



# SHEBBEAR COLLEGE

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## STAFF DISCIPLINARY POLICY

### **Whole School Policy**

Reviewed and Updated: September 2024 by SLT  
Next Review: September 2025

### **Policy Review at Shebbear College**

**The Governors acknowledge their responsibility to ensure that this policy is effective and follows regulatory requirements. The SLT and Governors undertake a regular review (at least annually) to satisfy themselves that the implementation of this policy is effective.**

### **Application**

If an employee has difficulties at any stage of the procedure, because of disability, this should be discussed with HR as soon as possible.

This policy does not form part of any employees' contract of employment and it may be amended at any time. Shebbear College may vary this procedure, including any time limits, as appropriate, in any case. This procedure does not apply to agency workers or the self-employed.

## **Purpose**

This policy is designed to help and encourage all employees to achieve and maintain acceptable levels of conduct, attendance, job performance and behaviour. The aim of this policy and the procedures set out within it, is to ensure a systematic, consistent and fair approach to the enforcement of these standards. Failure of employees to comply with Shebbear College policies and procedures may result in disciplinary action being taken.

## **Principles**

- No action will be taken under this policy until the matter has been fully investigated.
- At every stage of the procedure, the employee will be advised of the nature of the complaints against them and will be given an opportunity to state their case before any decision is reached.
- At all stages of the procedure (excluding the initial, informal stage referred below), a trade union representative or another employee of their choosing may accompany the employee to any meetings.
- Shebbear College reserves the right to commence disciplinary proceedings against the employee at any stage in this procedure if the College considers the issues serious enough, and in particular, a final written warning may follow an incident of serious misconduct and dismissal may follow an incident of gross misconduct, even where no previous warning has been given.
- All information relating to a disciplinary process will be kept confidential.
- Within the constraints of the operation of a small school, matters will be dealt with quickly.
- Employees may not be dismissed for a first breach of discipline except in the case of gross misconduct or if the employee has not yet completed their probationary period.
- There is a right to appeal against any disciplinary penalty or capability programme.
- Shebbear College will discuss any disciplinary or capability issues with the employee first (informally) unless this is inappropriate in the circumstances (for example, in cases of repetitive incidents or previous incidents of a similar pattern of behaviour). Minor faults will be dealt with by counselling, help and advice. In cases where issues are dealt with informally, Shebbear College may record the issue on an individual's personnel file for future reference, noting that it will be ignored for the purposes of any future disciplinary or capability hearings.
- In all but the most straightforward cases, a disciplinary or capability meeting will be adjourned before a decision is reached to allow for proper consideration of the evidence, as well as any mitigating and aggravating factors. If the facts are disputed, the decision will be taken on the balance of probability as to which version is true.
- The final decision will be given orally at the end of a disciplinary or capability meeting, or following adjournment, and in writing within ten days of the meeting with an explanation of any penalty imposed.

## **Criteria for Enacting Staff Disciplinary Process**

Action under this policy may be taken if employees have demonstrated unsatisfactory conduct or performance that is either inconsistent with their responsibilities or position, or breaches the Staff Code of Conduct and is therefore disruptive, or risks the operation of SC. The following is an illustrative, but non-exhaustive list of behaviour which will normally lead to action being taken under this policy:

- Failing to adhere to any safeguarding or legal requirements relevant to their role or likely to bring the College into disrepute.
- Persistent poor timekeeping or absence from the workplace without permission or good cause, including abuse or misrepresentation of sickness or any other absence.
- Failure to perform work tasks to acceptable, required standards.
- Failure to comply with Shebbear College procedures and policies.
- Misuse or unauthorised use of Shebbear College property or equipment.
- Deliberately disobeying any reasonable request from a more senior employee.
- Undermining the authority or instructions of senior employees of Shebbear College, and/or SLT, or acting in a way to bring any employee of Shebbear College into disrepute, or for any protected disclosures made pursuant to, and in accordance with the Public Interest Disclosure Act 1998.
- Offensive language and/or behaviour.
- Breach of Shebbear College's rules relating to Health and Safety.
- Breach of Shebbear College's rules and policy regarding travel and expenses.

- Inability to perform work tasks due to the consumption of alcohol, substances which affect judgement or being under the influence of illegal drugs.
- Unlawful discrimination on grounds of gender, race, disability or sexual orientation.
- Bullying or victimisation of any employees or pupils of Shebbear College.

