

EDUCATION EMPLOYMENT SUB-COMMITTEE
18 JULY 2006

UPDATING THE LIST OF DISCIPLINARY OFFENCES
(Director of Education, Childrens Services and Libraries/Director of Corporate Services – Human Resources)

1 INTRODUCTION

- 1.1 The Council's current 'Model Disciplinary Procedure for All School Staff' and the 'Model Disciplinary Procedure for Head teachers' contains an outline list of offences considered to be example of gross, serious or minor misconduct. The list is not exhaustive but acts as a guide to head teachers and governors when conducting disciplinary hearings. The list of offences has not been updated for some time and in the light of experience, the purpose of this report is to propose an amended list which picks up some disciplinary offences which have not previously been specifically mentioned, to ensure the example list is contemporary and reflective of cases dealt with by the Council.
- 1.2 It is a very important principle to note that the list is still indicative rather than exhaustive. It is impossible to cover every type of misconduct, so the levels of misconduct shown will be a guide only, as the severity and degree of a particular case, or whether it is a repeated offence, may affect how it is regarded. For example, misuse of the Council's facilities is deemed to be serious misconduct: but the facts of the case and the way in which it was regarded would be very different in the case of an employee who occasionally used the office photocopier to copy magazine articles compared to the case of an employee who used a range of office facilities to run a small business from Council premises. The judgement on the severity of the facts of each case remains that of the manager dealing with the case who is always advised by a professional HR Officer.

2 RECOMMENDATIONS

- 2.1 **That the list shown as Appendix A is adopted as part of the Model Disciplinary Procedures**

3 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS

Borough Solicitor

- 3.1 Nothing to add.

Borough Finance Officer

- 3.2 Nothing to add.

4 SUPPORTING INFORMATION

- 4.1 The majority of offences in the list remain unchanged. However, in some cases the list has been updated to include offences which are more prevalent or higher profile at the current time than when the list was first adopted, such as internet abuse,

inappropriate behaviour of a sexual nature, or participating in second employments without permission.

- 4.2 Some offences are simply ones which had not been encompassed in the original list but where experience suggested that managers needed some guidance on the level of misconduct they represented.

Background Papers

None

Contact for further information

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Doc. Ref

I: HR/Education Employment Committee/Disciplinary Offences –committee report 06

GUIDANCE NOTES

TYPES OF MISCONDUCT AND LEVELS OF ACTION

General

Whilst it is possible to give examples of types of misconduct (minor, serious, gross) it is important that each case is looked at in relation to the type of offence, circumstances, previous record and type of job. What would be a relatively minor breach of discipline in one job may be viewed more seriously in a different job because of the nature of the work, for example contact generally with the public, elderly or vulnerable clients or responsibility for cash.

It is not possible to give a definitive list of penalties which may be awarded for particular offences but there are general guidelines which should be followed. The Education, Children's Services & Libraries Human Resources Manager will give advice in complex cases as to whether a recorded oral warning, written warning, final written warning or dismissal is appropriate, taking account of previous similar cases in the Council as consistency is an important element in the disciplinary process.

Except in cases of summary dismissal for gross misconduct, employees who are dismissed are entitled to a period of notice in accordance with their contract of employment.

Employees would not normally be dismissed for a first breach of disciplinary rules except in the case of Gross Misconduct or specific and/or repeated cases of serious misconduct.

LEVELS OF MISCONDUCT

Minor Misconduct

Minor misconduct is that which does not impact significantly upon the work of the School or Council, employees or the public provided that it is not a repetition of an earlier similar offence.

(If the impact of the behaviour on the School or Council is significant on the facts of the case, it may be regarded as serious.)

Some examples would be:

- Poor timekeeping or non attendance without reason
- Failure to follow instructions/carry out simple tasks
- Minor abuse of flexitime
- Incomplete timesheets
- Smoking in a no smoking area

Penalties

A recorded oral or written warning is the generally accepted penalty for minor misconduct but the Headteacher or Designated Officer will need to make it clear to the employee that repetition may lead to more serious action. The warning will generally be for up to 12 months.

Serious Misconduct

Serious Misconduct is that which impacts to a significant degree upon the work of the School or Council, other employees or the public and/or is a recurrence or continuation of conduct which is unacceptable and has been dealt with previously as minor misconduct.

(If the impact of the behaviour is not very significant on the facts of the case, it may be treated as minor misconduct; if the impact is so serious in the particular case as to make the behaviour intolerable, it may be treated as gross misconduct.)

Some examples would be:

- Improper, disorderly or unacceptable conduct at, during or when arriving for work, including offensive language in front of the public or clients or pupils.
- A breach of a rule which endangers the safety of another person
- A breach of confidential information which might have serious repercussions for the School or Council.
- Neglect of responsibilities
- Dishonest behaviour (depending on the degree and extent), for example a breach of standing orders, contract or financial regulations which falls short of deliberate theft/fraud.
- Malicious or reckless damage to School or Council property (depending on the degree or extent).
- Repeated and significant misuse of the School or Council's facilities (e.g. telephones, fax machines, internet, e-mail).
- Viewing or distributing offensive material whether on the internet, by email or in written form (dependent on the degree and extent, this may be treated as Gross Misconduct).
- Participating without the knowledge or consent of the School or Council in other employment, business or profession which has an adverse impact on work or on the School or Council.
- Unauthorised entry into the School or Council's computer systems including the running of computer games and other unauthorised software.
- Working or indulging in other activities while absent from work on sickness leave.
- Behaviour which is sexist or racist or offensive to those of a particular ethnic origin, religion or belief, nationality or sexual orientation or those with a disability.

Penalties

There are a range of penalties available to the Headteacher or Designated Officer including:

Written warning.

Final Written warning - used for continued minor offences or failure to achieve the improvements required by a written warning. The warning will generally be for up to 24 months but may, in certain circumstances be left on file for an further specified period of time.

Other examples of appropriate action are: transfer to alternative duties or demotion for a specified period of time or permanently; withholding of increments or performance related pay.

Where a judgement is made that an offence may be dismissable (e.g. this may result from failure to heed a final written warning), a referral will need to be made to the Governing Body Disciplinary Committee for a further hearing.

Gross Misconduct

Gross misconduct is that which is so serious in relation to its impact upon the work of the School or Council, other employees or the public that it cannot be tolerated under any circumstances and thus is likely to result in the termination of employment.

Some examples would be:

- Theft, fraud or falsification of records, breach of standing orders or delegation limits
- Serious incapability through alcohol or non prescription drugs.
- Acts of violence or vandalism in course of employment.
- Inappropriate behaviour of a sexual nature towards another employee, client, pupil or member of the public.
- Any act which may result in an action against the School or Council for negligence or for breach of the duty of care.
- Falsification of information when applying for a post and failure to disclose criminal convictions.
- Falsifying pupil records, or assisting pupils to cheat or gain unfair advantages in examinations.
- Drug trafficking and other drug-related offences.
- Wilfully ignoring responsibilities or instructions thereby placing other members of staff and/or pupils in danger.
- Gross negligence in failing to attend or to carry out the duties of the post.
- Any other behaviour which involves an abuse of the headteacher's or member of staff's position of trust, or a breach of the standards of propriety expected of the profession.

Penalty

Dismissal without notice is given in cases of gross misconduct.