

Disciplinary Procedure

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1.0 Policy statement

The aims of the Disciplinary Procedure and its associated Disciplinary Rules are to set out the standards of conduct expected of all staff; to provide a framework within which the Trust can work with employees; to maintain high standards of conduct and to encourage improvement where necessary.

It is the Trust's policy to ensure that any disciplinary matter is dealt with fairly and that steps are taken to establish the facts and to give employees the opportunity to respond before any formal action is taken.

The procedure does not form part of any employee's contract of employment, and it may be amended at any time following consultation. We may also vary the application of this procedure, including any timescales for action, as appropriate.

This policy should be read in conjunction with other policies, in particular:

- Child Protection and Safeguarding (including Keeping Children Safe in Education 2021)
- Dealing with Allegations of Abuse and Concerns Against Staff and Others
- Professional Conduct (Code of Conduct)

2.0 Scope and purpose

The procedure applies to all employees, regardless of their length of service, excluding those in their probationary period, during which separate arrangements apply. It does not apply to self-employed contractors, however, in the case of a safeguarding matter, it may apply to agency staff (see Keeping Children Safe in Education).

The procedure is used to deal with misconduct. It does not apply to cases involving genuine sickness absence, proposed redundancies or poor performance. In those cases, reference should be made to the appropriate policy or procedure accessible on the Trust's website.

Minor conduct issues can often be resolved informally between employees and their line manager. These discussions should be held in private and without undue delay whenever there is cause for concern. When appropriate, a note of any such informal discussions may be placed on the employee's personnel file. In some cases, an informal verbal warning or instruction may be given, which will not form part of the disciplinary records but may be referred to as part of any disciplinary proceedings when appropriate. Formal steps will be taken under the procedure if the matter is not resolved or if informal discussion is not appropriate (for example, because of the seriousness of the allegation).

Employees will not normally be dismissed for a first act of misconduct unless the the Trust decides that the conduct amounts to gross misconduct or the employee has not completed a probationary period.

As recognisable figures in the local community, the behaviour and conduct of staff of the Trust outside work can have an impact on their employment. Therefore, conduct outside work may be treated as a disciplinary matter if it is considered to be relevant to the employee's employment (see the Disciplinary Rules below and the Teachers' Standards).

3.0 Confidentiality and data protection

- 3.1 It is the aim of the Trust to deal with disciplinary matters sensitively and with due respect for the privacy of any individuals involved. All employees must treat any information communicated to them in connection with an investigation or disciplinary matter as confidential.
- 3.2 Employees, and anyone accompanying them (including witnesses), must not make electronic recordings of any meetings or hearings conducted under the procedure.
- 3.3 Employees will normally be told the names of any witnesses whose evidence is relevant to the disciplinary proceedings against them unless there is good reason that a witness's identity should remain confidential.
- 3.4 During informal action, formal investigation and any subsequent stages of the procedure, the Trust will collect, process and store personal data in accordance with our GDPR policy. The data will be held securely and accessed by, and disclosed to, individuals only for the purpose of completing the disciplinary procedure.

4.0 Allegations

- 4.1 Allegations may be brought to the Trust's attention in a number of ways and from a variety of sources. Appendix 1 sets out the Disciplinary Rules. With disclosures made by children and young people, adults need to be aware that, in making an allegation, it is not always possible to keep the matter confidential. The Principal will need to decide on the most appropriate course of action and may choose to proceed with an investigation even if the person making the allegation does not want one.
- 4.2 Allegations that involve issues of child protection and / or abuse of children by staff should be referred immediately to the Designated Officer of the Local Authority. See Dealing with Allegations and Concerns policy for further guidance on the management of this type of allegation. No further action under the procedure will usually be taken until the Designated Officer of the Local Authority has been consulted.



5.0 Investigations

Preliminary investigation (fact finding)

- 5.1 Upon receiving any allegations against employees, it is likely that further information will be required to establish the next course of action. The Principal, or designated senior leader, should seek to establish the basic facts of the situation; this may involve looking at records, speaking to witnesses, reviewing CCTV and so on.
- 5.2 A preliminary investigation meeting may be held with the employee to establish the basic facts of the circumstance and to enable the Principal or designated senior leader to determine whether further investigation is required. Such a meeting can sometimes produce a reasonable explanation in response to the allegation that then enables the matter to be concluded. A preliminary meeting will not be required in all cases, and it is for the Principal to decide whether this is appropriate. Minutes may be taken, but they will not be used in a formal hearing.

