



Education  
Partnership  
Trust

Creating outstanding schools  
which transform learning, lives  
and communities

# DISCIPLINARY POLICY

## Document Control

<b>This document has been approved for operation within:</b>	All Trust Establishments
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## **1.0 AIMS**

- 1.1 This policy and procedure is designed to help and encourage all employees to achieve and maintain appropriate and acceptable standards of conduct and to ensure a fair and consistent approach in managing conduct issues in line with best practice and the ACAS Code of Practice.

## **2.0 SCOPE**

- 2.1 The procedure extends to all school-based employees and is incorporated into the contract of employment.

## **3.0 EXCLUSIONS**

- 3.1 These procedures do not apply to matters more appropriately dealt with under separate procedures. Such matters include:
- Attendance and capability issues dealt with in accordance with the School's Attendance Management, Performance Management and Competency policies and procedures
  - Cases of harassment and bullying when the Dignity at Work policy applies in the first instance
  - Issues of conduct arising during the probationary period
- 3.2 Additionally, where there is a potential disciplinary case against a Trade Union representative, no action under this procedure, other than precautionary suspension when gross misconduct is alleged, will be taken until the full time official of the Trade Union has been informed of the case.

## **4.0 PRINCIPLES**

- 4.1 Wherever possible and appropriate, first occurrences of minor breaches of discipline / standards should be dealt with informally, either through the normal course of management counselling and supervision or the informal procedure set out in Paragraph 5.1.
- 4.2 HR advice should be sought where possible before making a decision to suspend or any disciplinary action is taken against an employee, as the involvement of HR helps to ensure that decisions taken are consistent.
- 4.3 No disciplinary action will be taken against an employee until the case has been sufficiently investigated and a disciplinary hearing has taken place. The employee will be advised in writing of the nature of the complaint against them and the arrangements for the hearing including their rights to representation. Where a potential outcome of the disciplinary process is dismissal, the employee must be clearly advised that if the allegations are proven that this may result in their dismissal.
- 4.4 The employee will be given the opportunity to set out their case, ask relevant questions and respond to allegations before any decision is made.
- 4.5 Under this policy and procedure, no employee will be dismissed for a first breach of discipline except in the case of gross misconduct when the penalty can be dismissal without notice.

- 4.6 An employee will have the right to appeal against any disciplinary penalty imposed.
- 4.7 The procedure may be implemented at any stage if the employee's alleged misconduct warrants such action; i.e. the disciplinary sanctions are not necessarily sequential.
- 4.8 Being suspended or interviewed as part of the investigatory process is not to be regarded as prejudging the matter. Nor is it to be considered a disciplinary measure.
- 4.9 The employee will have the right to be accompanied by a trade union representative or work colleague at all stages of the procedure. In those cases, serious enough to warrant immediate precautionary action at step 1, all reasonable efforts should be made to arrange trade union representation or a companion, however, if no one is available the suspension meeting should take place with a witness present.
- 4.10 HR advisors may be present at any of the formal stages of the procedure. No one who has been involved in the investigation leading to a disciplinary or appeal hearing will act in any way as designated officer/panel at a hearing.
- 4.11 The intimidation or victimisation of persons prior to or following any complaint/allegation will not be tolerated and is a disciplinary offence in itself. All matters will be dealt with confidentially and within the requirements of the Data Protection Act 2018 and compliance with GDPR. This is a responsibility of all parties involved.
- 4.12 Any complaints/allegations found to be malicious or vexatious will be treated as a disciplinary matter.
- 4.13 The timescales within the procedures will be adhered to wherever possible and there is an obligation on all parties to allow for matters to be dealt with without delay. However, where there are good reasons, e.g. the need for further investigation or the lack of availability of witnesses or companions, each party may request that the other agrees to an extension of the permitted timescale.
- 4.14 The Trust will monitor disciplinary data at least annually to ensure the policy is operating fairly, consistently and effectively.

## 5.0 PROCEDURE

### Informal Procedure

- 5.1 Unless the matter causing concern is sufficiently serious to justify formal action, the management representative should, in the first instance, deal with the issue through informal discussions. This is with a view to agreeing on the actions required to resolve the situation without recourse to the formal procedure. The informal discussions may take place on more than one occasion and are not regarded as forming part of the formal disciplinary procedure. A file note should be made of the discussions including details of any agreed actions and the management representative should put in writing to the employee details of the corrective action, the timescale over which improvements are expected and the possible consequences of the employee failing to meet the corrective action.

### Pre-Agreement

- 5.2 It is an acceptable part of the disciplinary procedure for an agreement to be reached and take place prior to the hearing between both parties. This can only apply where the relevant facts are not in dispute and both sides are in agreement about the outcome of the procedure.
- 5.3 In these circumstances, the statutory three step disciplinary procedure – letter, meeting, appeal – must still be followed, but the matter can be progressed more quickly. Where agreement is not reached, normal procedure is resumed.
- 5.4 This approach will **NOT** apply to allegations of gross misconduct or where dismissal is a possible outcome.

