



CONDUCT AND DISCIPLINARY POLICY

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1. Aims

This policy aims to:

- Help and encourage all employees to achieve and maintain satisfactory standards of conduct
- Set out the procedures for when an employee's conduct falls below the expected standard
- Ensure that all employees are treated fairly and consistently when a disciplinary issue is being dealt with

2. Legislation and guidance

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

These disciplinary procedures are based on the [Acas Code of Practice on disciplinary and grievance procedures](#). This policy covers all trust employees.

These procedures also comply with our funding agreement and articles of association.

3. Definitions and scope

- A **disciplinary issue** will arise when an employee is alleged to have behaved or acted inappropriately and/or contrary to the staff code of conduct
- Appendix 1 sets out a non-exhaustive list of examples of what we define as **misconduct** and **gross misconduct**. For the purpose of this policy, misconduct does not cover staff capability or poor performance issues. These are addressed in our Appraisal and Capability Policy.
- This policy applies to employees only. It does not apply to agency workers, consultants, self-employed contractors, volunteers or interns
- This policy does not form part of any contract of employment or other contract to provide services, and we may amend it at any time

4. Disciplinary procedures

4.1 Minor disciplinary issues

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

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

When dealing with an issue informally, the employee's line manager will organise a meeting with the employee and set out the concerns. This meeting will be held without undue delay whenever there is cause for concern. The line manager will remind the employee of the expected standard of behaviour and consider what support is needed to help them improve. Notes will be taken and retained. Where appropriate, a note of an informal discussion may be placed on the employee's personnel file.

If the issue cannot be dealt with informally, for example due to the seriousness of the alleged misconduct, or if the matter is not resolved following an informal meeting, formal procedures will begin. The employee will be notified of this in a face-to-face meeting with a senior manager (an HR Adviser may also be present), to be held in person, or over video conferencing if necessary. This will be followed up in writing.

4.2 Suspension

In some circumstances it will be appropriate to suspend a member of staff temporarily, for example where there is suspected gross misconduct. This in itself does not constitute disciplinary action or imply that any decision has been made about the allegations.

Where suspension is necessary:

- For staff based in trust schools, the headteacher must authorise the suspension. If it is the headteacher who is the subject of the disciplinary procedure, the CEO must authorise the suspension
- For staff not based in a particular school, such as trust central team staff, the suspension must be authorised by the CEO. If it is the CEO who is the subject of the disciplinary procedure, the Chair of Trustees must authorise the suspension
- The employee will be informed of the suspension in a face-to-face meeting, held in person or over video conferencing if necessary, followed by a notification in writing as soon as possible and usually within 5 working days. This will be led by the Headteacher for school staff; the CEO for the headteacher and central team staff and by the Chair of Trustees where the CEO is the subject of the disciplinary procedure
- The employee will be permitted to be accompanied to the meeting by a colleague, a trade union representative or a trade union official. If the employee intends to be accompanied, they should notify the employer at least 2 working days before the meeting
- The employee will be suspended on full pay
- While an individual is suspended, they must not visit trust/school premises or contact any pupils, parents/carers or other members of staff, unless authorised to do so by their line manager

4.3 Investigation

When formal disciplinary procedures begin, an independent investigating officer will be appointed. Investigating Officer refers to a senior manager or an external person appointed by the Headteacher, CEO or Board of Trustees.

The investigating officer will gather the facts of the case and evidence. The purpose of this investigation is to determine whether a formal disciplinary hearing is required by gathering the facts and any evidence relating to the disciplinary allegations.

The investigating officer will hold an investigation meeting with the employee in question and seek HR advice as appropriate. The investigation meeting will be held solely for the purposes of fact finding, and no decision on disciplinary action will be taken until after the investigation has been concluded or, if required, a formal disciplinary hearing has been held.

If relevant, the investigating officer will hold meetings with identified witnesses. Notes can be taken during these meetings and the witness asked to sign a copy to form a witness statement. Alternatively, the witness can write and submit a witness statement.

The employee will be informed of the outcome of the investigation in writing.

If the investigating officer determines that the matter should move forward to a formal disciplinary hearing, a disciplinary officer will be appointed to lead the disciplinary hearing. This will be a person independent from the investigating officer and they will be appointed by the Headteacher, CEO or Board of Trustees.

4.4 Notification

If it is decided that there is a disciplinary case to answer, the employee will receive a written notification 5 working days before the hearing. The hearing could be sooner if it is agreed by both parties. The notification will include:

- Details of the alleged misconduct and its possible consequences, including stating where dismissal is a possibility
- Copies of any written evidence, including witness statements and any relevant documents or other evidence which will be used at the disciplinary hearing
- The time, date and location of the disciplinary meeting (including the details if the meeting is to be held over video conferencing, if relevant)
- A statement that the employee has the right to be accompanied by a colleague, a trade union representative or a trade union official
- Notification that the employer intends to call witnesses (if relevant)

If the employee intends to call a witness, they should notify the chair of the disciplinary panel at least 2 working days before the hearing, and it will be for the employee to arrange the attendance of their witnesses.

