



# The Kingfisher Schools Federation

## Disciplinary Policy

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## General Introduction

This policy document contains the Model Disciplinary Procedures for schools maintained by Suffolk County Council. The following general points apply to the Model Disciplinary, Capability and Grievance Procedures.

### 1. Application of the Procedures

- 1.1 These procedures apply in all maintained schools in which the governing body has adopted them for use with employees who come under their control. They apply to all teachers employed by the County Council at such schools who are paid in accordance with the scales of salaries for teachers in primary and secondary schools determined under the Teachers Pay and Conditions Act 1991 or successor legislation and to all appropriate support employees employed by the County Council or the schools concerned.
- 1.2 The schools concerned are those Community and Controlled schools which have delegated budgets under S. 45 of the School Standards and Framework Act 1998 or successor legislation. The Education (Modification of Enactments Relating to Employment) Order 1999 provides for the governing bodies of the schools concerned to be deemed the employer for the purposes of this procedure.
- 1.3 The governing bodies of voluntary aided or foundation schools maintained by Suffolk County Council may also adopt these procedures, with appropriate modification to reflect that in each case the governing body is the employer.



## 2. Purpose

- 2.1 The overall purpose of these procedures is to promote fairness and order in the relationship between school governing bodies and the employees who come under their control.
- 2.2 These procedures take account of the ACAS Code of Practice on Disciplinary and Grievance Procedures, and (in the case of the Capability Procedure) the requirements of the DfES and the report of the 1997 ACAS Working Group. They also take account of the conditions of service of the groups of employees to whom they apply and replace any model procedures to be found in the various conditions of service.

## 3. Interpretation

- 3.1 In these procedures the term “Governing Body” means the governing body of the school concerned and any committee of the Governing Body acting with delegated authority. The terms “Director of Education and “Principal Assistant County Solicitor” includes any officer acting with appropriate delegated authority on behalf of the County Council.
- 3.2 Any provisions of these procedures should be interpreted in the light of the statutes which confer the relevant decision making powers upon school governing bodies and determine the manner in which schools should be governed. These are The School Standards and Framework Act 1998 (Schedules 16 and 17) and the Education (School Government) Regulations 1999, as replaced, supplemented or amended.

## 4. Confidentiality

- 4.1 All proceedings will remain confidential to the parties concerned, with the exception of official bodies which have a right to require disclosure of information. The full Governing Body will be notified of the existence of any formal proceedings and their outcome.
- 4.2 The details of proceedings of any investigatory interviews and/or hearings and appeals will not be reported other than to those who have a role in the proceedings. The contents of documentation such as witnesses’ statements will be treated in confidence by all parties involved and will not be disclosed to others, with the exception of official bodies with cause to require disclosure.



## 5. Child Protection

The County Council issues separate guidance relating to child protection and allegations of child abuse made against school staff. Schools must refer to this in all relevant cases.

### Disciplinary Procedure

#### 1. Scope

- 1.1 This procedure will be used in all cases where misconduct, omission or, in certain circumstances failure in performance is such as to warrant disciplinary action.
- 1.2 The term “misconduct” in this procedure covers instances of misconduct, omissions or failures in performance which may be reasonably attributed to wilful or negligent acts or omissions on the part of an employee. Examples of the types of acts and omissions which might be considered under this procedure are contained in Schedule 1.
- 1.3 Where any deficiencies in performance on the part of the employee arise from a lack of aptitude or skill rather than any wilful or negligent failure to carry out his/her duties the Capability Procedure should normally be used.
- 1.4 Separate guidance exists for dealing with problems arising from alcohol dependence. However, significant problems of misconduct arising from drunken behaviour may also be dealt with under this procedure.

#### 2. Exclusions

- 2.1 This procedure does not apply where employment is terminated by reason of redundancy or incapability arising from ill-health.
- 2.2 The normal management of employees and the associated processes such as performance review are outside the scope of this procedure. There will be occasions when it is appropriate for an employee’s performance at work to be discussed with him/her as part of the normal management arrangements and without recourse to formal procedure. If there is any shortcoming identified, an employee will be assisted to understand the standard of behaviour or performance required.



This may be confirmed by a written instruction. By the very nature of these situations, the employee will not normally be accompanied at any meetings or discussions, although they may seek the advice of a trade union representative and it could be helpful if the employee is represented.

