequence of further instances of poor performance or a failure to improve within a specified time.

e. **Action Outcomes:** Following the Capability Meeting, the next steps may be taken:

(1) **Oral warning** - in the case of minor instances of poor performance you will be given a formal oral warning, which will be recorded, and which will set out details of the poor performance and the time period for improvement.

(2) **Written warning** - if you fail to improve within the time referred to in the oral warning or you are found to have fallen short of the required standards in any other respect, you will be given a written warning, which will set out the details of poor performance and the time period for improvement.

(3) **Final written warning** - if you fail to improve within the time referred to in the written warning or you are found to have fallen short of the required standard in any other respect, you will be given a final written warning which will set out the details of poor performance and the time period for improvement.

(4) **Dismissal** - if you fail to improve within the time specified in the final written warning or you have fallen short of the required standards in any other respect, you may be dismissed immediately with notice.

b. **Currency of Warnings.** All written warnings issued following a Capability Meeting will remain in effect for a period of **12 months** from the date of issue unless otherwise advised to you. Copies of such warnings will be placed on your personnel file. Oral warnings will remain in effect for **6 months**. In some cases verging on gross negligence a final written warning may state that it will remain active indefinitely.

c. **Summary Dismissal Action.** Where you have committed a single error due to **gross** negligence and the actual or potential consequences of that error are, or could be, extremely serious, the School may decide that warnings may not be appropriate and in such circumstances, summary dismissal action may be taken.

d. **Appeal**

(1) **Right of appeal:** You have the right of appeal to an Appeal Panel against any sanction or warning imposed on you following the Capability Meeting. The Appeal Panel shall not include anyone involved in the Capability Meeting and may comprise one or more persons.

(2) **Appeal procedure:** You should notify the Head in writing within 5 working days of being notified of the warning or outcome, giving full details of why you wish to appeal. The Appeal Panel will arrange a review meeting or a fresh capability meeting which will take place as soon as reasonably practicable. There shall be no right to appeal from the decision of the Appeal Panel. The Appeal Panel will be entitled to reach a different conclusion and impose a different outcome than that imposed after the Capability Meeting.

(3) **Right to be accompanied:** You may be accompanied to the Appeal Meeting by a colleague or trade union official of your choice who may advise you and make a statement to the Appeal Meeting.

(4) **Communication of appeal decision:** When the Appeal Panel has made a decision; it will be communicated to you in writing as soon as practicable.

(5) **Employment status:** If an appeal is made against a dismissal decision, that dismissal decision will have immediate effect so that the period of notice began at the date given in the dismissal decision. If having been dismissed you are reinstated on appeal, your continuity of employment will be unaffected.

DISCIPLINARY PROCEDURE

2. Introduction

a. **Status:** The School is not obliged to follow this procedure in every instance. However, the School will follow a fair and effective procedure in the event that disciplinary action is necessary. There may be occasions when the School considers it appropriate to change or omit parts of the procedure. If the School amends the procedure, you will be given advance notice of the amendments.

b. **Capability:** This procedure does not apply to incompetence, incapability or other poor performance unless this is attributable to misconduct.

c. The investigation stage

(1) **Investigation:** As a first step any disciplinary issue will be investigated. If, after investigating the matter, it appears that there are no reasonable grounds for concern, you will be informed and, if relevant, allowed to return to work as normal.

(2) **Suspension:** If the matter to be investigated is thought at any stage of the investigation to involve gross misconduct or it is in the interests of the School, a

pupil, an employee or you, the Head may immediately suspend you from work on full pay and benefits whilst the investigation proceeds. Suspension is not considered as a disciplinary action at this point and will be reviewed to ensure that it is not unnecessarily protracted.

(3) **Separation of roles:** The School may appoint a senior member of staff to carry out the investigation ("*the Investigating Officer*").

(4) **Preliminary interview:** As part of the investigation, the Investigating Officer may (if considered appropriate) undertake a preliminary interview with you. First of all you will be advised of the nature of the complaint. Then you will be given the opportunity to state your case and submit any relevant documents. You will be given access to any relevant information and papers held by the School.

d. **The disciplinary stage**

(1) **Completion of investigation:** If on completion of the investigation the Investigating Officer considers that it is necessary to take formal action in respect of the complaint, a disciplinary hearing will be arranged. You will be invited to attend and will be given at least 5 days' advance notice of the hearing. You will be told, in writing, the purpose of the hearing and the nature of the complaint.