### Formal Procedure

#### Step 1 – Commencement of the Formal Procedure

- 5.5 The employee will be informed of the following:
- the allegations made against them and the basis of the allegations
  - that the formal disciplinary procedure is to be used and that step 2 of the procedure is to commence
  - any suspension from work and the conditions of suspension
  - their right to be accompanied / represented at all stages of the procedure
- 5.6 This will be confirmed in writing and the employee will also be supplied with a copy of the Disciplinary Policy and Procedure.

### Suspension

- 5.7 Prior to the suspension of an employee, all alternatives to suspension must be explored. This could include:
- Alternative duties, such as administration tasks.
  - Alternative location to undertake duties.
  - Providing supervision during contact with children.
  - Working from home.
- 5.8 An employee would normally be suspended from duty after some preliminary investigation has taken place i.e. specific facts gathered and if the allegations are potentially gross misconduct, or if the employee's continued presence in the workplace could hinder the conduct of the investigation. The employee should not be left to work alone whilst the preliminary investigation takes place. The employee is entitled to be accompanied during the suspension meeting, where practicable.
- 5.9 In cases concerned with allegations of safeguarding children, any decisions not to suspend an employee following an allegation of abuse must be fully documented and endorsed separately by an independent senior officer from within the Trust. A point of contact for the employee will be arranged. This individual will ensure that the employees wellbeing is considered at all times.

- 5.10 The management representative will review the continued need for the employee's suspension at appropriate intervals, dependant upon the circumstances of the case. Cases involving suspension should always be expedited as quickly as possible.
- 5.11 During the period of suspension, the employee will be paid full contractual pay pending the outcome of the investigation into the alleged offence. If, on completion of the investigation and the full disciplinary procedure, the School is satisfied that gross misconduct has occurred, the result may be summary dismissal without notice or payment in lieu of notice.

### Step 2 – Investigation

- 5.12 The line manager or a nominated manager will promptly investigate the alleged disciplinary matter. Where an employee is called to attend an investigatory interview, the employee will be informed at the outset of the interview that this is an investigatory interview and not a disciplinary hearing.
- 5.13 The employee will be given 5 working days' notice of the interview other than where a shorter period has been mutually agreed. The notice will be in writing and will inform the employee of:
- the purpose of the interview and that it will be held under the Trust's disciplinary procedure
  - the nature of the alleged misconduct
  - their right to be accompanied / represented
  - the arrangements for the interview
- 5.14 On conclusion of the investigation, the management representative will determine if there is a disciplinary case to answer or if there is no case to answer. Where there is no disciplinary case to answer, the employee will be notified of this decision in writing and the disciplinary procedure will end here. Where there is a disciplinary case to answer, the employee will be notified of this decision in writing and a disciplinary hearing will take place.

### Step 3 – Disciplinary Hearing

- 5.15 The employee will be given 10 working days' advance notice of the hearing. The notice will be in writing and will inform the employee of:
- the purpose of the hearing and that it will be held under the Trust's disciplinary procedure
  - the nature of the alleged misconduct
  - their rights to be accompanied / represented and to call witnesses
  - the arrangements for the hearing
  - the witnesses to be called
  - the date for the exchange of documents, where applicable
  - the potential that, if proven, the outcome could result in their dismissal.
- 5.16 In a case where a warning is a potential option, the disciplinary hearing will be chaired by a Designated officer.

- 5.17 Where dismissal is a potential outcome, a Disciplinary Review Panel will be constituted for a disciplinary hearing.

#### **Postponement of Hearing**

- 5.18 Where the employee cannot attend on the date proposed and provides a good reason for failing to attend, the hearing will be adjourned to another day by mutual agreement and normally within 5 working days of the original date of the hearing. The new arrangements will be confirmed in writing to the employee.

#### **Hearings in Absentia**

- 5.19 Unless there are special circumstances mitigating against it, if the employee is unable to attend the rearranged hearing, the rearranged hearing will usually take place in the employee's absence. The employee's companion (work colleague or Trade Union representative) may attend in such circumstances and will be allowed the opportunity to present the employee's case. The employee will also be allowed to make written submissions in such a situation.

#### **Exchange of Documents and Information**

- 5.20 The employee will be provided with all relevant written information that management intends to rely upon during the hearing (including witness statements) not less than 10 working days in advance of the hearing, unless otherwise agreed by both parties.
- 5.21 Similarly, the employee will provide management with all relevant written information that he / she intends to rely upon during the hearing and the names of witnesses to be called not less than 5 working days in advance of the hearing unless agreed otherwise.

#### **Late Submission of Documents**

- 5.22 Only in exceptional circumstances and at the discretion of the designated officer/panel hearing the case will new documents be accepted at the hearing and relevant time allowed to either party to consider such information where required. Such documents will only be accepted where they are deemed to have direct relevance to the case and could not have been submitted earlier.