- 2.3 Where discussions in the normal course of management do not bring about any required change or improvement, the employee will be left in no doubt that the next step could be referral to the formal disciplinary procedure. If further informal discussion is required at this point to establish or clarify issues, the employee may be accompanied by a trade union official or friend, and a memorandum acknowledging the steps to be taken may be issued.

### 3. Investigation

- 3.1 If the normal management processes do not bring about the required changes in behaviour or performance, the next step will normally be referral to the formal disciplinary procedure. If it is sufficiently serious, a single instance of misconduct, may be such as to warrant immediate referral to the Disciplinary Procedure. Schools should normally seek the advice of the Director of Education before instituting formal disciplinary action or suspending an employee.
- 3.2 In order to establish the appropriateness of using the formal Disciplinary Procedure, it will normally be necessary for the Governing Body, or Headteacher to conduct or commission a formal investigation. If the employee concerned is a trade union official (as statutorily defined) the matter will be discussed with his/her branch secretary or a full time official before an investigation is undertaken. An employee who is the subject of investigation may be accompanied at any interview or similar investigatory meeting by a trade union representative or friend. The employee and any witnesses who make statements during the course of any investigation will normally be asked to check and sign any written statement of evidence.
- 3.3 In certain circumstances it may be necessary to suspend an employee while an investigation is carried out into the situation giving rise to concern. The Headteacher may suspend an employee. S/he must immediately inform the Chair of Governors and the Director of Education of the action s/he has taken. If it is necessary to suspend the Headteacher this must be done by the Chair of Governors, who must immediately inform the Director of Education. If it is evident that the allegations under investigation are so serious that they would amount to gross misconduct if substantiated (see Schedule 1 Section 3 for examples), the employee will normally be suspended during any investigation. Such a suspension does not constitute disciplinary action.



If it is necessary to suspend an employee during investigations this will be at full pay. Suspension will not be unnecessarily protracted and support for an employee who is suspended may be made available as set out in Section 8.

#### 4. Disciplinary Hearing

- 4.1 If it appears, after investigation, that there is a case to consider, a disciplinary hearing will be convened. A hearing may be conducted by the Hearings Committee (or other authorised committee) of the Governing Body, the Headteacher, or a senior manager authorised by the school's scheme of delegation. If dismissal is a possible outcome, the hearing must be conducted by that committee of the Governing Body which is authorised to make the appropriate determination.
- 4.2 Where it is proposed to hold a disciplinary hearing, the employee will be informed in writing of:
- (a) the nature of the alleged misconduct and, where it possible to state, the warning stage which the employee has already reached;
  - (b) the date, time and place for the hearing;
  - (c) the name of the person presenting the case and witnesses;
  - (d) the employee's right to produce written statements and invite witnesses to give evidence on his/her behalf (any written statements will be circulated to the parties and to those hearing the case normally five days in advance of the meeting);
  - (e) the employee's statutory right to be accompanied by a trade union official or fellow employee of his/her choice. If an employee chooses to attend unaccompanied, s/he will normally be asked to sign a statement to that effect.
- 4.3 A hearing will not normally be held in the absence of the employee, except by mutual agreement, unless s/he fails to attend a hearing without reasonable cause, or is otherwise constrained from attending (e.g. s/he is held in custody). The date of the hearing will be postponed by up to five working days if the employee's representative is unable to attend on the specified date.
- 4.4 The hearing will be conducted in as informal a manner as possible in accordance with the procedure laid down in Schedule 2.



- 4.5 The person or committee hearing the case may make a determination which is within their delegated powers. That determination may be communicated orally to the employee after the hearing, but will in any case be confirmed in writing. The employee will be informed whether or not the allegations have been upheld. If the allegations are upheld, in full or in part, the findings and the decision will be confirmed in terms of:
- (a) the nature of the misconduct;
  - (b) the appropriate sanction i.e. a first or final warning or determination that the employee shall cease to work at the school (to dismiss in the case of voluntary aided schools);
  - (c) how to appeal against the decision and/or any disciplinary sanction, the length of time within which an appeal must be lodged, and who it should be addressed to;

If the determination is to issue a disciplinary warning, the employee will also be informed in writing of:

- (a) what improvement is expected for the future;
  - (b) the length of time for which the warning is active (not usually less than three months nor greater than twelve);
  - (c) any other information in respect of the improvement required e.g. any review of arrangements, and whom the employee should contact for assistance;
  - (d) what might happen if the matter proceeds to the next stage e.g. what the possible sanction might be.
- 4.6 Employees will be required to sign and return a copy of any such letter confirming receipt.
- 4.7 If disciplinary action against an employee is withdrawn, either before or during a hearing, no details will be recorded on the employee's personal file and the employee will be informed accordingly.