(2) **Right to be accompanied:** You can make a reasonable request to be accompanied by a colleague, or a trade union official of your choice may accompany you to the Disciplinary Hearing.

(3) **Witness statements:** If statements have been obtained from witnesses during the course of the investigation you will be given a copy of them. In certain circumstances it may be necessary to preserve the anonymity of a witness.

(4) **Disciplinary Panel:** The School may appoint a Disciplinary Panel to hear the matter. In appropriate circumstances, the Head may hear the matter on his own. The Investigating Officer shall not be a member of the Disciplinary Panel.

(5) **The Disciplinary Hearing:** The Disciplinary Panel will conduct the hearing. The Investigating Officer will be asked to report on his investigation. Both, you and the Disciplinary Panel will be entitled to question the Investigating Officer and any witnesses. You will be entitled to give your explanation and answer the allegations that have been made and may be questioned by the Investigating Officer as well as by the Disciplinary Panel. You and the person accompanying you and the Investigating Officer will be given the opportunity to address the Disciplinary Panel. The person accompanying you does not have the right to respond directly to questions that are addressed to you but may give you advice on how you should respond.

(6) **Adjournment:** The Disciplinary Panel may adjourn the proceedings at any stage if this appears necessary or desirable. If adjourning for the purpose of enabling further information to be obtained, the Disciplinary Panel will specify the nature of that information. You may ask for an adjournment for the purpose of consulting the person accompanying you. Any adjournment will normally be for a specified period of time.

(7) **Decision making:** On completion of the hearing, the Disciplinary Panel will retire to consider the decision. Neither you, the person accompanying you, nor the Investigating Officer will be allowed to take part in nor be present during the Disciplinary Panel's deliberations.

(8) **Communication of decision:** When the Disciplinary Panel has made a decision, it will be communicated to you in writing as soon as practicable. If the complaint is upheld, you will be informed of the action to be taken, explanation of any penalty imposed and of the right to appeal against the decision. If the decision has been taken to dismiss you, you will be informed as soon as reasonably practicable of the reasons for the dismissal, the date on which the contract between the parties will terminate, the appropriate period of notice (or pay in lieu of notice), as well as information regarding your right to appeal.

e. **Disciplinary action**

(1) **Sanctions:** Depending upon the nature of any misconduct found to have been committed, any explanation given by you and any mitigating circumstances, the Disciplinary Panel may impose any of the following sanctions:

- (a) A formal oral warning.
- (b) A first written warning.
- (c) A final written warning.
- (d) Suspension without pay for a defined period.
- (e) Demotion.
- (f) Dismissal with or without notice.

(2) **Currency of warnings:** An **oral warning** will be recorded on your file for a period of 6 months from the date the warning was given. A written warning will be recorded on your file for a period of 12 months from the date the warning was given. In some cases verging on gross misconduct a final written warning may state that it will remain active indefinitely.

(3) **Gross misconduct:** Where there has been gross misconduct the Disciplinary Panel may dismiss without notice or without pay in lieu of notice. You will be notified

in writing of the reasons for your dismissal and informed of your right to appeal. Examples of what the School considers to be gross misconduct are set out below:

- (a) Indecent, violent or offensive behaviour whether committed at or outside work
- (b) Misuse of or deliberate damage to School property
- (c) Fraud, theft or dishonesty
- (d) Being on duty whilst unfit due to the influence of drugs and/or alcohol
- (e) Bullying
- (f) Conduct (whether committed at or outside work) which is likely to damage the School's reputation
- (g) Unlawful sexual, racial, age, religious or disability harassment or discrimination
- (h) Disregarding health and safety rules/requirements and endangering yourself or others
- (i) Wilful neglect or refusal of duty
- (j) Misuse of confidential information
- (k) Offences related to drug abuse, sexual misconduct and the abuse of children.

3. This list is for illustrative purposes only and is not exhaustive.

a. **Appeal**

(1) **Right of appeal:** You have the right of appeal to an Appeal Panel against any penalty imposed by a Disciplinary Panel. The Appeal Panel shall consist of Governors appointed by the Chairman and shall not include any member of the Disciplinary Panel nor the Investigatory Officer and may comprise one or more persons.

