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|  | Staff Disciplinary Process and Procedure |
| Person(s) Responsible: | |
| Approval: | Governing Body |
| Headteacher: | Gary Edmunds |
| Policy Originator: | Gary Edmunds |
| Date Approved: | September 2020 |
| Date of Review | September 2021 |

To be read in conjunction with:

- Spring Hill High School Child Protection and Safeguarding Procedure
 - Spring Hill High School Management of Staff Absence
 - Spring Hill High School Grievance Resolution Policy
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Introduction

Spring Hill High School expects all employees to recognise their obligation to the school, the public, students and other employees and to conduct themselves properly at all times and in accordance with the [School's Code of Conduct](#) and all other policies and procedures. Appendix 1 give examples of the four levels of misconduct but these lists are not to be treated as exhaustive.

At Spring Hill High School performance is monitored closely and claims of behavioural misconduct taken seriously. All issues relating to staff misconduct are referred to the Headteacher and the Governing Body. Disciplinary procedures will be used where the misconduct of the member of staff is alleged. When allegations are made against an employee, they should be informed of their rights to be represented at all meetings and related hearings by a recognised trade union representative or other school employee.

The Chair of Governors or a nominee reserves the right to attend any meetings held in relation to any of the procedures outlined below. They may also be in attendance at any hearings, which may lead to dismissal. This will ensure that advice is available on procedural issues and any employment legislation matters.

The SHHS Capability procedures works in line with the school's Disciplinary Process and Procedure and is used where the capability, competence or performance of the member of staff is an issue.

The Purpose of the Procedure:

The procedure is designed to reflect the individual's right to natural justice, the rights identified in the Human Rights Act, and the law as set out in Employment Acts and regulations.

In order to achieve excellence in education for all and good employee relations this procedure aims to:

- Give a structure to improve conduct to the standard that is expected
- Improve conduct primarily by advice and correction rather than by disciplinary measures
- Provide a fair method of dealing with alleged breaches in standards of conduct
- Facilitate the fair dismissal of those who have not improved.
- Facilitate fair dismissal of those whose conduct is so unacceptable as to warrant dismissal without notice.

Governance:

Spring Hill High School is governed by a Governing Body. The Governing Body is responsible for setting out disciplinary rules and procedures for all members of staff, in the context of any procedures and/or guidance issued by the school. However, they may delegate these matters including the power to suspend any person employed at the school where, in the opinion of the Chair or the Headteacher, the employee's exclusion from the school is required. Matters may be delegated to the Headteacher, Deputy Headteachers or Assistant Headteachers as appropriate. Only the Chair or the controlling director of Spring Hill High School Ltd can suspend the Headteacher.

Scope:

This procedure applies to all employees of Spring Hill High school. It applies to all employees who have either a permanent contract of employment, and those that are in their probation period at SHHS.

The procedure also takes into consideration:

- Occasions when an employee's behaviour may be described as below an acceptable standard.
- Occasion when an employee's conduct can be related to their health. The disciplinary procedure may be used concurrently with the school's Management of Staff's Absence Policy. In particular if a staff member goes off sick following the use of this Disciplinary Process and Procedure.

- Occasions where the employee attempts to use Spring Hill High School Grievance Resolution Policy in connections with Action taken under the Management of staff Absence Policy. This shall not lead to any delay or pause in the conduct of any matters under the Disciplinary Process and Procedures.

Equal Opportunities: The disciplinary procedure must always be applied fairly and in accordance with employment law and Spring Hill High School Diversity and Equality Policy.

Responsibilities:

Governing Body: The Governing Body is responsible for maintaining fair, consistent, and objective procedures for matters relating to staff discipline at SHHS.

The Headteacher: The Headteacher is responsible for the management of the school. The Headteacher is also responsible for modelling and upholding of good practices in the school.

