



# ABLE Education Policy Document

## **DISCIPLINARY POLICY**

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## 1. Introduction

ABLE Education applies this policy and procedure to employees of ABLE Education only (which will be referred to as “you” in this policy). It does not form part of your terms and conditions of employment and is not intended to have contractual effect. However, it reflects our current practices, and you are strongly encouraged to familiarise yourself with its content.

We reserve the right to vary or amend our disciplinary policy and procedure depending on the particular circumstances of the case. We also reserve the right not to follow the Disciplinary Policy and Procedure in respect of employees with less than two year’s continuous service.

We are required to set out our disciplinary procedures under general employment law.

## 2. Purpose of this Policy

In any organisation, it is necessary to have a minimum number of rules and procedures in place for the interests of both the employer and the employee. Rules set standards of performance and behaviour whilst the procedures are designed to help promote fairness and consistency in the treatment of individuals. It is the aim of the rules and procedures to emphasise and encourage improvement in the conduct of individuals where they are failing to meet the required standard of conduct. However, it is recognised that where improvement is not possible or the conduct is so serious, dismissal may result.

### **Purpose**

This Policy is designed to:

- Assist the Head of Provision with their responsibility to ensure consistent and fair treatment of all employees.
- Help and encourage all employees to achieve and maintain satisfactory standards of conduct.
- Ensure that all employees are treated fairly and consistently when a disciplinary issue is being dealt with.

### **Definitions**

A disciplinary issue will arise when a staff member has not behaved to the standard expected of them.

Appendix 1 sets out a non-exhaustive list of examples of what we define as misconduct and gross misconduct.

### **Principles**

- No disciplinary action should be taken until the case has been fully investigated.
- At every stage in the procedure the employee must be advised of the nature of the allegations against them and must be given the opportunity to state their case before any decision is made.
- At all stages, the employee has the right to be accompanied by their trade union representative or a work colleague, at any disciplinary hearing or investigation.

- No employee should be dismissed for a first breach of discipline except in the case of gross misconduct.
- An employee has the right to appeal against any disciplinary penalty imposed beyond oral warning stage.
- Disciplinary and appeal hearings should take place within the normal working day of the employee.
- If the disciplinary hearing is adjourned, the newly arranged hearing should be arranged within five working days, unless otherwise agreed by both parties.

In cases where there are child protection issues, the child protection procedure must be followed. In these circumstances, the Head of Provision will initially seek advice about child protection procedures from the Local Authority Designated Officer.

Minor disciplinary issues will be dealt with informally at first, and will be escalated only where:

- There has been no resolution.
- The issue becomes more serious.
- There are repeated or multiple instances of misconduct.
- There is suspected gross misconduct.

When dealing with an issue informally, the Head of Provision will organise a brief meeting with the employee and set out the concerns. They will remind the employee of the expected standard of behaviour and consider what support is needed to help them improve. Notes will be taken and retained.

### 3. Procedure

It is often appropriate for minor misconduct to be dealt with on an informal basis. In serious cases it may be necessary to consider suspending the employee while an investigation is conducted if that is necessary to make the investigation effective. It must be made clear that suspension is a neutral act.

#### **Investigation**

Before a disciplinary hearing takes place, the Head of Provision will gather the facts of the case and any available evidence. The Head of Provision will, if necessary, hold investigatory meetings (in person or over video conferencing). The employee will be informed of the outcome of the investigation in writing. The Head of Provision will determine whether or not the matter should move forward to a formal disciplinary hearing.

#### **Notification**

If it is decided that there is a disciplinary case to answer, the employee will be sent a written notification five working days before the hearing. The meeting could be sooner if it is agreed by both parties. The notification will include:

- Details of the alleged misconduct and its possible consequences
- Copies of any written evidence, including witness statements

- The time, date and location of the disciplinary meeting (including the details if the meeting is to be held over video conferencing, if relevant)
- A statement that the employee has the right to be accompanied by a colleague or a trade union representative.
- Notification that the employer intends to call witnesses (if relevant). If the employee intends to call a witness, they should notify the employer.

## **Disciplinary hearing**

Before the hearing, the employee will receive a copy of all evidence that will be relied upon during the procedure.