(2) **Appeal procedure:** Such a right of appeal must be exercised in writing, within 5 working days of your being notified of the sanction, giving full details of why you wish to appeal. The notice should be sent to the Head. The Appeal Panel will arrange a review hearing or a rehearing to take place as soon as reasonably practicable. The procedure at the Appeal Hearing shall be the same as that for the Disciplinary hearing, save that there will be no right of appeal from the decision of the Appeal Panel. Where new evidence arises during the appeal you, or your representative, will be given the opportunity to comment before any action is taken.

The Appeal Panel will be entitled to reach a different conclusion and impose a different sanction than that imposed by the Disciplinary Panel.

(3) **Right to be accompanied:** You can make a reasonable request to be accompanied by a colleague, or a trade union official of your choice may accompany you to the Appeal Hearing.

(4) **Communication of Appeal Decision:** When the Appeal Panel has made a decision, it will be communicated to you in writing as soon as practicable.

(5) **Employment status:** If an appeal is made against a dismissal decision, that dismissal decision will have immediate effect so that, if the dismissal is by notice, the period of notice will have begun at the date given in the dismissal decision. If summary dismissal without notice has been imposed, you will not be entitled to be paid for the period between that decision and the decision of your appeal unless you have been reinstated on appeal. If having been dismissed you are reinstated on appeal, your continuity of employment will be unaffected.

GRIEVANCE PROCEDURE

4. Introduction

a. **Introduction:** If you have any grievance relating to any aspect of your employment you should endeavour to have it settled in accordance with this procedure. This procedure may not be appropriate for disciplinary or capability matters.

b. **Status:** Although this procedure is discretionary, the School will follow a fair and effective procedure in the event that you wish to raise a grievance. The School is not obliged to follow this procedure in every instance. There may be occasions when the School considers it appropriate to change or omit parts of the procedure. If the School amends the procedure, you will be given advance notice of the amendments.

5. The Procedure

a. **Raising your grievance:** School problems should be resolved fairly, promptly and as near as possible to the point of origin i.e. between the persons involved. Therefore, in the first instance you should raise the grievance orally and informally with any other person involved. If this is not appropriate or does not resolve your grievance you should raise it informally in discussion with your Head of Department. If your grievance cannot be resolved informally, you should then raise it formally with your Head of Department. You may put your grievance in writing. If your grievance is against the Head of Department and you feel that you cannot raise it with him, then you should raise your grievance with the Deputy Head or a member of the Senior Management Committee who is mutually acceptable to both parties.

b. **Investigating your grievance:** Your Head of Department should investigate your grievance by speaking to all the people involved. He should consider possible solutions and implications. A meeting will normally be convened with you and any other people involved, especially if the grievance is contested, to discuss the grievance with a view to obtaining a resolution. The resolution or outcome of the investigation will be notified to you in writing as soon as reasonably practicable.

c. **Right to be accompanied:** You can make a reasonable request to be accompanied to any meeting held to discuss your grievance by a colleague or trade union official of your choice who may advise you and make a statement to the meeting.

6. Appeal

a. **Initiating an appeal:** If you are dissatisfied with the outcome, you may appeal by notifying your Head of Department in writing within 5 working days giving full details of why you wish to appeal.

b. **Appeal procedure:** The Head shall investigate your appeal. He may call for copies of all relevant documents and convene a hearing, if appropriate, which you may attend. You will have the right to give your point of view and you have the right to be accompanied to the appeal hearing as above.

c. **The appeal decision:** The Head's decision shall be final and shall be confirmed to you in writing as soon as practicable after it has been reached.

d. **Head's Involvement:** If the grievance is against the Head or if it was initially investigated by the Head, then it will be necessary for the Appeal to be dealt with by governors, in which case the procedures laid down in the Capability and Disciplinary Procedures should be applied.

e. All grievance proceedings and records will be kept confidential by the School.

The Board of Governors will be monitoring compliance with this policy.

Signed: **Date: 17 June 2016**
Governor
Andrew Manning-Cox

Signed: **Date: 17 June 2016**
Headmaster
Will Lockett

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