The Employees have the responsibility to:

- Conduct themselves appropriately;
- Obey the reasonable directions of the employer;
- Behave in a trustworthy manner at all times;
- Take care over the work assigned to them;
- Strive to maintain good employment relationships.

Employees are expected to observe all reasonable rules, policies and procedures which cover the following, among other things:

- Absence procedure;
- Timekeeping;
- Standard of dress;
- Health and Safety;
- Use of the school's facilities and equipment;
- Anti-discrimination;
- Anti-bullying and harassment.

Timing:

Disciplinary matters should normally be conducted within the timescales agreed within the procedure. However, if there is a valid reason to do so, timescales can be varied. If this is initiated by management, the employee should be given an explanation and informed when a response or meeting can be expected.

All efforts should be made by employees to attend meetings that constitute part of this procedure. When there are valid reasons to reschedule meetings then these should be rearranged without undue delay.

Informal Action:

Less serious breaches of conduct (i.e. first occurrences of some types of misconduct) can be dealt with informally in a supervision where the headteacher or the deputy which line manages the employee meets with and discusses the matter with the employee.

This involves drawing the employee's attention to the unsatisfactory conduct, explaining what conduct is required, and setting a clear and reasonable timescale for the employee's conduct/behaviour to improve.

Consideration should be given to any difficulties which an employee may be facing and a genuine attempt should be made to help the employee to overcome them. Where considered appropriate, managers should seek Occupational Health advice when managing staff who may be suffering from mental illness or alcohol or substance abuse.

Informal warnings can be recorded in writing and referred to at a later stage to evidence that an informal approach was attempted and the success or failure of such an approach.

Failure to comply with formal action should not on its own be used as justification for issuing a higher form of sanction than would otherwise have been imposed under the formal process.

Suspension:

An employee may be suspended on full pay when an act of gross misconduct is either suspected or alleged to have been committed or for "other good and urgent cause", which is normally taken as when the employee is suspected of, or has been arrested for, doing something which would render them as unsuitable to remain in the school. The period of suspension should be as brief as possible and should be kept under review.

Where suspension occurs the Chair must be contacted. In the event that he/she is not accessible contact must be made with the Headteacher.

The suspension of a member of staff is a neutral act and should only be used to enable a matter to be investigated, or in the interests of protecting children and/or staff while a matter is investigated pending any further action that may be necessary. Suspensions are a precautionary measure and should not be regarded as prejudging the matter. If at any stage during or at the end of the investigation, or at any stage of

the disciplinary procedure, it is considered that this suspension should be lifted by the Chair or the Headteacher the employee will be informed immediately.

Suspension from duty is a 'working arrangement' whereby the employee must not enter any of the five SHHS school sites and consideration will be given to restricting contact with any SHHS employee without the express permission of the Headteacher. Nor must a suspended employee contact pupils or their parents or anyone else with whom they would come into contact during the course of their duties. Failure to observe this requirement may render them liable to disciplinary action. The employee must not discuss the facts of the suspension or the facts of or nature of the allegation against them with any member of staff except where a member of staff will act as an advocate or to communicate with their line manager.

Where an employee is suspended and needs to contact witnesses to provide evidence at a hearing, then this may be achieved via their trade union representative or by a request to the Headteacher.

The suspension must be confirmed in writing giving broad details of the allegation.

Formal Process :

Step 1:- Investigation

- The Headteacher, a Deputy or an Assistant Deputy Headteacher will conduct an investigation into the alleged conduct.
- The Headteacher or the Investigating Deputy will appoint any other person from within the school or externally to assist the investigation.
- The investigation may include a face to face interview but this is not mandatory. The employee may, if they wish, provide a written statement or response to the person leading the investigation.
- The employee is encouraged to cooperate with the person leading the investigation so that the investigation can be completed as swiftly and thoroughly as possible.

