



Empowering our unique schools to Excel

St John's Church of England Primary School Staff Conduct and Discipline Policy and Procedure

Policy Level:	2	ODBST Statutory and Mandatory Policy All schools must adopt these policies with local amendment strongly discouraged. These policies are centrally amended and binding on LGBs from the date of Board approval. They must be displayed on the School's website. Approval for all proposed local amendments must be sought from the ODBST Governance Lead prior to Local Governing Body resolution.
Other related ODBST policies and procedures:	Anti-harassment and Anti-Bullying at Work policy & procedure Capability Policy Data Protection Policy Equality and Diversity Policy Grievance Policy Health & Attendance policy Code of Conduct for Staff Low Level Concerns Policy	
Committee responsible:	FRAPP	
Approved by:	FRAPP	
Date Approved:	30 th November 2022	
Date for Next Review:	November 2025	

In reviewing this policy the Trust Board has had regards to the Equality act 2010 and carried out an equality impact assessment. It is satisfied that no group with a protected characteristic will be unfairly disadvantaged



1. INTRODUCTION

This document sets out the Trust's policy on conduct and discipline and the procedure to be applied when an employee's conduct falls below normal or acceptable standards. Its aim is to help and encourage all employees to achieve and maintain the required standards of conduct and to ensure that the ODBST is objective, firm, reasonable and consistent in its approach to dealing with employee discipline issues.

2. SCOPE

The policy and procedure set out in this document apply to all ODBST employees, including shared services staff, teaching staff and support staff in schools, but does not apply to:

- (With the exception of incidents relating to safeguarding as set out in the following paragraph 2.2) staff engaged on temporary contracts of less than 6 months in duration
- (With the exception of incidents relating to safeguarding as set out in the following paragraph 2.2) new staff who are still within their probationary period of employment.
- Where the employee has been barred from teaching by the Secretary of State, where the contract would be automatically terminated.
- Where a determination that the employee should no longer work at the school is imposed by reason of any other statutory provision (for example lack of physical or mental fitness)

Where conduct problems concern an allegation against a member of staff relating to children or young people, or adults in a vulnerable situation, the "Allegations against staff and adults" section of the ODBST Safeguarding and Child Protection policy and/or the Low Level Concerns policy must take precedence over this policy and procedure.

Where conduct problems are identified as having arisen due to lack of capability, they will be addressed through the Trust's/School's capability procedure.

3. ROLES AND RESPONSIBILITIES

The Headteacher is responsible for the overall management of standards of conduct within the School. The Chief Executive Officer is responsible for overall management of standards of conduct within the Trust. The authority to take action under this procedure rests with the Trustees, Officers of the ODBST's Senior Leadership Team, the Headteacher or the Chair of Governors. For School's the Headteacher will nominate those senior employees in the School who have the authority to give formal warnings. On occasion another senior leader within the Trust may be appointed to undertake the responsibilities of the Headteacher. In exceptional circumstances, the Chair of Governors or his/her representative may lead the process.

4. PRINCIPLES

The policy and procedure contained within this document is founded on the following principles:

- To maintain high standards of conduct across the ODBST and to encourage improvement in conduct where shortcomings are identified. This includes 'Personal and Professional Conduct'

for Teachers as outlined in Part Two of the Teachers' Standards and the ODBST Staff Code of Conduct.

- Where appropriate to address conduct issues without recourse to the formal stages of the disciplinary procedure.
- To ensure that employees facing action under the formal stages of the disciplinary procedure are treated fairly and consistently.
- Not to discriminate against any individual in the application of this policy and procedure on the protected characteristics of age, disability, gender reassignment, marriage and civil partnership, maternity and pregnancy, race, religion or belief, sex, sexual orientation, or other grounds protected in law (e.g. part-time worker status, trade union membership or HIV positive status).

5. INFORMAL ACTION

In the course of normal day-to-day management, it is anticipated that the employee will be advised of any conduct issues by their manager and counselled about how to correct such issues. This process will generally be regarded as the first step in addressing conduct issues and represents informal action outside of the formal Conduct and Discipline Policy & Procedure. Informal action is appropriate for low-level misconduct, which is capable of early correction. Where an issue directly concerns an employee's immediate line manager it may be helpful to involve an independent manager, as appropriate, towards informal resolution. Where informal action fails to bring about a remedy, further misconduct is likely to be considered within the formal stages of the Conduct & Discipline Policy & Procedure and the employee shall be warned of this.