Formal investigation

- 5.3 After a preliminary investigation during which it is determined that there is a need for investigation, or if the concerns are serious enough to warrant a full investigation immediately, the Principal, or designated senior leader, will usually appoint an Investigating Officer to carry out the investigation. This will be an appropriate person for the nature of the allegations and the role of the employee. In the case of allegations made against the Principal, the Executive Principal or the CEO, the Chair of Governors or the Chair of the Trust, as appropriate, will be responsible for the management of the procedure and for identifying an appropriate Investigating Officer, either internally or externally.
- 5.4 The purpose of an investigation is to establish a fair and balanced view of the facts relating to any disciplinary allegations made against an employee before deciding whether to proceed with a disciplinary hearing. The amount of investigation required will depend on the nature of the allegations and will vary from case to case. It may involve interviewing and taking statements from the employee and any witnesses and / or reviewing relevant documents and other information.
- 5.5 It may be necessary to interview witnesses who may have information that is relevant to the allegations. A record of the meeting will be made, and the witness will have the opportunity to review the record, make amendments for clarification purposes and sign and date the record. The Trust recognises that some employees may find this difficult or worrying; however, all employees are expected to participate fully in any such investigation.
- 5.6 Investigation meetings are solely for the purpose of fact finding, and no decision on disciplinary action will be taken until after a disciplinary hearing has been held. A record of the meeting will be made, and the employee will have the opportunity to review the record, make amendments for clarification purposes and sign and date the record.
- 5.7 Employees must co-operate fully and promptly in any investigation. This will include providing the names of any relevant witnesses, disclosing any relevant documents or information and attending investigative interviews if required. As each investigation will vary in length and complexity, it will be completed in as short a time frame as possible.
- 5.8 The Investigating Officer will ensure that the formal investigation is as rigorous and possible and the employee must expect that questions may be repetitive or even possibly intrusive.
- 5.9 The Investigating Officer may re-interview an employee if different information emerges during an investigation.

6.0 Criminal charges

- 6.1 When conduct is the subject of a criminal investigation, or arrest, or charge or conviction, the facts will be investigated before deciding whether to take formal disciplinary action. Disciplinary action will not be automatic and will depend on the circumstances. Employees should inform their Principal immediately if they are involved in a criminal investigation, or arrest, or are subject to a charge or conviction. Failure to notify their line manager may result in disciplinary action.
- 6.2 The Trust will not usually wait for the outcome of any prosecution before deciding what action, if any, to take. Where employees are unable or have been advised not to attend an investigation meeting or disciplinary hearing, or say anything about a pending criminal matter, a decision may have to be made based on the available evidence.
- 6.3 A criminal investigation, charge or conviction relating to conduct outside work may be treated as a disciplinary matter if it is considered to be relevant to the employee's employment.
- 6.4 Where a criminal investigation relates to allegations of abuse of children or young people, the Trust will co-operate and share information about the employee with other relevant agencies as appropriate.

7.0 Suspension

- 7.1 In some circumstances, it may be necessary to suspend the employee from work, when there are reasonable grounds for suspension. The suspension will be for no longer than is necessary to investigate the allegations and conclude the disciplinary process. The arrangements will be confirmed to the employee in writing as soon as possible.
- 7.2 Suspension of this kind is not a disciplinary penalty and does not imply that any decision has already been made about the allegations. Employees will continue to receive their normal salary and benefits during the period of suspension.
- 7.3 Alternatives to suspension (for example, reorganisation of duties or work location or temporary redeployment to another role) will be

explored when relevant before a decision to suspend is made. The nature and severity of the allegations will need to be considered as well as the employee's role and whether his or her continued presence would result in potential harm to the organisation or others or make the investigation difficult.

7.4 When allegations are made that involve the protection of children, suspension will not be considered to be automatic. A reasoned decision will be made based on all the available information.

7.5 The suspension will be kept under review as the investigation progresses. As information is gathered, it may become appropriate to lift the suspension during the course of the investigation or prior to any disciplinary hearing.