At the hearing, the Head of Provision will explain the case against the employee and go through the evidence that has been gathered. The employee will be allowed to set out their case and answer to any allegations that have been made.

The employee will also be given a reasonable opportunity to ask questions, present evidence and call relevant witnesses. They will also be given an opportunity to raise points about any information provided by witnesses.

Employees have a statutory right to be accompanied at a meeting that may result in a formal warning being issued, disciplinary action being taken, or the confirmation of either of these.

The employee has the right to be accompanied by a colleague or a trade union representative. Employees must make the request in advance of the meeting, to allow the provision to prepare and to ensure the employer knows who the companion will be.

If an employee's chosen companion will not be available to meet at the proposed time, the hearing will be postponed to a time proposed by the employee, as long as the alternative time is reasonable and not more than 5 working days after the original date.

The companion can address the hearing to put forward and sum up the employee's case, respond on behalf of the employee to any views expressed at the hearing and confer with the employee during the hearing. The companion does not, however, have the right to answer questions on the employee's behalf, address the hearing if the employee does not wish it or prevent the employer from explaining their case.

## **Taking appropriate action**

The hearing will be adjourned and a decision about whether further disciplinary action is necessary will be taken. The employee will be informed of the decision in writing within five working days.

Actions taken may be:

### Stage 1 – Verbal Warning

Following the hearing a warning may be issued by the Head of Provision and the employee notified of their right of objection.

In accordance with ACAS advice, a note of the verbal warning will be kept but it will be spent after a period of between 6 to 12 months satisfactory conduct. The letter of notification of the warning should clearly identify the date the warning would normally end.

#### Stage 2 – Written Warning

If following the hearing a written warning is issued by the Head of Provision, a copy of the warning will be kept on the employee's personal file. It should be removed after 12 months' satisfactory service in line with ACAS' advice. The maximum period for the duration of a warning will normally be one year. The right of appeal must be clearly notified to the employee. An employee who wishes to appeal against the decision of the Head of Provision should identify the grounds for appeal in writing and submit the document to the Head of Provision to consider the appeal.

#### Stage 3 – Final Written Warning

If the conduct continues to be unsatisfactory or if the misconduct is sufficiently serious to warrant only one warning the employee shall be notified of the disciplinary hearing no later than 10 working days prior to the hearing.

It may be necessary, following the hearing, to issue a final written warning. However, the decision could be taken to issue a lower-level warning if that is considered appropriate. If a final written warning is issued, the warning must clearly state the details of the complaint that dismissal may result if there is no satisfactory improvement and also advise of the right of appeal. The appeal process will require the employee to identify in writing the grounds for appeal.

A copy of the final written warning will be kept on the employees file but will be spent after a pre-determined period. The advice from ACAS would be that the predetermined period should be no longer than 1 year's satisfactory service.

#### Stage 4 – Dismissal

If the conduct of an employee is so serious that dismissal is required, the employee will be issued with the appropriate notice of the ending of employment. The Appeal Hearing will be held during the period of notice or in the case of dismissal without notice after the ending of the employment.

## 4. Appeals

An employee who wishes to appeal against dismissal should inform the Head of Provision in writing with the grounds for appeal clearly identified.

Appeals will be heard without unreasonable delay and at an agreed time and place (in person, or over video conferencing if relevant). Employees' statutory right to be accompanied by a companion will apply as with formal disciplinary hearings. Notes will be taken and a copy sent to the employee.

The employee will be informed in writing of the results of the appeal hearing within five working days.

### **Record keeping**

Minutes will be kept of all interviews and meetings. Where possible, these will be confirmed as an accurate reflection of what was discussed during the meeting.

Records of all materials relating to the disciplinary process will be kept securely, only for as long as necessary and in line with data protection law, our data protection policy.

If disciplinary action is taken, a record of this will be added to the employee's personnel file.

We will disclose any proven disciplinary offences by a staff member if a reference is requested by a future employer.

**DISCIPLINARY PROCEDURE**

Informal Meetings

Formal Procedure  
Stage 1

Formal Meeting  
Oral warning may be issued

Stage 2

Written Warning Meeting

Stage 3

Final Written Warning Meeting

Stage 4

Dismissal

Dismissal  
Notice of Dismissal Issued

Dismissal  
Appeals Dismissal Committee