6. FORMAL STAGES OF THE DISCIPLINARY PROCEDURE AND DISCIPLINARY SANCTIONS

The formal stages of the Disciplinary procedure are based upon a graduated system of warnings with more serious sanctions being applied where poor conduct is repeated or the employee fails to heed previous warnings. The stages are listed below. The seriousness of the offence may result in stages in the process being missed out. An employee will not normally be dismissed for a first breach of discipline. However, in cases of serious misconduct an employee may be dismissed without having had any prior formal warnings as to their behaviour / conduct:

- **Stage 1 – First Written Warning**

A first written warning may be issued where the employee does not have a live disciplinary sanction and a minor offence of misconduct has occurred. This will usually remain live for 12 months. After this period, the warning will, subject to satisfactory conduct, be regarded as spent for future disciplinary purposes.

- **Stage 2 – Final Written Warning**

A final written warning may be issued where:

- The employee has a live written warning for a similar offence and there is further misconduct, or
- The misconduct is so serious that it cannot be tolerated a second time, or
- Dismissal would have been the proper sanction but for the mitigation that was taken into account.

A final written warning will usually remain live on file for 24 months. After this period, the warning will, subject to satisfactory conduct, be regarded as spent for future disciplinary purposes.

- **Stage 3 – Dismissal**

The sanction of dismissal will be applied where:

- The employee has a live final written warning for a smaller offence and there is further misconduct. In this case, dismissal would usually be with pay in lieu of notice.
- The employee commits serious misconduct and is dismissed without notice or pay in lieu of notice.

Where the same type of misconduct becomes a pattern, which is repeated every time a warning ceases to be live, previous warnings may be taken into account and may result in serious misconduct. The significance of the recurring issues need to be taken into account when deciding if it should be treated as serious misconduct and advice from HR must be sought.

The Trust reserves the right to take a range of actions in addition to formal warnings or as an alternative to more serious disciplinary action depending on the circumstances of the case. Such actions may include withholding annual pay increments or other pay supplements, demotion for a specified or unspecified period or transfer to an alternative job or location with or without a reduction in the contractual rate of pay.

7. SUSPENSION

An employee may be suspended from duty on full pay at any time in any of the circumstances described below:

- Where there are grounds to suspect that the employee is guilty of serious misconduct or
- To prevent any further acts of misconduct or
- Where there is a real risk that the employee's continued presence at their place of work may interfere with a disciplinary investigation being undertaken or
- Where the continued presence of the employee at their place of work might be detrimental to their health or
- To safeguard/protect the employee from other allegations or
- Any combination of the above

- Where suspension relates to a safeguarding allegation, the guidance in the ODBST Safeguarding and Child Protection policy must take precedence over this policy and procedure

Suspension will be on full pay, is precautionary and is not disciplinary action or a punishment. The employee will be informed verbally of the reasons for suspension at the time this occurs. The suspension will be confirmed in writing within 5 working days.

Alternatives to suspension may be agreed pending the results of a preliminary investigation and a decision on whether to suspend. These alternatives will normally only be used in the short term, not more than one week, and include:

- Permitting the employee to work from home
- Work at an alternative location or in an alternative role
- Work in a more closely supervised environment
- Management leave

Suspension does not constitute part of the formal disciplinary procedure. However, failure to observe the terms of suspension, detailed below, will constitute a disciplinary offence.

During the period of suspension, unless otherwise informed the employee is:

- Prohibited from attending their place of work other than for the purposes of attending investigatory interviews or attending a disciplinary hearing.
- Prohibited from contacting any pupil, parent, employee or officer of ODBST other than their representative or contact. This prohibition does not prevent the employee from having social contact with their colleagues outside of the work place, provided the disciplinary issues that are the cause of the suspension are not discussed.
- Prohibited from undertaking alternative employment with another employer.
- Obligated to co-operate with the disciplinary investigation including any request to furnish or identify documents and attend meetings.
- Obligated to ensure that they are, and remain, contactable during normal working hours.