The decision to suspend an employee can be made by the Principal, the Local Governing Body or the Trust Board.

8.0 Disciplinary hearing

8.1 Following any investigation, if there are grounds for disciplinary action, the employee will be required to attend a disciplinary hearing. The employee will be informed in writing of the allegations against him or her, the basis for those allegations and what the likely range of consequences will be if it is decided at the hearing that the allegations are true. The following will also be included when appropriate:

- a summary of the relevant information gathered during the investigation
- a copy of any relevant documents that will be used at the disciplinary hearing
- a copy of any relevant witness statements, except when a witness's identity is to be kept confidential, in which case as much information as possible will be provided while maintaining confidentiality

8.2 The Principal, or designated senior leader, will be responsible for ensuring that all of the arrangements for the hearing are made and that the employee receives the appropriate paperwork and notice of the hearing.

8.3 Five working days' written notice of the date, time and place of the disciplinary hearing will be given to provide the employee with a reasonable amount of time to prepare his or her case based on the information that he or she has been given. The hearing will be arranged as soon as is practicably possible.

8.4 If the employee and / or his or her companion cannot attend the hearing, he or she should inform the Principal, or designated senior leader immediately, and consideration will be given to arranging an alternative time. Employees must make every effort to attend the hearing, and failure to attend without good reason may be treated as misconduct in itself. Failure to attend without good reason, or persistent inability to do so (for example for health reasons), may lead to a decision being taken based on the available evidence.

8.5 If the employee chooses not to attend the hearing, he or she may choose to send a written statement for consideration at the hearing or a trade union representative may attend on the employee's behalf.

9.0 Role of a companion at meetings and hearings

9.1 An employee may bring a companion to any hearing or appeal at which a formal warning may be issued or dismissal is a potential outcome. The companion may be either a trade union representative or a work colleague. The employee must inform the Principal conducting the meetings who their chosen companion is in good time before the hearing. [In addition, whilst employees do not normally have the right to bring a companion to an investigation meeting, they are allowed to bring a trade union representative or work colleague to the investigation meeting if one is available. No rearrangements will be made to the time and date of the investigation meeting to enable a companion to attend.]

9.2 Should the employee choose to bring a companion to the hearing, he or she will be responsible for making these arrangements and for providing his or her companion with any paperwork required for the hearing.

9.3 Acting as a companion is voluntary, and employees' colleagues are under no obligation to do so. If they agree to do so, they will be allowed reasonable time off from their duties without loss of pay to act as a companion.

9.4 If the companion chosen is not available at the time when a hearing or appeal is scheduled, the employee may propose an alternative time for the hearing or appeal to take place and, as long as the alternative time is reasonable and within five working days after the originally scheduled date, the hearing or appeal will be postponed. If the employee's chosen companion will not be available for more than five working days afterwards, the employee may be asked to choose someone else.

9.5 A companion may make representations, ask questions and sum up the employee's position but will not be allowed to answer questions on the employee's behalf. The employee may confer privately with his or her companion at any time during a meeting.

9.6 We may, at our discretion, allow the employee to bring a companion who is not a colleague or union representative (for example, a family member) as a reasonable adjustment if the employee has a disability or if they have difficulty understanding English.

10.0 Procedure at disciplinary hearings

10.1 The hearing will be chaired by the Principal or designated senior leader. The Investigating Officer will also normally attend to present the investigation. A member of the Human Resources team or the Operations and Business Manager may also be present.

10.2 At the disciplinary hearing, the Investigating Officer will go through the allegations made against the employee and the evidence that has been gathered. The employee will be able to respond and present any evidence of his or her own. The format for a disciplinary hearing is



supplied in Appendix 2.

- 10.3 Relevant witnesses may be asked by the Investigating Officer, or the employee, to appear at the hearing. The employee must give sufficient advance notice if he or she wishes to call witnesses to ensure that there is time to arrange their attendance. The employee will be given the opportunity to respond to any information given by a witness. However, the employee will not normally be permitted to cross-examine witnesses unless, in exceptional circumstances, the Chair decides that a fair hearing could not be held otherwise.
- 10.4 The Chair may adjourn the disciplinary hearing if there is a need to carry out any further investigations, such as re-interviewing witnesses in the light of any new points that have been raised at the hearing. The employee will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.
- 10.5 The employee will be informed in writing of the decision and the reasons for it, usually within five working days of the disciplinary hearing. When possible, this information will also be explained to the employee in person.

