

Guidance for Schools and Academies

Suspension of Employees

Document Number: 57

Date: October 2018

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Policy / Guidance history:	
Issued:	October 2018
Updated:	

CONTENTS

Page No.

1.	Introduction	1
2.	Scope	1
3.	Equality and Diversity.....	1
4.	Principles.....	1
5.	Prior to decision to suspend an employee	2
6.	Decision and process of suspending an employee from work	3
7.	Ending of suspension / Action following suspension	4
8.	Further Advice.....	5

GUIDANCE ON SUSPENSION

1. Introduction

- 1.1. The purpose of this guidance is to provide advice on the suspension of employees from their normal duties and workplace as provided for under the Schools Disciplinary Policy to enable an investigation into alleged conduct and/or behaviour to proceed unhindered or to protect the interests of the school and its employees.
- 1.2. The school reserves the right to apply the principles set out in this guidance to suspension in other situations as appropriate (e.g. medical or health and safety suspension).

2. Scope

- 2.1. This guide applies to all employees employed by the school (unless an employee's contractual terms and conditions provide otherwise).

3. Equality and Diversity

- 3.1. Equality and diversity underpins all the school's employment policies, procedures and practices. The school actively promotes equality of opportunity and values diversity among its employees. The potential equality impact of this policy has been assessed.

4. Principles

- 4.1 An employee may be suspended from his/her normal duties or workplace while receiving full pay, usually pending an investigation into allegations of misconduct. Suspension is intended by the school to be a neutral act and not to represent any finding of fault in the employee or an assumption of guilt or be seen as a prejudgement of the outcome of the matter.
- 4.2 The school accepts it has a duty to act reasonably, fairly and consistently in suspending an employee.
- 4.3 The decision to suspend an employee from duty will not be taken lightly.
- 4.4 Suspension may only be carried out by the Headteacher or the Chair of Governors (in allegations involving the Headteacher).
- 4.5 Before deciding to suspend an employee, careful consideration will be given to all the circumstances, the nature of the complaint or allegation made against an employee, and the alternatives to suspension (such as temporary redeployment or working from home). There must be good reason to believe the employee's continued presence in the workplace could create further problems. Where possible provide evidence of this and record your decision.
- 4.6 In cases of where there are allegations of a safeguarding nature the following alternatives should be considered (from Keeping Children Safe in Education 2018):
 - Redeployment within the school so that the individual does not have direct contact with the child or children concerned.

- Providing an assistant to be present when the individual has contact with the children.
 - Redeployment to alternative work in the school where the individual does not have unsupervised access to children.
 - Moving the child or children to classes where they will not come into contact with the member of staff, making it clear that this is not a punishment and the parents have been consulted.
 - Temporarily redeploying the member of staff to another role in a different location for example to an alternative school or work for the local authority or academy trust or working from home if appropriate.
- 4.7 Any suspension will be as brief as possible, kept under review (normally every 20 working days) and the employee updated on the progress of the conduct investigation and any delays that may arise, which would affect the duration of the suspension.
- 4.8 Employees who are suspended will receive normal pay in line with their planned working arrangements.
- 4.9 All employment matters relating to an individual employee remain confidential.
- 4.10 Due consideration should be given to the potential permanent professional reputational damage to the employees that can result from suspension where an allegation is later found to be unsubstantiated or maliciously intended.

5. Prior to decision to suspend an employee

- 5.1 As soon as possible after an alleged misconduct or gross misconduct is identified, the employee should be spoken to and given the opportunity to comment/give their initial response on the alleged misconduct before the decision to suspend is taken. However, in the case of safeguarding allegations discussions must take place with the LADO prior to any decisions or actions being taken. (Also note: Internal Audit must be informed of any potential or actual loss or financial irregularity or suspected irregularity before discussing with the employee. This should be done by the officer discovering the loss or financial irregularity.)
- 5.2 Children's Social Care Services or the Police cannot require the school to suspend a member of staff or volunteer (taken from Keeping Children Safe in Education 2018), although the school should give appropriate weight to their advice. The power to suspend is vested in the school. However, where there is a POT meeting or initial evaluation concludes that there should be enquires by Children's Social Care Services and/or investigation by the Police, designated officers should canvass Police and Social Care Services for views about whether the accused member of staff needs to be suspended from contact with children, this will form part of the consideration for suspension. Police involvement does not make it mandatory to suspend a member of staff, this decision should be taken on a case-by-case basis having undertaken a risk assessment.]
- 5.3 The suspension meeting must be held in private and the Headteacher may be accompanied by an HR representative.