## 5. Warning Stages and Disciplinary Sanctions

- 5.1 The Disciplinary Procedure provides for the employee to be given every reasonable opportunity to improve his/her conduct or performance. Unless the circumstances are exceptional e.g. gross misconduct, no employee should be dismissed without first having received at least one written warning and having had the opportunity to improve his/her conduct and/or performance. Under most circumstances, this procedure provides for an employee to receive two written warnings, a first warning and a final warning, before dismissal is considered.
- 5.2 Written warnings will normally remain in force for a period of not more than twelve months. In exceptional cases, the person or committee hearing the case may make a determination that the warning will stay in force for a longer period. This may be appropriate where there is a history of repeated breaches of the same or similar disciplinary rules, or where the misconduct is serious enough that the committee hearing the case could consider dismissal as a possible sanction. The employee may appeal against the imposition of an extended warning period.
- 5.3 In addition to the disciplinary sanction, the Governing Body of the School or the County Council may, in appropriate circumstances, take action to recover monies or property legitimately due to it. In the case of teachers, certain types of misconduct may be reportable to the General Teaching Council. Cases involving misconduct towards children or young people will also be reported as required to the Department for Education and Skills (or its successor).
- 5.4 **First Warning**

Where an employee's misconduct is such as to warrant a formal warning, and where there is no previous warning current, a first written warning will normally be the appropriate sanction.

### **Final Warning**

- 5.5 Where a first written warning is current any further misconduct during the currency of that warning will normally lead to a final written warning being issued. A final written warning may also be issued in circumstances where an employee is shown to have committed serious misconduct, omission, or failure in performance short of gross misconduct.



It may also be appropriate where dismissal would be a reasonable sanction, but the committee hearing the case have good reason to believe that a warning will prove to be effective. A final written warning will contain a clear indication that any further disciplinary offence during the currency of the warning will normally, if substantiated at a hearing, result in dismissal without further warning.

## **Dismissal**

- 5.6** If further allegations of misconduct are brought while a final written warning is current, the committee hearing the case will normally determine that the employee shall cease to work at the school (in the case of voluntary aided or foundation schools to dismiss), unless there are strong mitigating circumstances. The committee hearing the case may alternatively in appropriate circumstances determine to extend the final warning for a period between three and twelve months.
- 5.7** If the allegations against the employee are so serious that they would constitute gross misconduct (see Schedule 1 paragraph 3), the committee hearing the case may determine that the employee shall cease to work at the school, even where no disciplinary warning is current. In this case the employee will normally have been suspended during the process of investigation and, subject to the outcome of any appeal, the Director of Education will dismiss the employee without notice.
- 5.8** Where the employee's misconduct is not such as to constitute gross misconduct, but has, nevertheless, led to a fundamental breakdown of mutual trust and confidence such that it would be impossible or impractical to continue his/her employment, the committee hearing the case may determine that the employee shall cease to work at the school. In such a case, subject to the outcome of any appeal, the Director of Education will dismiss the employee with due notice. Such a case would be exceptional.
- 5.9** A decision that an employee shall cease to work at the school may only be taken by an appropriate committee (or individual) empowered to do so under the School Government Regulations in force at the time. The Director of Education is entitled to attend any meeting of a Governing Body or its committees which may determine that an employee shall cease to work at the school. The Director of Education will dismiss an employee on the instructions of a committee (or individual) who has the power to issue such an instruction. Any appeal lodged by an employee against a determination that s/he shall cease to work at the school must be decided before the Director of Education is instructed to dismiss the employee.



5.10 This procedure provides for the right for the Director of Education and/or the Principal Assistant County Solicitor to attend any disciplinary hearing (including any appeal hearing) where a determination that an employee shall cease to work at the school (or dismissal) is being considered. Schools must notify the Director of Education when such a hearing is convened.

