



Snowflake School

‘Improving the quality of family life’

Disciplinary, Dismissal and Capability Procedure

Contents

Introduction	2
1. Misconduct.....	2
2. Capability	3
3. Procedure where dismissal is not contemplated	4
4. The dismissal and disciplinary procedure	4
5. Safeguarding and child protection allegations.....	5
6. Points to consider during a safeguarding investigation	6
7. Safeguarding low-level concerns/allegations.....	6
8. Retirement	7
Revision	9

Introduction

Disciplinary procedures are necessary to support Snowflake School rules and regulations and to improve unacceptable performance by employees. The disciplinary sanctions are staged so that the school gives an appropriate response to both minor and more serious matters.

1. Misconduct

Misconduct will generally fall into two categories, namely “ordinary” misconduct and “gross” misconduct which is of so serious a nature that it justifies instant dismissal for the first offence. Listed below are examples of conduct which would be gross misconduct. However, it should be recognised that the list should not be regarded as complete to meet every case and that action described as ordinary misconduct may amount to and be treated as gross misconduct if the circumstances or the manner of the conduct are such as to warrant serious disciplinary action. They should be regarded therefore as being illustrative rather than exhaustive.

Misconduct which is Gross:

- 'Gross negligence' – this means a serious lack of care to their duties or other people
- fraud
- dishonesty
- acts of violence
- impropriety or immoral conduct detrimental to and inconsistent with the school’s business
- unauthorised possession of School property or unauthorised use of School stationery
- conduct of a criminal, dishonest or immoral nature inside or outside working hours which is detrimental to and inconsistent with School business affairs
- disorderly conduct which is detrimental to and inconsistent with School business
- use of abusive or threatening language
- refusal to obey a reasonable instruction from the Head Teacher
- being under the influence of drugs (other than medically prescribed drugs) or alcohol during working hours or any additional hours of work for the school or when otherwise engaged on School business
- falsification of any documents or material, including misleading completion of the school’s self-certification form
- causing deliberate damage to any property belonging to the school or any employee of the school
- harassment of colleagues or any other person on the grounds of sex or marital status (including civil partnerships), sexual orientation, race, disability, age or religious belief.

Misconduct which is not Gross Misconduct:

- poor time keeping
- refusal to follow instructions
- breach of absence reporting procedures
- inappropriate use of social media
- disruptive behaviour
- negligence in the performance of duties

- inappropriate or
- offensive behaviour for example foul or abusive language
- minor breaches of School rules and regulations, including School policies which may be notified to you from time to time

Types of disciplinary sanction for misconduct

Disciplinary action will consist of one or more of the following:

Verbal Warning

If conduct is unsatisfactory, you will be given a formal warning, which will be recorded in the school's files. The warning will be disregarded after twelve months' satisfactory service.

Written Warning

If the offence is serious or if there is no improvement in standards after the Verbal Warning is given, or if a further offence occurs within twelve months after a Verbal Warning, a Written Warning will be given. This Written Warning will include the reason for the warning and a note that, if there is no improvement after a specified period, a Final Written Warning will be given. A copy of the Written Warning will be given to you and a copy will keep in the school's files. The warning may be deleted at the discretion of the school after twelve months.

Final Written Warning

If, following a Written Warning, conduct remains unsatisfactory, or if a serious incident occurs, a Final Written Warning will be given making it clear that any recurrence of the offence or other serious misconduct within a specified period will result in dismissal.

Dismissal

If there is no satisfactory improvement or further serious misconduct occurs, you may be dismissed, either with or without notice. The decision to dismiss will normally be taken by the Head Teacher. However, the School will follow the Dismissal and Disciplinary Procedure before any such decision is taken.

2. Capability

Capability is assessed by reference to an employee's skill, competence and performance, their aptitude for work, as well as their physical and mental ability to perform their work. It therefore covers both performance of work that is not up to the required standard and an inability to perform work through absence or illness.

Types of disciplinary sanction for capability

- Where the School is not satisfied with your performance or capability you will be warned that if there is no improvement in work performance within a specified time you will be given a Written Warning.
- If there is no improvement within the time specified you will be warned by Head Teacher, in writing, that if there is no improvement in the specified areas of unacceptable performance within a further specified period you may be dismissed.
- If your performance/capability does not improve after a Final Written Warning you will be dismissed. However, the School will follow the Dismissal and Disciplinary Procedure before any such decision is taken.
- In the case of a serious lack of capability, you may be given a Final Written Warning by the Head Teacher without any previous warning.

3. Procedure where dismissal is not contemplated

- The school will carry out whatever investigation is necessary, appropriate and proportionate, before reaching a decision to hold a disciplinary meeting. You may be asked to attend an investigatory meeting.
- You will be advised of the nature of the complaint or concern and will be given the opportunity to attend a disciplinary meeting to state your case before any decision is reached or disciplinary sanction imposed.
- You have the right to be accompanied by a work colleague or a trade union representative (if you are a member of a trade union) during any disciplinary meeting under this procedure.
- You have the right to appeal against any disciplinary decision.
- Please note that you will not be dismissed for a first breach of discipline, except in the case of gross misconduct where the penalty may be summary dismissal without notice. However, in such a case the Dismissal and Disciplinary Procedure will be followed (please see below).

4. The dismissal and disciplinary procedure

The procedure outlined in this section will only be used when the school is contemplating dismissal or disciplinary action short of dismissal, other than the issue of warnings (whether oral or written). The school may suspend you with pay whilst the procedure is followed. The procedure will be used in respect of all dismissals (including dismissal by reason of redundancy), apart from dismissal for retirement.