Disciplinary penalties

- 10.6 The Principal, or designated senior leader, may find that there is no case to answer and refer the case back to an informal process alternatively, the Principal or designated senior leader may give the employee an instruction or a disciplinary warning or dismiss him or her.
- 10.7 The usual penalties for misconduct are set out below. No penalty should be imposed without a hearing. The Trust aims to treat all employees fairly and consistently, and a penalty imposed on another employee for similar misconduct will usually be taken into account but should not be treated as a precedent. Each case will be assessed on its own merits.
- 10.8 A disciplinary warning, dismissal or alternatives to dismissal will be authorised by the Principal.

First written warning

- 10.9 A first written warning will usually be appropriate for a first act of misconduct when there are no other active written warnings on the employee's disciplinary record.
- 10.10 A first written warning will usually remain active for 12 months.

Final written warning

- 10.11 A final written warning will usually be appropriate for:
- misconduct when there is already an active written warning on the employee's record
 - misconduct that is considered to be sufficiently serious to warrant a final written warning even though there are no other active warnings on the record
- 10.12 A final written warning will usually remain active for 12 months. In exceptional cases verging on gross misconduct, or in cases in which a final written warning has been issued as an alternative to dismissal, a final written warning may state that it will remain active indefinitely.

The effect of a warning

- 10.13 Written warnings will set out the nature of the misconduct, the change in behaviour required, the period for which the warning will remain active and the likely consequences of further misconduct during that active period.
- 10.14 The conduct will be reviewed at the end of a warning's active period, and, if it has not improved sufficiently, the active period may be extended.
- 10.15 After the active period, the warning will remain permanently on the employee's personnel file but will be disregarded in deciding the outcome of future disciplinary proceedings.

Dismissal

- 10.16 Dismissal will usually only be appropriate for:
- any misconduct during a probationary period
 - further misconduct when there is an active final written warning on the record
 - any gross misconduct regardless of whether there are active warnings on the record. Gross misconduct will usually result in immediate dismissal without notice or payment in lieu of notice (summary dismissal)

Alternatives to dismissal

- 10.17 In some cases, alternatives to dismissal may be considered and will usually be accompanied by a final written warning. Examples include:
- demotion
 - transfer to another department or job
 - loss of seniority
 - deduction in pay

11.0 Appeals against disciplinary action

- 11.1 The employee has the right to appeal against the disciplinary action taken against him or her. This must be in writing, stating the full grounds of appeal and sent to the Principal within five working days of the date on which the employee was informed of the decision.
- 11.2 If the employee is appealing against dismissal, the date on which dismissal takes effect will not be delayed pending the outcome of the appeal. However, if the appeal is successful, the employee will be reinstated with no loss of continuity or pay.



- 11.3 If any new matters are raised in the appeal hearing, further investigation may need to be conducted. The Chair of the appeal hearing (see 11.5) may adjourn the appeal hearing if there is a need to carry out any further investigations, such as re-interviewing witnesses in the light of any new points that have been raised at the hearing. If any new information comes to light, this will be provided to the employee with a summary including, when appropriate, copies of additional relevant documents and witness statements. The employee will have a reasonable opportunity to consider this information before the hearing is reconvened.
- 11.4 The employee must be given written notice of the date, time and place of the appeal hearing. This will normally be no less than seven working days. The employee may bring a companion to the appeal hearing (see section 9).
- 11.5 Where possible, the appeal hearing will be conducted by a more senior leader or a panel of governors who have not previously been involved in the case. The appeal hearing will usually be a review of the fairness of the original decision in the light of the procedure that was followed and any new information that may have emerged. In this case, the format of the hearing will be reversed so that the appellant will present his or her appeal first. In exceptional circumstances and at the discretion of the Chair of the appeal panel, a full re-hearing may be conducted (see Appendix 2 for the format). In any event, the appeal will be dealt with as impartially as possible.
- 11.6 Following the appeal hearing, the following may be decided:
- confirm the original decision
 - revoke the original decision
 - substitute a different penalty. Ordinarily, a penalty will not be increased on appeal unless new information or evidence is made available that requires further investigation
- 11.7 The employee will be informed in writing of the decision and the reasons for it, usually within five working days of the appeal hearing. When possible, this information will also be explained to the employee in person. There is no further right to appeal.