The employee should submit any additional evidence they intend to rely on at least 2 working days in advance of the hearing.

4.5 Right to be accompanied

Employees have a statutory right to be accompanied at a disciplinary hearing or appeal hearing.

The statutory right is to be accompanied by a colleague, a trade union representative or a trade union official. Employees must make the request in advance, to the senior manager or chair of the disciplinary panel to ensure the trust knows who the companion will be.

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

A companion, if a colleague, is allowed reasonable time off from duties without loss of pay, but no one is obliged to act as a companion if they do not wish to do so.

The trust will make reasonable adjustments for disabled employees. This may include allowing an employee to bring a companion who is not a colleague, trade union representative or trade union official.

4.6 Disciplinary hearing

A senior manager will conduct the hearing OR if a panel hearing is required: A chair will be appointed from the disciplinary panel. The investigating officer and a member of the HR adviser will also be present.

At the hearing, the person conducting the hearing will explain the case against the employee and go through the evidence that has been gathered.

The employee will be allowed to set out their case and answer any allegations that have been made. The employee will also be given a reasonable opportunity to ask questions, present evidence and call relevant witnesses. They will also be given an opportunity to raise points about any information provided by witnesses.

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

The hearing may be adjourned if further investigation needs to be carried out, such as re-interviewing witnesses in light of any new points the employee raises at the hearing. The employee will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.

If the employee or their companion cannot attend the hearing, they should inform the senior manager/chair of the disciplinary panel immediately and an alternative time for the hearing will be arranged. The employee must make every effort to attend the hearing and failure to attend without good reason may be treated as misconduct in itself. If the employee fails to attend without good reason or is persistently unable to do so (for example, for health reasons), a decision may have to be taken based on the available evidence, including any written representations the employee has made.

4.7 Taking appropriate action

The hearing will be adjourned and a decision about whether further disciplinary action is necessary will be taken. The employee will be informed of the decision in writing within 5 working days.

Actions taken may be:

- **A verbal or informal warning** where it is decided that the action was not serious enough to warrant a formal written warning. This may be accompanied by a notification that arrangements will be put in place to improve the employee's behaviour, such as a training course or occupational health support
- A first written warning** for a first instance of misconduct. A first written warning will be placed on the employee's personnel file and remain active for 12 months. The written warning will explain that a further instance of misconduct or no change in behaviour within a given timeframe will result in a final warning
- A final written warning** where the employee already has an active first warning, or where the employee's misconduct was sufficiently serious to warrant a final written warning. A final written warning will be placed on the employee's personnel file and remain active for at least 12 months. The written warning will explain that a further instance of misconduct or no change in behaviour within a given timeframe may result in dismissal or other disciplinary action

- **Dismissal** where there has been gross misconduct, regardless of whether there are active warnings on the employee's personnel file, or where there has been further misconduct and there is an active final written warning on the employee's personnel file
- **Alternatives to dismissal** can be considered at the trust's discretion. Examples include:
 - Demotion
 - Transfer to another role
 - Loss of seniority
 - Reduction in pay

The trust will refer a case of gross misconduct by a teacher, trainee teacher or someone holding a teacher reference number to the Teaching Regulation Agency (TRA) if we believe the TRA should consider whether the teacher should be prevented from teaching (see appendix 1 for instances of when this may apply). We will also refer cases to other relevant authorities, including but not limited to the Disclosure and Barring Service, where appropriate.

4.8 Dismissal

If on the conclusion of the disciplinary hearing the Headteacher considers the complaint constitutes gross misconduct, or where a final written warning has already been given, they may decide to dismiss the employee without notice or pay in lieu of notice. The CEO in the case of a Headteacher or Chair of Trustees in the case of the CEO.

4.9 The effect of a warning

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 in that active period.

A first written warning will usually remain active for 12 months and a final written warning will usually remain active for at least 12 months. The employee's conduct may be reviewed at the end of a warning's active period and, if it has not improved sufficiently, we may decide to extend the active period.

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 once it has expired.

4.10 Criminal allegations

Where an employee's conduct is the subject of a criminal investigation, charge or conviction, we will investigate the facts when we are able to do so (there may be a delay in waiting for a police investigation to be conducted) before deciding whether a formal disciplinary hearing is required.

We will not usually wait for the outcome of any prosecution before deciding what action, if any, to take. Where the employee is unable or has been advised not to attend a disciplinary hearing or say anything about a pending criminal matter, we may have to take a decision based on the available evidence.

A criminal investigation, charge or conviction relating to conduct outside work may be treated as a disciplinary matter if we consider that it is relevant to an employee's employment.