#### **Outcome**

- 5.23 At the conclusion of the disciplinary hearing, the designated officer/panel hearing the case will determine one of the following:
- that the employee has given an adequate explanation and / or there is no real evidence to support the allegations. In this case no further action is necessary.
  - that the evidence supports the allegations and / or the employee has not given an adequate explanation. In this case disciplinary action against the employee may be necessary.



- 5.24 The designated officer/panel will inform the employee of their decision and of any disciplinary action to be taken, giving an explanation for any sanction, as soon as possible after the conclusion of the hearing. All decisions will be confirmed in writing, together with notification of the employee's right of appeal under this procedure (where applicable) and how to exercise it.

### **Disciplinary Sanctions**

- 5.25 The following disciplinary actions may be taken.

#### **Stage 1 – First Level Written Warning**

- 5.26 Where a minor offence or offences have been committed, a first written warning will normally be given. The warning will state that any further misconduct / failure to improve may lead to more severe disciplinary action and will be removed from the employees file after 6 months.

#### **Stage 2 - Second Level Written Warning**

- 5.27 If the offence is a serious one, or if a further offence or no improvement occurs within 6 months of the first level written warning, a second written warning will normally be given. The warning will state that any further misconduct / failure to improve may lead to more severe disciplinary action. The warning will expire after 12 months.

#### **Stage 3 - Final Written Warning**

- 5.28 If the offence is sufficiently serious to warrant only one written warning but insufficiently serious to justify dismissal, or a further offence or no improvement occurs within 12 months of the second written warning, a final written warning will normally be given. The warning will state that dismissal or an alternative to dismissal may result where there is any further misconduct or a failure to improve within 18 months of the final written warning being issued.
- 5.29 A record of the warning will be kept but disregarded for disciplinary purposes after 18 months, subject to the employee's satisfactory conduct.

#### **Stage 4 - Dismissal and Alternatives to Dismissal**

- 5.30 If it is the case that previously a Final Written Warning has been issued and a further offence or no improvement has occurred within the period the Final Written Warning is 'live', dismissal will normally result. Dismissal in these circumstances will be with notice or with payment in lieu of notice. The decision to dismiss will be confirmed in writing as soon as practically possible and within 5 working days of the decision.
- 5.31 Alternatives short of dismissal may be considered and they are:
- Demotion accompanied by an extension to the period of the Final Written Warning
  - Suitable alternative work in another Trust school.
  - Extension of final written warning.
  - Demotion

5.32 These alternatives will be subject to the availability of suitable posts.

### Gross Misconduct

5.33 Examples of gross misconduct may include:

- theft, fraud, deliberate falsification of records or dishonesty
- falsification of qualifications/references
- acts of violence, obscene or abusive behaviour or enticing others to do so (including fighting or assault on another person or animal)
- acts of bullying, harassment or discrimination
- acts of bribery
- deliberate or unauthorised use of or damage to Trust property or equipment
- serious negligence which may cause unacceptable loss, damage or injury and willful negligence
- unprofessional conduct and / or failure to disclose the same
- serious non-compliance with Trust, financial or other department regulations, including rules on email and internet usage
- serious breach of health and safety rules
- serious acts of insubordination
- unauthorised entry to computer or other records and / or disclosure of confidential information / matters to public sources
- serious incapability at work brought on by alcohol or illegal / non-prescribed drugs.
- possession of or sale of illegal substances
- conviction of a criminal offence (committed inside or outside of work) that makes the employee unsuitable or unable to carry out their duties
- serious breach of trust and confidence

## 6.0 WARNINGS INVOLVING SAFEGUARDING ISSUES

6.1 Where the misconduct involves a safeguarding issue, warnings will be retained on a separate file and, in the event of further misconduct at any time during the employee's employment in a job role where the employee is required to work with children or vulnerable adults, these warnings will be taken into account in disciplinary proceedings.

## 7.0 APPEALS

7.1 If the employee wishes to appeal against a disciplinary decision, they must do so in writing within 10 working days of receiving written notification of the decision. All notices of appeal must be submitted to the Clerk to the Governing Body and must state the ground(s) on which the disciplinary decision should be reviewed.

- 7.2 The Clerk to the Governing Body will write to the employee, inviting the employee to attend an appeal hearing with an Appeal Panel. The hearing will be held at a convenient date that is within 20 working days of receipt of the written statement of appeal.
- 7.3 The decision of the Appeal Panel hearing the appeal is final and will be confirmed in writing no later than five working days after the hearing.

## **8.0 MONITORING AND REVIEW**

- 8.1 Human Resources will work with Head teachers and governing bodies to monitor the application of this policy. They may review any aspect of the procedure in light of changing circumstances at any time, in consultation with the trade unions.