## 6. Appeals

6.1 An employee is entitled to appeal against any disciplinary sanction imposed. If the sanction has been imposed by the Headteacher, the appeal will be to a committee of the Governing Body. Where the sanction has been imposed by a committee of the Governing Body, the appeal will be to the Governing Body's Appeals Committee.

6.2 An employee who wishes to appeal against a disciplinary sanction must lodge notice of his/her wish to appeal within 14 days of the date of written notification of that sanction, as directed in the letter of notification.

6.3 A date for an appeal hearing will normally be arranged and notified to the parties within 14 days of an appeal being registered. All parties will normally be given at least 14 days' notice of the date of the appeal. Any written submissions, statements and other relevant material should normally be lodged with the clerk to the Appeal Committee at least five working days before the meeting of the Committee to enable it to be circulated to the parties in good time before the hearing.

6.4 The main grounds for an appeal are likely to be:

- (a) if the employee wishes to contest the finding and/or the disciplinary sanction;
- (b) if new relevant evidence not available to the original hearing becomes available;
- (c) if there is an alleged lack of fairness in the original hearing.

If the appeal is against the finding and the sanction imposed by the original hearing, the appeal will normally constitute a complete re-hearing. If the appeal is against the disciplinary sanction only, the Appeal Committee may agree with the appellant and his/her representative that they will hear evidence in mitigation of the sanction.



- 6.5 The procedure for the conduct of an appeal is set out in Schedule 2. An Appeal Committee may uphold the original finding and sanction; uphold the original finding but modify the sanction (only in the most exceptional case will the severity of the original sanction be increased); not uphold the finding and therefore remove the sanction.
- 6.6 If as a result of an appeal or any other review, a disciplinary complaint against an employee is withdrawn, or is found to have been mistakenly initiated, any record of that action will be removed from the employee's personal file and destroyed.

## 7. Headteachers

In locally managed schools the responsibility for the conduct and discipline of employees at the school will be part of the headteacher's responsibility. Where there is a concern or complaint about misconduct on the part of the Headteacher, it will normally be the responsibility of the Chair of Governors to initiate any necessary action. Chairs of Governors should seek the advice of the Director of Education before instigating any formal disciplinary action or suspending a headteacher.

- 7.1 If there is sufficient cause for concern, the Chair of Governors may request the Director of Education to carry out an investigation into all the material facts and circumstances of the complaint or concern. This investigation will be carried out in confidence. The Chair of Governors and one other governor (who should not later be a member of a committee which hears the case) will consider the report of the investigation and any recommendations of that report and will decide what action is to be taken.
- 7.2 If the Chair of Governors and the one other governor decide to take no action after due consideration of the Director of Education's report, they will report their decision and the reason for that decision (but not the details of the investigation) to the full Governing Body.
- 7.3 If the governors considering the report decide that the matter should be considered under the formal disciplinary procedure, the matter will be considered by the Hearings Committee of the Governing Body. The procedure will be conducted as for all other employees.



## 8. Advice and Support to Employees

- 8.1 In most case employees subject to allegations or complaints being dealt with under this procedure will seek the advice and support of their trade union or professional association. However, employees may address questions about procedure, the conduct of investigations or hearings, or other related matters to the Headteacher, the Chair of Governors or the Director of Education.
- 8.2 In cases where the investigation is prolonged, and especially where the employee is suspended from duty, or has been offered and accepted leave of absence, pending investigations, it will normally be appropriate to make arrangements to keep the employee informed of developments and to offer support. This should be arranged through a suitable senior member of the School's staff or an officer of the County Council who is not involved in the investigation or procedure in any other way. The name of a nominated individual will normally be notified to the employee.
- 8.3 If an employee wishes to raise a grievance about the conduct of a disciplinary case, at any stage before a disciplinary hearing is convened, this should be addressed in writing to the Chair of Governors of the school. The Chair of Governors will decide what action should be taken and his/her decision in this matter will be final. If action taken by the Chair of Governors is the subject of the grievance, s/he will delegate the matter to another governor for consideration and decision. Any complaints made after a hearing has been convened or during the course of a hearing should be dealt with by the individual or committee hearing the case and/or as part of any appeal process.