Step 2:- Disciplinary Hearing

The Disciplinary Hearing will be heard by a Disciplinary Panel

- If the investigation highlights concerns the employee will be subject to formal disciplinary sanction and they will be required to attend a formal disciplinary meeting with the Headteacher and another senior member of staff.
- The disciplinary Hearing should be arranged as soon as possible but normally within four(4) working weeks of completion of the investigation. Reasons for any delays in convening a Hearing should be communicated to the employee.

- A report from the investigation and/or all relevant documentation should be sent to the employee and their representative with a letter specifying the date, time and place for the hearing giving no less than 48 hours notice. The letter must contain sufficient information on the alleged misconduct and its possible consequences. The letter should inform the employee of their right to be accompanied by a trade union representative or work colleague. If an employee's companion cannot attend on a proposed date, the employee can suggest another date so long as it is reasonable. Where every effort has been made to re-organise the hearing the employee should be informed that it may then proceed in their absence, with or without their representative being present.
- The Headteacher should consider all the evidence presented and the employee should have an opportunity to present evidence in their defence and any evidence in mitigation.
- The Headteacher may adjourn the disciplinary meeting to allow further investigation in the light of the employee's evidence and will convene to give them an opportunity to comment on any further evidence produced by further investigations.
- The Disciplinary Panel is not required to hear oral evidence and may rely on written evidence.
- If the Disciplinary Panel does decide to hear oral evidence the employee will be given an opportunity to comment on it either by attending the meeting or by reviewing the notes of that oral evidence after the meeting. This is only in the case where the employee was not present at the disciplinary hearing.

The Disciplinary Panel

- As delegated by the Governing Body the person(s) hearing the disciplinary will write to the employee, giving details of the hearing, allowing 48 hours notice. For all meetings a note taker will attend to take minutes of the proceedings. It is their role to minute the significant points of the hearing and the decision of the panel but not to produce a verbatim record.

Conducting the Hearing

- At the Hearing, all parties present will be given an opportunity to ask questions or challenge the reports/evidence submitted by all witnesses. The employee and their representative should be informed of the decision of the Disciplinary Hearing as soon as possible (unless there is an adjournment to clarify any facts) and the Chair of the Panel/the Headteacher or the RI hearing the allegation will confirm this in writing within five (5) working days. The letter must also confirm the individual's right of appeal and of the right to be represented by a work colleague or trade union representative at any appeal hearing.

Step 3:- Appeals Procedure

- Employees have the right to appeal against any sanction
- If the Disciplinary Panel decides to impose a formal disciplinary sanction you will have the right to appeal to the Appeal Manager providing that you do so in writing to chair of the Disciplinary Panel within 5 working days of the written notification and within 10 working days of the chairperson's decision. Appeals received after this period will not be heard.
- Appeals against the outcome of any disciplinary action may be considered in relation to one or more of the following grounds:
 - i) The PROCEDURE – the grounds of appeal should detail how any procedural irregularities prejudiced the disciplinary decision.
 - ii) The FACTS – the grounds of appeal should detail how the facts do not support the decision or were misinterpreted or disregarded. They should also detail any new evidence to be considered.
 - iii) The DECISION – the grounds of the appeal should state how the act(s) of misconduct did not justify the level of disciplinary action taken or the act was one of misconduct rather than gross misconduct.
- The Appeal will concentrate on the area(s) of dispute only and will not be a rerun of the whole disciplinary hearing. Accordingly, it is important that the employee is explicit about the grounds for appeal and must provide clear and specific reasons in writing. Such written notice of the Appeal must include reference to any new facts the employee/appellant intends to raise at the Appeal.
- The result of the Appeal and the reasons for the decision will be conveyed to the appellant immediately after the Hearing and will be confirmed in writing to the appellant and their representative within 5 working days by the Appeals Manager.