Suspension will be for the shortest time possible. However, suspension will usually continue until either it is decided not to proceed with a disciplinary hearing against the employee or the disciplinary hearing has taken place and the employee has been informed of the outcome of it. In cases where it is anticipated that the employee will be suspended for a period exceeding three calendar months there shall be a review at monthly intervals to determine whether it is necessary for the employee to remain suspended.

Only the Headteacher, Governing Body, Trustee or a Senior Officer of the Trust has the authority to suspend and lift a suspension. Advice should be sought from the ODBST HR team. A suspension will be deemed to be to have been lifted if a disciplinary hearing or an appeal hearing has taken place and the employee has not been dismissed.

8. INVESTIGATIONS

In most cases an investigation will be required to establish whether or not there is a case for the employee to answer at a formal disciplinary hearing. Where an investigation takes place, the Investigating Officer will aim to conduct it promptly and without unnecessary delay. However, the nature, scale and duration of any disciplinary investigation will depend on the seriousness and complexity of the misconduct being investigated.

Investigations relating to safeguarding allegations must be made with reference to the ODBST Safeguarding and Child Protection policy.

At the Line Manager's discretion, it may be decided to continue with the Conduct and Discipline process regardless of a resignation. Each case will be considered on a case by case basis.

The person with responsibility for the investigation is the Investigating Officer. The Investigating Officer may also undertake the role of Presenting Officer during a subsequent hearing. The function of the Investigating Officer is to:

- Ascertain the facts and circumstances surrounding the allegation or allegations of misconduct
- Ascertain the employee's initial response to the allegation
- Compile a report containing a written summary of their findings and make a recommendation as to whether there is a case to answer at a formal disciplinary hearing

Employees who witness an incident or who have information relevant to an investigation may be required to attend an investigatory interview and/or disciplinary hearing.

9. NOTIFICATION TO ATTEND A DISCIPLINARY HEARING

Where a formal disciplinary hearing is to take place, the employee will receive written notification from the Hearing Officer at least 7 working days in advance, of the requirement to attend a disciplinary hearing. The letter will advise the employee of the following:

- The location, date and time of the proposed disciplinary hearing
- Details of the disciplinary allegations which the employee is to face
- Whether dismissal is being contemplated as a sanction
- Their right to be accompanied
- The identity of the Hearing Officer and, where appropriate, the supporting panel of governors
- The requirement for the employee to confirm in writing that they are attending, at least 5 working days before the disciplinary hearing, providing all relevant documentation and confirming the names of their employee representative and any witnesses that are likely to be called.

The employee is under a duty to take all reasonable steps to attend the hearing. The disciplinary hearing may proceed in the employee's absence when all of the following conditions are met:

- The employee has either failed to attend two disciplinary hearings (or failed to respond to two previous notifications to attend a disciplinary hearing).
- The employee is on notice that the disciplinary hearing may proceed in their absence.

- The employee has been informed of the opportunity to provide a written statement setting out their defense to the allegations.

If the disciplinary hearing could potentially lead to dismissal the ODBST HR team will also be informed and given the opportunity to attend.

10. RIGHT TO BE ACCOMPANIED

At any disciplinary hearing or appeal hearing the employee has the right to be accompanied by a representative of their choice. The representative may be an accredited union representative or work colleague but not a friend, family member or legal representative. In exceptional circumstances the manager may at their discretion allow the employee to bring a companion who is not a colleague or trade union representative.

Exceptionally, an employee is entitled to legal representation at a disciplinary hearing or appeal hearing. This is only applicable in circumstances where the decision of the disciplinary hearing may result in the employee being referred to an external body, as a result of which the employee may lose the right to practice their profession.

Employees should be aware that their personal information including possible sensitive information will be shared with their nominated representative unless permission to do so is formally withheld.

11. DISCIPLINARY HEARINGS

The disciplinary hearing will be chaired by a senior leader for alleged misconduct. If dismissal is a possible outcome, then a panel of at least 2 Governors should be formed, or in the case of the Shared Services team, at least 2 senior leaders or trustees. The employee will be given the opportunity to outline their case in response to the allegations.