## SCHEDULE 1

### Responsibilities and Obligations General Rules of Behaviour and Conduct

#### 1. General

The ACAS Code of Practice on Disciplinary Practice and Procedure in Employment recommends that employees be left in no doubt as to the type of behaviour and conduct that may result in disciplinary action being taken against them. It is not possible to specify all forms of behaviour that will result in disciplinary action .



Each case must be judged in the light of the circumstances and context surrounding it. Varying circumstances may well allow different disciplinary actions or no disciplinary action at all to be taken for what are similar offences. The following examples give an indication of the Governing Body's position as to the types of behaviour which constitute misconduct.

The examples are not exhaustive and omissions from the list are not in themselves grounds for appeal. In addition, employees should, so far as is reasonably practicable, be familiar with the working rules and procedures relating to their own school and their particular area of work. These rules may be in the form of codes of practice, manuals, posters, notices and periodic memoranda.

## 2. Some Reasons Which May Justify Disciplinary Action

- Professional or similar negligence, misconduct or omission or, in certain circumstances, failure in performance to a reasonable and acceptable standard.
- Failure to obey a reasonable and lawful instruction or direction.
- Failure to exercise reasonable care for the safety of oneself, other employees, pupils, governors, members of the public or others on school premises or in the course of work.
- Deliberate failure to disclose any personal incapacity which may be incompatible with the satisfactory discharge of the duties and responsibilities of the job.
- Negligence in the care or custody of cash, stores or other property of the school or the County Council or belonging to people in the care of or receiving a service from the school.
- Use of paid time for purposes unrelated to the job.
- Misuse of equipment, materials and information, including wrongful use of the internet, inappropriate use of electronic mail, breaches of copyright and other intellectual property rights.
- Unauthorised or inappropriate disclosure of confidential information, or the use of such information or official contacts for personal gain.
- Failure to disclose an interest in a School or County Council contract.
- Harassment or bullying of other employees.



- General misconduct e.g. rudeness, insolence, drunken or aggressive behaviour, use of foul and abusive language, sexist, racist and other offensive behaviour.
- Discrimination and/or victimisation contrary to the law and/or the school's policies on equal opportunities, including race, sex, disability, sexual orientation etc including giving instructions or bringing pressure to bear on others to do so.
- Malicious complaints or victimisation of employees as found under the school's harassment, disclosure of malpractice and similar procedures.
- Failure to co-operate with the school on health and safety matters and procedures.
- Misuse of safety equipment provided.
- Persistent lateness or absence, and/or wilful failure to comply with the school's procedures covering the notification of sickness absence.
- Administering corporal punishment to pupils.
- Promoting partisan political views in the teaching of any subject at the school.
- Wilful or negligent failure to report evidence of abuse of children within the employee's care.

### 3. Some Reasons Which May Justify Dismissal Without Notice

- Serious professional negligence, misconduct, omission or, in certain situations failure in performance to a reasonable and acceptable standard.
- Theft or misappropriation of cash or property belonging to the school, the County Council, fellow employees, pupils and others at school or in the course of employment.
- Serious cases of harassment or bullying contrary to the school's policies.
- Serious racist behaviour.
- Serious sexual misconduct.



- Serious cases of discrimination and/or victimisation contrary to the law and/or the school's equal opportunities policies, including race, sex, disability, sexual orientation etc. including giving instructions or bringing pressure to bear on others to do so.
- Serious malicious complaints against or victimisation of employees using school procedures e.g. harassment, disclosure of malpractice etc.
- Serious offences involving the misuse or illegal possession of drugs, and/or serious cases of being under the influence of alcohol or drugs at work.
- Threatened or actual physical assault on employees, pupils, governors, or others on school premises or in the course of work.
- Malicious damage to the school's or County Council's property or that belonging to others while in the course of work.
- Serious misuse of equipment materials and information, including wrongful use of the internet, inappropriate use of electronic mail, breaches of copyright and other intellectual property rights.
- Serious unauthorised or inappropriate disclosure of confidential information, or the use of such information or official contacts for personal gain.
- Deliberate and wrongful disclosure of security passwords in connection with building security and computer systems.
- Serious failure to disclose an interest in school or County Council contracts.
- Falsification of work records, timesheets, travelling and subsistence and similar claims and other documents connected with the workplace or with claiming pay and expenses from or making payments to the school or the County Council.
- False statements or failure to disclose relevant information in applications for employment with the school or the County Council, with particular reference to health, or qualifications or which result in financial gain.
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- Deliberate failure to disclose unspent criminal convictions or, in respect of employment exempt from the terms of the Rehabilitation of Offenders Act (i.e. employment with children or young people) failure to disclose any conviction or caution both before and during relevant employment.