12.0 Referrals to external bodies

In cases in which employees are dismissed or resign during a disciplinary process, a referral to the appropriate regulatory body, for example the Disclosure and Barring Service (all staff) and the Secretary of State (Teachers,) will be made when the thresholds for referral are met.

13.0 Review of the policy

The Executive will monitor the application and outcomes of this policy on an annual basis to ensure that it is working effectively and conforms to the current legislation and HR advice. Any revisions will be presented to the Trust board for approval.

Appendix 1 - Disciplinary Rules

1.0 Policy statement

- 1.1 The aim of the Disciplinary Rules and Disciplinary Procedure is to set out the standards of conduct expected of all staff and to provide a framework within which the Principal and line managers can work with staff to maintain those standards and encourage improvement when necessary.
- 1.2 If any employee is in any doubt regarding their responsibilities or the standards of conduct expected, he or she should speak to his or her line manager (or a member of Human Resources).

2.0 Rules of conduct

- 2.1 While working for the Trust, you should at all times maintain professional and responsible standards of conduct. In particular, you should:
 - observe the terms and conditions of your contract, particularly with regard to:
 - hours of work
 - confidentiality
 - safeguarding and child protection
 - ensure that you understand and follow our Code of Conduct (see the Professional Conduct policy)
 - observe all of the academy's and Trust's policies, procedures and regulations, which are available on the website or intranet
 - take reasonable care in respect of the health and safety of colleagues, students and third parties and comply with our Health and Safety policy
 - comply with all reasonable instructions given by the Principal and managers
 - act at all times in good faith and in the best interests of the Trust and those of our students and staff
 - ensure that you never behave in a way, either inside or outside of work, that indicates you may pose a risk of harm to children or not be suitable to work with children
- 2.2 Failure to maintain satisfactory standards of conduct may result in action being taken under the Disciplinary Procedure.

Misconduct

- 2.3 The following are examples of matters that will normally be regarded as misconduct and will be dealt with under the Disciplinary Procedure:
 - minor breaches of the Trust's policies, including the Absence, Online Safety and Acceptable Use of IT and Health and Safety
 - minor breaches of an employee's contract of employment
 - damage to, or unauthorised use of, the Trust's property
 - poor timekeeping or time wasting
 - unauthorised absence from work or workplace
 - refusal to follow instructions
 - insubordination
 - excessive use of the Trust's telephones, email or Internet for personal reasons
 - inappropriate or other offensive or aggressive behaviour, including the use of obscene language and victimisation or harassment of other members of staff, students or members of the public
 - negligence in the performance of duties
 - smoking in no-smoking areas, which applies to anything that can be smoked and includes, but is not limited to, cigarettes, electronic cigarettes, pipes (including water pipes such as shisha and hookah pipes), cigars and herbal cigarettes
 - poor attendance
 - inadequate work caused by carelessness
 - failure to meet the Teachers' Standards, such as planning, preparation and marking
 - breach of the Trust's approach to equality
 - knowingly aiding an offence against discipline
 - improper disclosure of confidential information

This list is intended as a guide and is not exhaustive.

Gross misconduct

- 2.4 Gross misconduct is a serious breach of contract and includes misconduct that, in the opinion of the Trust, is likely to prejudice its business



or reputation or irreparably damage the working relationship and trust between the Trust and the employee. Gross misconduct will be dealt with under the Disciplinary Procedure and may lead to dismissal without notice or pay in lieu of notice (summary dismissal).