4.11 Special cases

If the employee involved in a disciplinary procedure is also the trade union representative, we will notify the union and discuss the matter with an official employed by the union before action is taken, after obtaining the employee's agreement. The procedure will continue as normal.

If the employee who is subject to disciplinary procedures raises a grievance about the disciplinary allegations or the procedure itself, the grievance procedure will run concurrently.

If the employee who is subject to disciplinary procedure raises a grievance about something unrelated to the disciplinary, consideration will be given to pausing the disciplinary while the grievance is addressed.

If the person appointed to deal with the investigation, disciplinary hearing or appeal is unable to undertake the role due to previous involvement or a conflict of interests then the trust reserves the right to substitute that person for another.

5. Appeals Process

The employee has the right to appeal any disciplinary sanction. Appeals must be made in writing to the Chair of the disciplinary panel within 10 working days of the decision, setting out at the same time the grounds for appeal.

A disciplinary appeals officer/panel will then be appointed.

An appeal against a written warning will be heard by a convened Governors Appeal Committee of at least 3 governors. The panel may have an HR Adviser present. The Committee may confirm the written warning, reduce a final written warning to a first written warning, or cancel the written warning.

An appeal against dismissal will be to the convened Governors Appeal Committee or convened Trustees Appeal Committee of at least 3 governors/trustees. The Appeal Committee may have an HR adviser present.

If the employee is appealing against a 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.

If the employee raises any new matters in their appeal, we may need to carry out further investigation. If any new information comes to light, we will provide the employee with a summary including, where appropriate, copies of additional relevant documents and witness evidence. The employee will have a reasonable opportunity to consider this information before the hearing, and the employee, or their companion, may comment on any new evidence arising during the appeal before any decision is taken.

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

The appeal hearing will consider the fairness of the original decision in the light of the procedure that was followed, the evidence and any new information that may have come to light.

The appeal will be dealt with impartially and by senior leaders, governors or trustees who have not previously been involved in the case.

The appeal hearing may be adjourned if required to carry out further investigations in light of any new points that the employee raises at the hearing. The employee will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.

Following the appeal hearing, we may:

- Confirm the original decision
- Revoke the original decision
- Substitute a different penalty

The employee will be informed in writing of the results of the appeal hearing as soon as possible. There will be no further right of appeal.

6. Record keeping

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

Records of all materials relating to the disciplinary process will be kept securely, only for as long as necessary and in line with data protection law, our privacy notices and our Records Management Policy and Record Retention Schedule.

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

We will disclose any proven, unexpired disciplinary offences by an employee if a reference is requested by a future employer.

6.1 Confidentiality

We aim to deal with disciplinary matters sensitively and with due respect for the privacy of any individual involved. All employees must treat as confidential any information communicated to them in connection with an investigation or disciplinary matter.

The employee, and anyone who may accompany the employee (including witnesses), must not make electronic recordings of any meetings or hearings conducted under this procedure, whether these meetings or hearings are conducted in person, by telephone, or using remote working platforms or technologies.

The employee will normally be told the names of any witnesses whose evidence is relevant to disciplinary proceedings against them, unless we believe that a witness's identity should remain confidential.

7. Monitoring arrangements

This policy will be reviewed annually but can be revised as needed.

This policy will be approved by the full board of trustees.

8. Links with other policies

This policy links with our policies on:

- Appraisal and Capability policy
- Acceptable Use Policy
- Equality Information and Objectives Statement
- Privacy Notice for Staff
- Records Management Policy and Record Retention Schedule/Data Protection Policy
- Code of Conduct for Staff
- Grievance Policy and Procedure

Appendix 1: instances and behaviours classed as misconduct

The following lists are not exhaustive.

Instances of misconduct include:

- Failure to comply with reasonable instructions from senior staff
- Failure to follow the policies, practices and requirements of the trust
- Inappropriate use of the trust's facilities
- Unauthorised absence from work or persistent lateness
- Unsatisfactory standards of work (not related to capability)
- Using bad language in front of pupils

Instances of gross misconduct include:

- Deliberately acting in a way that will cause damage to the trust's reputation
- Deliberately damaging the trust's property
- Discrimination, harassment, victimisation and/or bullying of pupils, colleagues or visitors
- Inappropriate relationships with pupils or any other actions that would be classed as a serious safeguarding issue
- Physical violence or assault
- Serious breaches of confidentiality
- Sexual offences or misconduct
- Theft

[Teacher misconduct guidance](#) from the TRA explains that, among other things, the following offences will be serious enough to warrant prohibition of teaching:

- Abuse of position or trust (particularly involving pupils) or violation of the rights of pupils
- Actions or behaviours that undermine fundamental British values
- Misconduct seriously affecting the education and/or wellbeing of pupils, and particularly where there is a continuing risk
- Serious departure from the personal and professional conduct elements of the Teachers' Standards
- Sustained or serious bullying, or other deliberate behaviour that undermines pupils, the profession, the school or colleagues