#### 4. Some Reasons Which Might Justify Dismissal With Notice

As distinct from gross misconduct, for which the normal sanction is dismissal without notice, dismissal will normally only take place after due warning through the disciplinary procedure. However, there are a limited number of circumstances which fall short of gross misconduct where the governing body may determine that an employee shall cease to work at the school without prior warning being issued. These are circumstances where the action of the employee has broken the mutual trust and confidence necessary to sustain the employment relationship. In particular there are two sets of circumstances which may give rise to such a determination.

- Behaviour of a serious or criminal nature outside employment the nature of which makes continued employment impossible.
- Committal to prison for an offence which is of such a kind, or entails a sentence of such length, as to make continued employment impossible.

## SCHEDULE 2

### Procedure for a Hearing

Hearings will be held in as informal a manner as possible and the employee will be afforded every reasonable assistance to put his/her case. The conduct of the hearing is at the discretion of the Headteacher or Chair of the committee, but s/he will allow the parties every reasonable opportunity to present their case.

In the case of an appeal or grievance the order of presentation set out below would normally be reversed. The employee as appellant would present his/her case first. However, by prior agreement and where the appeal constitutes a re-hearing of the full case, the case against the employee may be presented first as at the initial hearing. Chairs of appeal committees should ensure that all parties have a common understanding and agreement on the order of presentation.



## 1. Introduction

The Headteacher, or Chair of the appropriate committee will ensure that those present are introduced to each other and that they are aware of the procedure to be followed.

## 2. Presentation of the Complaint/Allegations

The person presenting the case against the employee may make an opening statement outlining the case.

S/he will then call any witnesses and ask them to give their evidence. The employee or his/her representative may then ask questions of each witness. The Headteacher, Chair or committee members may also ask questions of any witness. The person presenting the case may then re-examine the witness.

Where evidence is presented in the form of documents, the person presenting the case or an appropriate witness s/he will explain the nature and significance of the documents.

## 3. The Employee's Case

The employee or his/her representative may make an opening statement.

S/he may call any further witnesses and invite them to give their evidence. The person presenting the case against the employee may ask questions of each witness after s/he has given his/her evidence. The Headteacher, Chair or any committee member may then ask questions. The employee or his/her representative may re-examine the witness.

Where there is any documentary evidence, the employee or any witness on his/her behalf will explain its significance.

## 4. Re-examination

Both parties will be asked if they wish to re-examine any evidence. The committee may also do so at its discretion.

## 5. Final Statements

The person presenting the case against the employee may make a final statement.

The employee or his/her representative may then also make a final statement.



## 6. Adjournment

Either party may ask for an adjournment at any stage. The decision to adjourn is at the discretion of the Chair, who will consider a request in the light of the reason given for it.

## 7. Consideration of the Case

All parties will withdraw. The Headteacher or the committee will deliberate. The Director of Education and/or the Principal Assistant County Solicitor may be present at these deliberations to advise on legal and procedural matters. In any case where dismissal is proposed, the representative of the Director of Education will advise the committee as to whether s/he concurs with the committee's decision.

If it is necessary to recall either party or any witnesses, to resolve a point of uncertainty, both parties will be invited to be present, whether or not the point of doubt concerns one party or both.

## 8. Decision

If possible the decision will be communicated orally to the employee after the hearing. The decision will be confirmed in writing to the parties involved as soon as possible after the hearing.



## **MONITORING & EVALUATION**

The policy will be reviewed as part of the schools monitoring cycle.  
The Head teacher has responsibility for monitoring this policy.  
**This Policy is due for Review in June 2017.**

## **IMPLEMENTATION**

This policy will be formally implemented with effect from September 2014.

This policy was adopted at a Meeting of the full Governing Body on 24<sup>th</sup> March 2015.

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**Mr John Beckett**  
**Chair of Governors**

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**Mrs Ruth Nixon**  
**Head Teacher**