Step 1: Statement of grounds for action and invitation to meeting

- The school will set out in writing your alleged conduct, characteristics or poor performance, or other circumstances, which have led the school to contemplate dismissing or taking disciplinary action against you.

- The school will send the statement to you and invite you to attend a meeting to discuss the matter.

Step 2: Meeting

- The meeting will take place before any action is taken, except in the case where you have been suspended.
- You may be accompanied to the meeting by a colleague or union representative, if you are a member of a union.
- The meeting will not take place until:
 - the school has informed you of the basis for the statement under Step 1 above, and the ground or grounds given in it; and
 - You have had a reasonable opportunity to consider your response to that information
 - You must take all reasonable steps to attend the meeting
 - After the meeting, the school will inform you of the school's decision/disciplinary action and will notify you of your right to appeal against the decision if you are not satisfied with it.

Step 3: Appeal

- If you do wish to appeal, you must inform the school within five working days of being notified of the school's decision.
- You will be invited to attend a further meeting.
- You must take all reasonable steps to attend the meeting.
- You may be accompanied to the meeting by a colleague or union representative, if you are a member of a union.
- The appeal meeting needs to take place before the dismissal or disciplinary action takes effect.
- After the appeal meeting, the person conducting the appeal will inform you in writing of his or her final decision within 5 working days of the meeting unless that is not reasonably practicable.

5. Safeguarding and child protection allegations

A safeguarding allegation is an allegation that an employee has:

- behaved in a way that has, or may have, harmed a child
- possibly committed a criminal offence against or related to a child
- behaved towards a child in a way that indicates that he/she is unsuitable to work with children
- behaved, or may have behaved, in a way that indicates they may not be suitable to work with children

This includes where an employee, agency worker or volunteer is involved in an incident outside of school which did not involve children but could have an impact on their suitability to work with children

In some circumstances, the school will have to consider an allegation against an individual not directly employed by them, where its disciplinary procedures do not fully apply, for example, supply teachers provided by an employment agency.

Whilst the School is not the employer of agency workers, we must ensure allegations are dealt with properly.

In no circumstances should a setting within the school cease to use an agency worker due to safeguarding concerns, without finding out the facts and liaising with the Local Authority Designated Officer (LADO) to determine a suitable outcome. The school will discuss with the agency whether it is appropriate to suspend the worker, or redeploy them to another part of the school, whilst an investigation is carried out. The school will give reasonable consideration, before taking any action, to making a referral to the Local Authority Designated Officer and whether there is an obligation, statutory or otherwise, to make an appropriate disclosure to any relevant bodies.

6. Points to consider during a safeguarding investigation

Where the harm test has been or is likely to be met, allegations concerning the safety and welfare of children must be investigated and the process completed in full. The employee can choose to resign during this process; however, the disciplinary process must continue and be heard post-employment. If the decision is that the member of staff would have been dismissed or a sanction imposed had they still been in employment, there is a legal duty to make the relevant referrals (i.e., DBS and/or Teacher Regulation Agency). No internal disciplinary investigation/procedures should be initiated in relation to child protection whilst the matter is being investigated by the police/Child Protection/Social Services, without authorisation being given to do so.

7. Safeguarding low-level concerns/allegations

In accordance with Keeping Children Safe in Education, the school will look to manage any allegations/low level concerns that do not meet the harm test threshold.

The term 'low-level' concern does not mean that it is insignificant, it means that the behaviour towards a child does not meet the harm test threshold.

A low-level concern is any concern that an adult working in or on behalf of the school may have acted in a way that:

- is inconsistent with the staff code of conduct, including inappropriate conduct outside of work; and
- does not meet the allegations threshold or is otherwise not considered serious enough to consider a referral to the LADO.

Examples of such behaviour could include:

- being over friendly with children
- having favourites
- taking photographs of children on their mobile phone
- using inappropriate sexualised, intimidating or offensive language.

8. Retirement

The school has the right to terminate an employee's contract on the ground of retirement when the employee is 65. Whether the School chooses to do so will depend on the individual circumstances in each case.

Where the School decides to terminate a contract on the grounds of retirement, the following procedure will apply.

Step One: Making a request to work beyond retirement

Every employee has the right to make a request to the school that he or she might continue working past their intended retirement date. The school will write to you and remind you of this right and the intended date of your retirement, no more than 12 months and no less than 6 months before your 65th birthday (or such later date as the school wishes you to retire). If you wish to do so, you should make a request no later than 6 weeks before the intended retirement date.

Step Two: Considering that request

The school has a duty to consider any request. A meeting will be arranged at the earliest opportunity to discuss the request with you and a decision will be made in writing within 14 days of the meeting. The school will either agree to the request and fix a new date for your intended

retirement or refuse the request, in which case your contract will terminate on the intended date of retirement.

Step Three: Appeal

If the School does not agree to your request, you have the right to appeal. The appeal will be heard by someone other than the person who considered the request. A meeting will be arranged at the earliest opportunity to hear the appeal, and a decision will be made in writing within 14 days of the meeting.

Actions outside of work

The school may consider your actions outside work (including use of social media) to be a form of misconduct or gross misconduct if they affect your ability to carry out your role or have a negative effect on the school's reputation.

Revision

Version Update	January 2025
Review due	January 2026
Reviewed By	Sumen Starr
Approved by Board of Trustees on	February 2025