## SC Disciplinary Procedure

The Shebbear College disciplinary procedure complies with the ACAS Code of Practice.

- **The Investigation.**

The need for an investigation before taking any disciplinary action is critical to ensure it adheres to both the *Burchell* principles and the ACAS Code of Practice on Disciplinary and Grievance Procedures. *Burchell* requires a reasonable belief and a reasonable amount of investigation, and the ACAS Code recommends that in a dismissal or disciplinary situation, if there is a case to answer, the employee should be notified of this in writing. An employer will be unable to do this unless an appropriate amount of investigation has been carried out. It will sometimes be the case that, during the investigation, perfectly plausible explanations emerge, and the disciplinary process is discontinued without a meeting. This is why it is of vital importance that, even in cases of “obvious guilt” an investigation will be conducted, rather than launch straight into a disciplinary meeting or even dismiss an employee. The purpose of the investigation is to ensure that the relevant facts have been established so that the case can be put to the employee in a manner that makes it clear what is being alleged. Further key points to consider when conducting an investigation are as follows:

- The investigation should be conducted as quickly as is reasonably possible. The College should gather the facts before memories fade and should speak to the employee as soon as possible. If necessary, written statements should be taken from witnesses. The matter should be investigated within five working days, but more complex cases may take longer.
- Staff responsible for conducting the investigation are strongly urged to refer to the ACAS Code of Practice on Disciplinary and Grievance Procedures for guidance and a template for completing the investigation.
- Confidentiality is vital - this applies both in relation to the person conducting the investigation and to any person (such as a witness) who is involved in the investigation. Witnesses should be advised not to discuss the investigation with other employees or third parties.
- Ensure that an appropriate person conducts the investigation.
- If there is a possibility that the employee might be disabled, consider whether any adjustments need to be made to the process.
- Consider whether suspension is appropriate (e.g., in cases of serious misconduct) - if so, the period should be as short as possible, and on full pay (unless the employee's contract of employment allows suspension without pay). The employee should be informed as to why they are being suspended and that they will be called in for a disciplinary meeting as soon as possible. Suspension should not be used as a sanction before the disciplinary meeting and decision. An unjustified suspension could give rise to a constructive dismissal.
- If the matter also involves possible criminal charges, consider whether the police should be informed, and the school's investigation put on hold until police approval to continue has been obtained.

- **The Decision for Next Steps.**

Once the facts have been established, one of the following courses of action should be followed:

- Drop the matter. There may be no case to answer because the matter is trivial.
- Arrange counselling and support and take informal action. This may be sufficient to rectify the situation without initiating the formal disciplinary procedure.
- Arrange a disciplinary meeting in cases where the matter is considered serious enough to warrant disciplinary action.

Shebbear College has four stage warning procedure in place:

- **Stage 1 – Informal Action.**

The ACAS Code emphasises that informal action may often be a more satisfactory method of resolving problems than a disciplinary meeting. Shebbear College should act promptly - problems dealt with early enough can be 'nipped in the bud', whereas delay can make things worse. Additional coaching, training, and advice may be all that is needed. Where an improvement is required, the school must ensure that the employee understands what action is required of them, what support Shebbear College will put in place to coach, train, advise if and as necessary, how their performance or conduct will be reviewed (ideally at specified intervals), and over what period. The school should ensure that the employee is made aware that formal processes could be commenced if the problem does not resolve itself or the level of performance required is not maintained. The school should keep brief notes of any agreed informal action for reference purposes. If the informal action takes the form of a discussion with the objective of encouraging and helping the employee to improve, it must not turn into a disciplinary meeting (to which employees have the statutory right to be accompanied).

- **Stage 2 – Formal Oral Warning.**

Following investigation, the senior leader should aim to review the case and discuss the matter with the employee within five working days following the matter being reported. Before the meeting, the employee

should have been given copies of relevant documents and statements before the meeting. During the meeting, the employee will be given the opportunity to state their case. The employee may be accompanied by another member of staff or trade union representative.

If a breach of discipline is proved, or alleged poor performance is founded, the manager will give a formal oral warning. This includes: a clear identification of the problem; the corrective action required; the time in which correction must be achieved; and the likely consequences of failure to achieve the necessary improvements. A record will be kept of the meeting and a note made in the employee's personnel file.

The employee will not usually be eligible for transfer, promotion or salary increase while the warning is in effect.