It is ODBST's policy not to allow recordings of disciplinary or appeal hearings.

The Manager/Governing Body is required to notify the ODBST in any case where dismissal is a possible outcome and the ODBST has the right to be represented at a dismissal hearing.

A decision on disciplinary action will be made in the light of what is believed, on the balance of probabilities, to have occurred and in reaching a decision about appropriate sanctions; the Chair will take account of any mitigating or aggravating circumstances. The nature of any disciplinary action taken will be proportionate to the seriousness of the case and its surrounding circumstances and will reflect a conclusion that any reasonable employer could have been expected to reach.

12. CONFIRMATION OF THE OUTCOME OF THE DISCIPLINARY HEARING

Whether or not the employee has been informed of the outcome of the disciplinary hearing orally at its conclusion, the employee will be notified of the outcome of the disciplinary hearing in writing. Written notification will normally be within 5 working days of the date of the hearing and will include:

- The reasons for upholding any allegation of misconduct
- The details of any disciplinary sanction applied
- If the disciplinary sanction is by way of warning, the nature and type of the warning and the date of its expiry

- A warning as to the consequence of further offences of a similar or different nature
- Any specific requirements for future conduct
- Any specific requirements in respect of training to be undertaken
- If the disciplinary sanction is dismissal, the reason(s) for dismissal
- Any right of Appeal, giving the name of the person to whom the appeal should be addressed

If the disciplinary sanction is dismissal, the ODBST will also be informed in writing, at the same time as the employee.

13. RIGHT OF APPEAL

An employee may appeal against a decision to issue them with any level of disciplinary sanction, i.e. first written warning, final written warning or dismissal.

An employee seeking to appeal must do so within 5 working days' of the date of written notification of the decision. The employee should send their letter of appeal together with the grounds of appeal to the representative named in the letter confirming the outcome of the hearing.

Once an appeal has been received in writing, an appeal hearing will normally be convened promptly, allowing at least 7 working days written notice of the hearing.

An appeal against a first or final written warning issued to a school based employee will be considered by the Warning Appeal Panel. An appeal raised by a member of the shared services team will be heard by a panel of trustees not previously involved in the case.

An appeal against a decision to dismiss will be heard by the Staff Dismissal Appeal Committee in the case of a school based employee or a panel of trustees with no prior involvement in the matter, in the case of a shared services member of staff.

Where the grounds of appeal are based on the severity of the disciplinary sanction alone, the role of the appeal panel shall be to conduct a review of the case.

Where the grounds of the appeal are broader than an appeal against the sanction, the role of the appeal panel shall be to conduct a re-hearing of the evidence and submissions made when the initial decision was taken, plus to consider all matters raised which are related to that decision whether or not they were known to the Hearing Officer at the time the initial decision was made.

The decision of the appeal hearing will usually be communicated in writing within 5 working days of the hearing.

The decision of the appeal hearing is final and there is no further internal right of appeal.

14. GRIEVANCES DURING THE COURSE OF THE DISCIPLINARY PROCESS

Where, during the course of the disciplinary process the employee raises a grievance about any aspect of the disciplinary process, e.g. the fact the employee has been suspended, that disciplinary action is being taken against them, the procedure being applied, or any of the individuals involved in the disciplinary process, the employee's grievance will be dealt with as part of the disciplinary hearing and will not be treated as a separate grievance under the Trust's grievance procedure.

15. DATA PROTECTION OF DISCIPLINARY CASES

The trust/school processes personal data collected during investigation meetings, any subsequent stages of the disciplinary process and in recording any sanctions or actions taken, in accordance with its Data Protection Policy. This will include data about suspension. A written record of meetings conducted under this procedure may also be made, either by the person holding the meeting or by an additional person arranged by the organisation to take notes.

Data collected and processed as part of the investigation and any subsequent stages of disciplinary process is held securely and accessed by, and disclosed to, individuals only for the purposes of completing the disciplinary procedure. A summary and the outcome of a disciplinary issue is held as a record on the employee's personnel record and retained and destroyed in accordance with the trust Retention Schedule.