Safeguarding Cases

- If allegations are made against staff which involve safeguarding issues, SHHS's Safeguarding Procedure must be followed irrespective of how the allegation arises. Employees may be suspended on full pay pending the outcome of the Safeguarding procedure, however, suspension should not be the default option. If the relevant child protection agencies decide not to pursue action against the employee, the matter will be referred back to the school for consideration under the appropriate procedure.
- If the Safeguarding Procedure is involved, other disciplinary procedures will begin only if and when the matter has been referred back to the school. The fact that external agencies have not taken action should not be taken as an indication of the employee's innocence or guilt.

- The school will operate within statutory guidance when handling cases of child protection.

Companion

An employee who is a subject of disciplinary allegations leading to either a disciplinary interview or meeting, may be accompanied at such interview or meeting by a companion, who must either be a willing work colleague not involved in the subject of the allegation against themselves, or an accredited trade union representative of a union recognised by the school.

The employee must inform the Headteacher of who the companion will be at least one working day before the interview or meeting.

Employees with disability needs can also be accompanied by a suitable helper.

The companion can address the meeting in order to:

- Put the employee's case
- Sum up the employee's case
- Respond on the employee's behalf to views expressed at the interview meeting
- The companion can also confer with the employee during the interview meeting
- The companion has no right to answer questions on the employee's behalf.

Special Situations

Grievances raised during the course of the disciplinary procedure

Sometimes an employee may raise a grievance during the course of a disciplinary case. Where this happens and depending on the circumstances, it may be appropriate to suspend the disciplinary procedure for a short period until the grievance can be considered. The employee, will however, have to raise a grievance in accordance with the SHHS Grievance Procedure.

Depending on the nature of the grievance, the school may need to consider bringing in another manager to continue to hear the disciplinary case.

Employment /Probationary Review

At any time during an employee's probationary period or within the first two years of employment an employee can be dismissed due to any of the reasons stated above. SHHS also reserve the right to extend an employee's probationary period.

The School will in both cases invite the employee to have a meeting to discuss the issues and listen to their explanation.

The decision will be delivered in writing following the meeting.

Ratified by:

Name: Barbara Scrivens

Role: Chair of Governors

Appendix 1: The Four Levels of Misconduct

Generally speaking there are four levels of misconduct, each of which carries a different sanction.

Unsatisfactory Conduct:

- Timekeeping
- Smoking in designated non smoking area
- Failing to abide by general health and safety rules.

Misconduct:

- Abusive language;
- Unauthorised and inappropriate use of e-mail/internet;
- Regular lateness for work;
- Regular failure to follow employment rules e.g. reporting absence to the headteacher;
- Refusal to obey a reasonable instruction of a manager;
- Negligence at work leading to loss, damage or wastage of school or other property;
- Improper, disorderly or unacceptable conduct at, in or near the school;
- Willfully inadequate work performance (poor performance or lack of capability will normally be the subject of Capability procedure);
- Private trading;
- Consistently poor standards of dress or hygiene;

Serious Misconduct:

- Negligence
- Failure to follow school procedures which leads to injury of student or other staff member.
- Bringing the company's name into disrepute

Gross Misconduct:

- GDPR breaches.
- Prolonged unauthorised absence from work (at least 10 working days without contact);
- While purporting to be absent sick, working or engaging in activities, which are likely to be inconsistent with the reason for absence and/or which are unlikely to be conducive to recovery;
- Inappropriate conduct towards or contact with pupils;
- Serious acts of insubordination;
- Theft or misappropriation of, or failure to account for, or falsely claiming entitlement to, the property, assets or funds of the school or its employees;