- 5.4 Whilst the employee has no statutory right to be accompanied to a suspension meeting, it is recognised that there is a need to be sensitive to reactions from the employee including shock, stress or distress and it may be appropriate therefore to offer the employee the opportunity to be accompanied at the meeting by a work colleague or their trade union representative if available. However, the unavailability of a representative will not delay convening the suspension interview or the suspension itself.
- 5.5 The employee should be advised that they will be invited to an investigation meeting in due course. However, any comments made by the employee should be noted for the record and the employee should be advised at the start of the meeting that this may form part of any subsequent investigation.
- 5.6 In all cases the rationale and justification for such a course of action should be recorded including what alternatives have been considered and why they were rejected.

6. Decision and process of suspending an employee from work

- 6.1 There must be a good reason for suspension. Consideration should be given to alternatives to suspension such as redeployment or working from home. The following list is not exhaustive but provides an indication of the types of situation when suspension may be appropriate:
- Where it would not be possible to carry out a thorough or impartial investigation with the employee still at work, e.g. where there are reasonable grounds for concern that evidence has been/could be tampered with, destroyed or witnesses pressurised before a formal meeting.
 - Where gross misconduct is suspected or alleged, although this does not of itself justify suspension pending investigation. There should be a reasonable suspicion of gross misconduct and the Headteacher should undertake an initial investigation before making the decision to suspend.
 - Where there is cause to suspect there is a risk of harm to a child or children at the school.
 - Cases where the school is made aware of that the Secretary of State has made an interim prohibition order in respect of an individual who works at the school. (Taken from Keeping Children in Safe in Education 2018.)
 - Where there is a perceived risk of harm to the employee or others.
 - Where there are risks to the school's property.

The Headteacher will inform the employee verbally of the decision to suspend them as soon as reasonably practicable. This will be confirmed in writing without unreasonable delay. Where the employee is not available or cannot be contacted the decision to suspend will be communicated in writing.

- 6.2 The advice to the employee who is suspended will be as follows:
- Why they are being suspended from duty, and that this will be confirmed in writing.

- That their suspension from duty is a neutral act to allow the investigation to be undertaken and does not represent any finding of fault at this stage and is not a form of disciplinary action.
- That the employee will continue to receive pay for planned work during the period of suspension. An employee's pension will not be affected by suspension.
- To remain contactable and available during normal working hours so that they can attend meetings as required.
- To inform the Headteacher of any change in their contact details immediately while they are suspended.
- Booked leave or requests for annual leave during a period of suspension should be made to the Headteacher before such leave is taken in view of potential impact on availability for the investigation.
- That the matter should be kept confidential and only discussed with those involved in the disciplinary process such as their representative, the investigator, HR representative involved in the case or the Headteacher.
- They should not attempt to influence any colleagues or potential witnesses involved in the disciplinary proceedings or discuss the matter with them. It may be necessary in some circumstances for a suspended employee to be prohibited from contact with named employees or witnesses. They should be advised that a failure to comply may result in further action being taken against them in accordance with the Schools Disciplinary Policy.
- That the suspension will be reviewed regularly (normally every 20 working days) by the Headteacher, in consultation with the appropriate HR representative (if necessary) and that they will be kept updated /informed in writing.
- To return any school property or equipment (keys, laptop, ID badge, etc.) and limiting IT access if/as necessary.
- A named contact will be provided to the employee under suspension.

6.3 Normal sickness reporting rules apply during the period of suspension. If, at any stage during the suspension, it appears that there is a significant medical factor involved, the employee will be referred to Occupational Health.

6.4 It may be advisable to discuss with the employee how the employee's absence from work will be communicated to internal and external colleagues and parents/careers.

7. Ending of suspension / Action following suspension

7.1 An employee's suspension will end when one of the following occurs:

- The Headteacher decides that there is no case for the employee to answer and that they do not need to attend a disciplinary hearing.
- The investigation can continue without the employee being suspended and the employee can return to work in their substantive post, or, possibly after

full discussion and agreement with the employee, in a different location or capacity.

- The investigation has been concluded and the allegations are considered less serious than originally outlined.
- The disciplinary procedure has been completed.

7.2 The suspension can only be ended by the Governing Body. However, in certain circumstances the Governing Body may decide that it is in agreement for the Chair of Governors to undertake these functions on behalf of the Governing Body.

7.3 The Headteacher/Chair of Governors must advise the Governing Body as soon as reasonably practicable of any suspension and the ending of a suspension.

7.4 Where an employee returns to work following suspension, arrangements must be discussed with the employee concerning:

- Whether any additional support is needed in the short-term such as coaching, training or counselling.
- The process for catching up with workload and the workplace in general such as important notices, decisions and events etc. that you may have missed, especially if there is a change in role/Year Group.
- What message about the employee's return is given to colleagues, etc.

8. Further Advice

8.1. For further advice, please contact HR Consultancy for Schools.

HR/HH/djc
23rd October 2018