Inappropriate access or disclosure of employee data constitutes a data breach and should be reported immediately in accordance with the trust Data Protection Policy. It may also constitute a disciplinary offence, which may be dealt with under this Disciplinary Procedure.

16. RULES ON CONDUCT

Conduct under this policy relates to both conduct at work and instances where conduct outside of work has a direct relationship to the employee's duties. This includes action or conduct that it likely to bring the trust/school into disrepute or raises concerns about an employee's suitability to continue to work in a position of trust.

Employees are expected to conduct themselves to the highest standards in line with the trust and school's vision and values and staff code of conduct. All interactions in the course of work should be made with dignity and respect. Employees are expected to act with integrity at all times and to comply with legal requirements, rules, policies, procedures and good practice. Rules on conduct set out in this procedure should be read in conjunction with the ODBST Staff Code of Conduct.

16.1. Safeguarding

All employees who come into contact with children, young people or vulnerable adults in their work have a duty of care to safeguard and promote their welfare.

All staff are expected to abide by the ODBST Staff Code of Conduct and adhere to the principles set out in the latest version of the Keeping Children Safe in Education statutory guidance.

16.2. Disclosure of Confidential Information

Employees may, in the course of their employment become aware of personal or other confidential information, some of which may fall within the scope of the Data Protection Act 2018. The ODBST requires that the confidentiality of this information be respected. (see ODBST Data Protection Policy).

Employees must not use information obtained in the course of their employment for personal gain or benefit, nor should they pass it on to others who might use it in such a way unless it is necessary and within the law to do so i.e. where a police investigation is necessary.

16.3. Gifts and Hospitality

The Trust aims to conduct all business in accordance with the very highest standards. Employees should never use their position for personal gain and should seek to uphold and enhance the reputation of the Trust/School by:

- maintaining a high standard of integrity in all professional relationships;
- fostering the highest possible standards of professional competence amongst those for whom they are responsible;
- complying both with the letter and the spirit of:
 - the law;
 - the ODBST/School Standing Orders;
 - any additional guidance supplied by the ODBST or the Governing Body;
 - the Conditions of Service of Employees of the ODBST.
- rejecting any business practice which might reasonably be deemed improper.

16.4. Close Personal Relationships at Work

The ODBST and the Governing Body will regard as wholly unacceptable any close personal relationship between an employee and a child or young person who is under the age of 18 (19 if still at school), whom they meet as a result of their employment.

Issues involving close personal relationships at work will be approached sensitively and managed promptly, effectively, fairly and lawfully. The ODBST and the Governing Body will not interfere unduly in the private lives of employees but with the public interest in mind will take legitimate action when close personal relationships at work have an actual or potential impact on work.

Employees involved in appointing new staff must ensure that appointments are made on the basis of merit alone. To avoid accusations of bias, employees must not be involved in appointments where they are related to an applicant or otherwise have a close personal relationship with them or have knowledge of them in another context e.g. business associates.

Similarly, employees should not be involved in decisions relating to discipline, promotion, recruitment or pay and conditions for any other employee who is a relative, partner, close friend etc.

All applicants will be asked to declare any relationships to Trustees, Directors or employees of the ODBST and any school governors. Failure to do so could result in the withdrawal of the offer of appointment, or dismissal if already appointed.

16.5. Communication, Computer Usage and the Internet

Use of the Trust's equipment, systems and network is provided as part of an individual's work role.

Employees should be familiar with the relevant Trust/School policies surrounding computer usage, internet access and electronic communications.

Misuse of the equipment, systems and network may be grounds for disciplinary action, which, if found to constitute serious misconduct, could result in dismissal.

Use of technology to contact students can suggest an informality which is inappropriate. Great care should be exercised over the use of communications technology such as mobile phones, text

messaging, emails, social media, digital cameras, videos, web cams, websites and blogs unless contact via these routes is required and for which permission has been given by a senior manager e.g. field trips and expeditions.

16.6. Alcohol and Drugs Misuse

Those representing the Trust are personally liable for their conduct, specifically in relation to consumption of drugs and alcohol. Inappropriate behaviour as a result of substance misuse will be dealt with under the relevant policy e.g. Conduct and Discipline.