2.5 The following are examples of matters that are normally regarded as gross misconduct:

- theft or unauthorised removal of property or the property of a colleague, contractor, student or member of the public
- fraud, forgery or other dishonesty, including fabrication of expense claims and time sheets, students' work, examinations or assessments
- actual or threatened violence or behaviour that provokes violence
- deliberate damage / neglect to the buildings, fittings, property or equipment of the Trust or the property of a colleague, contractor, student or member of the public
- inappropriate conduct with children or young people, including failing to maintain appropriate professional boundaries
- serious failure to follow the Trust's Child Protection policy and procedures
- making a false declaration or failing to disclose information in relation to the disqualification from childcare requirements or becoming disqualified from providing childcare
- serious misuse of the Trust's property or name
- deliberately accessing internet sites at work or at home, that contain pornographic, offensive or obscene material
- using academy equipment at home / offsite and deliberately accessing internet sites that contain pornographic, offensive or obscene material
- repeated or serious failure to obey instructions or any other serious act of insubordination
- bringing the academy or Trust into serious disrepute
- being under the influence of alcohol, illegal drugs or other substances during working hours or not being capable of fulfilling your duties because of the effects of alcohol or non-prescribed drugs or other substances
- causing loss, damage or injury through serious negligence
- serious or repeated breach of health and safety rules or serious misuse of safety equipment
- unauthorised access use or disclosure of confidential information or failure to ensure that confidential information in your possession is kept secure
- acceptance of bribes or other secret payments
- conviction or caution for a criminal offence that, in the opinion of the Trust, may affect our reputation or our relationships with our staff, students, parents or the public, or that otherwise affects your suitability to continue to work for us
- possession, use, supply or attempted supply of illegal drugs
- serious neglect of duties or a serious or deliberate breach of your contract or operating procedures
- unauthorised use, processing or disclosure of personal data contrary to our GDPR Data Protection policy
- harassment of, or discrimination against, employees, students, parents or members of the public related to any of the protected characteristics, contrary to our Equality policy
- refusal to disclose any of the information required by your employment or any other information that may have a bearing on the performance of your duties
- giving false information regarding qualifications or entitlement to work (including immigration status)
- making a disclosure of false or misleading information under our Whistleblowing policy maliciously, for personal gain or otherwise in bad faith
- making untrue allegations in bad faith against a colleague
- victimising a colleague who has raised concerns, made a complaint or given evidence or information under the Whistleblowing policy, Grievance Procedure, Disciplinary Procedure or otherwise
- serious misuse of our information technology systems (including misuse of developed or licensed software, use of unauthorised software and misuse of email and the internet) contrary to our ICT User policy
- undertaking unauthorised paid or unpaid employment during your working hours
- unauthorised entry into an area of the premises to which access is prohibited
- criminal activity outside work when such conduct is incompatible with the individual's employment
- causing serious harm to a student / employee / member of the public
- Behaving in a way, either inside or outside work, which could indicate that you pose a risk of harm to children or may not be suitable to work with children



This list is intended as a guide and is not exhaustive.

In some instances, offences that would normally constitute gross misconduct may be considered as misconduct because of mitigating circumstances. Similarly, issues that would normally be treated as misconduct may, in certain circumstances, be considered to be so serious that they constitute gross misconduct. Employees must be aware that in line with the statutory duty of KCSIE, certain actions must be considered as potential safeguarding issues and reported to the LADO. This duty, is the same for a member of staff employed through an agency.

Appendix 2 – Format for a disciplinary hearing

1. Welcome by the Chair of the Panel / Hearing Officer:
 - ask everyone present to introduce themselves and explain their role
 - explain the purpose of the hearing
2. Presentation of the management case by the Investigating Officer, including evidence from management witnesses.
3. Questions from the employee / representative to the Investigating Officer / witnesses.
4. Questions from the Hearing Officer / panel to the Investigating Officer / witnesses.
5. Presentation of the employee's case by the employee / representative, including evidence from employee's witnesses.
6. Questions to the employee / witnesses from the Investigating Officer.
7. Questions to the employee / witnesses from the Hearing Officer / panel.
8. Summing up by the Investigating Officer (no new evidence).
9. Summing up by the employee / representative (no new evidence).
10. Hearing adjourned and all parties asked to leave whilst the Hearing Officer / panel consider the evidence and make a decision on the level of sanction (if appropriate).
11. All the parties return and the employee is advised of the Hearing Officer / panel's decision (sanction and right of appeal).
12. Notes from meeting are used to confirm the outcome in writing and sent to the employee within the timescale set out in the policy.