- **Stage 3 – Written Warning.**

If the problem or pattern of behaviour persists, or a more serious complaint is made against the employee, or the matter is serious enough to warrant more formal action, the senior leader will write to the employee setting out the facts of the matter and why the matter warrants more formal action following an investigation. The employee will be invited to attend a disciplinary or capability meeting. The employee may be accompanied by another employee, or, if they choose, a trade union representative. The senior leader will set out the allegations and/or issues. The employee will have the opportunity to state their case, present evidence, call witnesses and raise points about information that witnesses have provided.

The employee's companion may address the hearing in order to sum up the case or ask for clarification. The companion may not answer questions on behalf of the employee.

Following due consideration of all the facts and evidence, including the information provided by the employee, the senior leader decides the matter. If misconduct or poor performance is founded, SC will issue a written warning which sets out the facts of the case, explains why the matter justifies a written warning, the timing in which the corrective action must take place and the likely consequences of failure to improve. The employee will be issued with a written warning memorandum following the meeting confirming the details. A copy will be held on the employees' personnel file and will remain live for six months. The employee has a right to appeal against the written warning.

The employee will not usually be eligible for transfer, promotion or salary increase whilst the warning is in effect.

- **Stage 4 – Final Written Warning.**

If the employees' conduct or performance has not improved within the specified time frame, or if there are further issues, then a senior leader will proceed to the next stage – the final written warning. The procedure is the same as for Stage 3 with the exception that the consequence is dismissal. A copy of the warning will be kept in an employees' file for 12 months. The employee has the right to appeal at this stage.

There may be cases which require special treatment. In more severe cases of discipline or poor performance Shebbear College reserves the right to proceed immediately to final written warning without the preliminary proceedings.

- **Gross Misconduct.**

In cases of gross misconduct or assisting in gross misconduct, an employee may be summarily dismissed.

Gross, misconduct is any action which is discreditable, dishonourable or detrimental to the best interests of Shebbear College.

The same procedure will apply as for other stages of the disciplinary process, noting that if gross misconduct is proven, then the employee is likely to be dismissed. The dismissal may be without notice and without payment in lieu of notice at the discretion of Shebbear College.

The following is an illustrative, but non-exhaustive list of behaviour that could meet the threshold of gross misconduct:

- Theft or dishonesty.
- Falsification of records, expense accounts, work records, employment applications, medical records, or any other report or record.
- Disregarding safety precautions which may endanger the employee or others.
- Assault, verbal or physical on another employee, pupil or authorised visitor or any other violent, dangerous or intimidatory conduct (including bullying, harassment and victimisation).
- Being under the influence of alcohol, behaviour changing substances or drugs, other than formally prescribed, whilst at work.
- Abuse or intentional damage to SC property or other employees' property.
- Any action which would result in SC contravening the law by continuing to employ the employee.
- Any serious failure to adhere to safeguarding and legal requirements relevant to the individual's role.
- Deliberately disobeying any reasonable request or instructions from the line manager after being warned.

- Unauthorised disclosure of confidential information, including statistics and financial information about Shebbear College.
- Conduct violating common decency.
- Acts of incitement or actual acts of discrimination or harassment on the grounds of sex, race, religion, colour, ethnic origin or sexual orientation against another employee or pupil.
- Conduct, whether during working hours or outside working hours, which may bring the reputation of Shebbear College into disrepute, or which reflects on the employees' suitability for the type of work they perform.

## **Appeals Procedure**

Less for the informal action and formal oral warning, employees may appeal against disciplinary or capability action. The decision of the appeal hearing is final. The process is as follows should the employee wish to appeal:

- The employee submits an appeal in writing within 10 working days of the date of formal notification of the disciplinary action taken. The appeal must set out the grounds for appeal. If the employee is appealing against dismissal, the date on which the dismissal takes effect will not be delayed pending the outcome of the appeal. However, if the appeal is successful, the employee will be re-instated without any loss of pay or continuity of service.
- A more senior leader than the previous deciding member of staff will convene a meeting with the employee to allow the case for appeal to be heard. The senior leader will consider the previous evidence, and any new evidence presented by the appellant.
- If new information has come to light, a further investigation may be required.
- All information will be provided to the appellant to digest and review.
- An appeal meeting will be convened to decide the appeal. This may be a complete re-hearing of the matter, or it may be a review of the fairness of the original decision in the light of new evidence.
- The decision will be communicated to the appellant in writing shortly after the appeal. The decision will either: confirm the original decision, revoke the original decision, or substitute a different penalty.