17. CASES OF ALLEGED CRIMINAL ACTIVITY

The ODBST and Governing Bodies reserve the right to suspend any internal investigation pending a police investigation.

If the allegation involves suspected harm to children, young people or adults in a vulnerable situation, the guidance in the ODBST Safeguarding and Child Protection policy must take precedence over this policy and procedure.

If the allegation involves suspected serious financial irregularity or fraud, the ODBST Chief Finance Officer must be informed.

A criminal offence outside employment will not be treated as an automatic reason for disciplinary action. The main considerations should be whether the offence is one that makes the employee unsuitable for his/her type of work or to remain in the Trust employment or where the actions of the employee could bring the Trust/School into disrepute and if an employee fails to declare a criminal offence outside employment, this could be viewed as a breach of honesty and trustworthiness.

18. EXAMPLES OF MISCONDUCT

Examples of acts of misconduct, which are likely to lead to formal action being taken are listed below. This list is not exhaustive:

- Failure to comply with a reasonable management instruction
- Failure to observe ODBST's Standing Orders, financial or other operational regulations
- Failure to observe ODBST policy, for example, actions in breach of the IT Security guidelines or the data protection policy
- Negligence in the performance of duties
- Failure to provide a duty of care in the performance of role
- Breach of Health & Safety rules and requirements including any act or omission
- Poor-time keeping
- Misuse of ODBST property and equipment including misuse of email or internet facilities
- Failure to follow the ODBST's sickness notification procedures and certification requirements
- Abuse of the sickness scheme e.g. engaging in activities which may delay recovery
- Being under the influence of alcohol or drugs
- Improper use of information obtained in ODBST's employment
- Abusive or inappropriate behaviour toward pupils, parents, fellow employees or members of the public

The distinction between misconduct and serious misconduct is often a matter of degree and some of the examples under misconduct may be of such an extreme nature that they amount to serious misconduct.

Types of offences that are deemed to constitute serious misconduct and are likely to lead to dismissal without notice or pay in lieu of notice are listed below. This list is not exhaustive and is intended to give only an indication of the nature and type of offence, which will warrant dismissal without notice or pay in lieu of notice:

- Serious acts of insubordination
- Serious breaches of financial regulations or other operational regulations
- Gross negligence in the performance of duties
- Theft from the ODBST, its employees or members of the public or other acts of dishonesty
- Dishonest or improper use of information obtained in ODBST's employment
- Serious breach of duty regarding non-disclosure or disclosure of confidential information
- Serious breach of safe working practices and health and safety rules which endangers the health and safety of the individual, other employees, or members of the public and/or exposes ODBST to claims against it
- Serious breach or failure to provide safe working environment for children and young people
- Taking drugs on ODBST premises other than for medical reasons
- Buying, selling or offering drugs on ODBST premises
- Offering alcohol to students
- Fraud
- Falsification of information, for example, qualifications or other relevant personal details in seeking and obtaining employment or promotion; information contained in time sheets, overtime claims, invoices, accounts, records or medical certificates
- Fighting
- Violent, offensive, abusive or indecent behaviour
- Bullying
- Unlawful acts of discrimination within the workplace on the grounds of any protected characteristic or trade union membership
- Harassment including discriminatory harassment, for example sexual harassment
- Unauthorised removal of and/or serious misuse of and/or deliberate damage to ODBST property and equipment including misuse of email or internet facilities
- Serious breach of ODBST policies surrounding computer usage, internet access and electronic communications including Personal Blogs, Websites and Social Media.
- Sexual misconduct at work
- Aiding and abetting any of the above
- Other actions which fundamentally breach the relationship of trust and confidence which exists between employer and employee
- Conduct that is considered seriously contrary to the ODBST Code of Conduct
- Criminal offences and cautions outside of work, including reprimands, final warnings or penalty notices
- The making of covert recordings during a disciplinary or appeal hearing
- Any action which brings or could bring ODBST and/or its reputation into disrepute

19. FURTHER GUIDANCE

Failure to comply with the ODBST's rules on conduct may result in disciplinary action being taken in accordance with this procedure.

The ODBST reserves the right to take legal action against employees where breaches of the guidance warrant such action.

Further guidance is available from the ODBST HR team.