- Fighting, or acts of violence at the workplace, serious threatening or abusive behaviour towards, pupils, parents or fellow employees;
- Criminal offences outside work (including fraudulent activities) which may affect the individual's employment suitability;
- Unauthorised removal and use of SHHS property;
- Failure to report or record any serious matter which it is the employee's contractual duty (either expressed or implied) to report;
- Falsification of documents likely to be of financial benefit to the employee or other persons e.g. qualifications etc;
- Obtaining a job by lies or deception in the course of selection procedures;
- Making false claims under any of the SHHS's policies and/or procedures;
- Discrimination / harassment against a pupil, employee or parent, on the grounds of sex, trans-gender status, sexual orientation, religion or belief, marital status, civil partnership status, age, race, colour, nationality, national origins, ethnic origin or disability;
- Bullying;
- Being incapable of adequately performing duties as a result of the intake of alcohol or misuse of drugs;
- Serious breaches of the SHHS's Health and Safety policies or practice;
- Serious contravention of the SHHS's Policy on Internet Access to view or distribute obscene, pornographic, defamatory or otherwise unacceptable material.
- Serious breaches of the SHHS Safeguarding policy where the safety of pupils were put at risk
- Actions that put the safety of colleagues, self and or the general public at risk
- Supplying personal contact details to a pupil/young person without express authorisation from the Headteacher.
- Allowing pupil and other employees access of the internet, school intranet, school email through the employee's personal google password.
- Making sexual or romantic contact with pupil or young person whatever the age.
- Breaching the confidentiality or data protection obligations surrounding a pupil, young person or member of staff (instigating or being party to malicious gossip that serves to intimidate others).
- Covert recording of any meeting without the knowledge or consent of all parties present
- Failure to comply with investigations involving the safeguarding of a pupil or young person
- Acts or omissions that would expose SHHS to criticism or cause reputational damage;
- Disorderly or indecent conduct whether at SHHS or otherwise;

- An act committed outside the place of work where the act has an adverse bearing on the employee's suitability for the job or which would bring SHHS into disrepute.
- Term time holidays not approved by the governors.

Appendix 2: General Course of action in Relation to the four levels of misconduct.

The following procedure indicates an element of fairness in SHHS disciplinary process.

Normally the disciplinary procedure would follow the format below.

| | 1st Incident | 2nd Incident | 3rd Incident | 4th Incident |
|-------------------------------|-----------------------|-----------------------|-----------------------|--------------|
| Unsatisfactory Conduct | Verbal Warning | Written Warning | Final Written Warning | Dismissal |
| Misconduct | Written Warning | Final Written Warning | Dismissal | |
| Serious Misconduct | Final Written Warning | Dismissal | | |
| Gross Misconduct | Dismissal | | | |

All of the above sanctions carry the opportunity to appeal in the event that the matter is found against the member of staff.

Appendix 3: Disciplinary Sanctions

| Disciplinary Action | Authority to Issue | A brief description | Duration of Warning on staff member's file |
|--|------------------------|--|--|
| Verbal Warning | As delegated by HT | A Verbal Warning is an informal action taken to address an arising issue with the aim of preventing the issue from going any further. | 6 months |
| First Written Warning | As delegated by HT | For a first disciplinary offence (ignoring any informal action), a First Written warning would be the normal response. | 12 months |
| Final Written Warning | As delegated by the HT | <p>A Final Written Warning would normally be given for a second disciplinary offence committed during a live First Written warning, (even if the first warning was related to a different form of misconduct).</p> <p>A First and Final Warning could be given for serious misconduct regardless of previous disciplinary history if the conduct is sufficiently serious.</p> | 24 months |
| Dismissal on Contractual Notice | As delegated by the HT | <p>Given for a disciplinary offence (other than gross misconduct) committed or discovered during the period of five Final Written Warning (even if the final written warning is related to a different form of misconduct.)</p> <p>For the avoidance of doubt the notice commences immediately and does not await the outcome of any appeal.</p> <p>If the employee's contract contains a payment in lieu of clause, SHHS may exercise that clause to bring the employee's contract to an end with immediate effect.</p> | |
| Dismissal without notice or Compensation (Summary Dismissal) | As delegated by the HT | <p>Only occurs when an employee commits an act of gross misconduct or otherwise destroyed the trust and confidence required between the employee and SHHS.</p> <p>For the avoidance of doubt the dismissal takes effect immediately and does not await the outcome of any appeal.</p> | |