



Disciplinary Policy and Procedure

Version 2.7

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<p>Related Documents:</p>	<p>ACAS Code of Practice – Disciplinary and Grievance Procedures Capability Policy and Procedure Alcohol and Substance Misuse Policy Expectations and Code of Conduct Health and Wellbeing Policy and Procedure Policy for Appraising Teachers’ Performance Associate Staff Performance Management Policy and Procedure Whistleblowing Policy</p>

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POLICY STATEMENT

We are here to make great schools and happier, stronger communities so that people have better lives. We do this by:

- Always doing what is right
- Trusting in each other and standing shoulder to shoulder
- Doing what we know makes the difference

Doing what is right means always acting with integrity, in the interests of others and being honest, open and transparent.

The Trust) aims to deal with disciplinary matters quickly, fairly, consistently and discreetly, adhering to relevant employment legislation and statutory guidance. The Trust has a talented, committed, professional workforce and it is hoped that in being clear and explicit in relation to expected standards of behaviour and conduct, employees will be align their conduct to the required standards.

Staff are encouraged to seek support where required, to give and receive appropriate, honest and constructive feedback and to conduct themselves in a professional manner. Minor misconduct will be dealt with informally wherever possible and appropriate. Cumulative misconduct can result in an escalation of levels of warning and potentially dismissal and gross misconduct can result in immediate summary dismissal.

Staff, managers, the CEO, Executive Principal, the executive board and senior leadership teams, the Human Resources Department, the Trust Board and the Local Governing Bodies will work together to minimise the risk of misconduct occurring (e.g. providing staff with relevant codes of conduct, role modelling appropriate behaviours, embedding the vision and values, providing staff with learning and development opportunities and access to support and guidance). The Trust is fully committed to an ethos of openness, accountability and transparency, where employees are encouraged to voice any concerns they have in a professional, responsible, effective way. It is important to the organisation that issues such as suspected fraud, misconduct or wrongdoing by workers or officers of the organisation is reported and properly dealt with. All individuals are therefore encouraged to raise any concerns they may have about the conduct of others at the Trust or the way in which the organisation is run, and the Whistleblowing Policy provides further information and guidance.

1. PURPOSE

The purpose of this document is to provide employees with guidance relating to employee conduct and misconduct. The Disciplinary Procedure is designed to be used where misconduct is alleged to have occurred during the period of employment.

2. SCOPE

This policy applies to all employees of the Trust.

3. ROLES AND RESPONSIBILITIES

The **Trust Board** is responsible for ensuring this policy is applied fairly and consistently across the Trust alongside holding specific responsibilities relating to the potential dismissal of employees under this policy.

The CEO and Executive Principal are responsible for ensuring employees are treated fairly and consistently across the Trust. The CEO and Executive Principal also have specific

responsibilities detailed within this policy regarding decision making and the issuing of sanctions.

The **Local Governing Bodies and Heads of School** are responsible for monitoring the application of this policy within their respective schools, ensuring minor misconduct is managed effectively and other related policies are shared, understood and adhered to by all employees. They are also responsible for ensuring managers, leaders and supervised have access to appropriate training and development to enable them to apply this policy fairly, consistently and professionally.

The **HR Department** is responsible for overseeing the introduction, implementation, monitoring and review of this policy and will report to the CEO, the Executive Principal, the Trust Board and Local Governing Bodies as required. The Human Resources Department will provide advice, guidance and support in the implementation of this policy and procedure, acting as a point of contact for managers. The Human Resources Department will ensure that this policy is implemented fairly and consistently, whilst also ensuring that relevant employment legislation and statutory guidance is adhered to. The HR Department will advise employees of organisations they may wish to approach for support, such as the Employee Assistance Programme, the Education Support Network and their Trade Union.

Managers must operate within this policy in a fair, consistent and reasonable way; ensuring confidentiality is protected where possible. It is a manager's responsibility to manage disciplinary issues. Managers must ensure that employees are supported throughout disciplinary processes appropriately and they must not take any formal action without speaking to the Human Resources Department.

Informal discussions, support, advice and guidance do not form part of the formal disciplinary procedure and managers must ensure that employees are advised of this. Managers are encouraged to deal with allegations of misconduct promptly, professionally and discreetly, ensuring staff dignity is maintained wherever possible, whilst also ensuring that disruption to service provision is minimised. Managers are encouraged to seek advice from the Human Resources Department even when dealing with matters of misconduct informally.

Investigating Officers will receive appropriate training and must adhere to this policy and procedure which conforms with ACAS guidelines.

Employees are expected to behave in a professional manner at work in line with the values of the Trust and the Expectations and Code of Conduct. It is also expected that staff do not place the reputation of the Trust at risk outside of work. If any member of staff is unsure about the Expectations and Code of Conduct, parameters and appropriate behaviours expected inside and outside of work they should seek clarity from their manager, the Head of School, members of the senior leadership team, leaders and/or their trade union. The Trust encourages employees to contact their **trade unions** at the earliest opportunity when involved in or facing disciplinary allegations and processes.

4. EQUALITY AND DIVERSITY

The Education Alliance is committed to:

- Promoting equality and diversity in its policies, procedures and guidelines

- Delivering high quality teaching and services that meet the diverse needs of its student population and its workforce, ensuring that no individual or group is disadvantaged

5. PRINCIPLES

Prior to invoking the Disciplinary Procedure, managers must seek advice and guidance from the Human Resources Department. They must determine whether or not the issue should be dealt with under another policy or procedure (such as capability or managing sickness absence). This decision should be reviewed throughout the investigation.

All employees must be informed in writing of their right to be accompanied or represented at disciplinary meetings and hearings held under the provisions of this procedure, by a trade union representative or work colleague. Employees can find the list of recognised Trade Unions on the school VLE/intranet.

Although normal disciplinary standards apply to a trade union representative's conduct as an employee, no disciplinary action should be taken against a trade union representative until the case has been discussed with a full-time trade union official. The Director of Human Resources must be consulted before any action is taken.

In considering an appropriate disciplinary sanction, the Chair of the hearing must do all they can to ensure that the decision is fair, reasonable and proportionate and that all parties behave appropriately. Factors to be considered when making a decision at a hearing should include the extent to which the rules and standards were understood and were breached, the employee's record, the seriousness of the allegation, and the impact of the misconduct, the employee's length of service, any mitigating circumstances and the likelihood of re-occurrence.

6. AUTHORITY TO TAKE DISCIPLINARY ACTION

Authority to deal with disciplinary matters is delegated in accordance with the schedule attached at Appendix A. As a general rule, line managers should in most cases investigate allegations against a member of their staff.

Managers must seek advice from the Human Resources Department at all stages of this procedure.

7. INFORMAL ACTION

Where possible, managers should deal with matters of minor misconduct in an informal way (unless there is a pattern of behaviour and attempts to deal with the issue or similar issues have failed). Minor misconduct can often be resolved through informal discussions between the member of staff and their manager where the reason for the misconduct, its impact, the gap between expectations and behaviours are discussed and clarified. This approach allows a manager to clearly detail expectations, to assist the member of staff to reflect on their behaviour and learn from their experiences, to assist with reflective practice and support future development.

If an informal discussion is followed up with a letter containing management advice the letter should be retained on the employee's file as part of their employment history.

8. SUSPENSION

Only the Head of School, Executive Principal or CEO can decide on whether or not to suspend a member of staff (a Deputy Head or a member of the Executive Board can in exceptional circumstances in consultation with the Director of HR). Only the Chair of the Trust Board can suspend the CEO (or in their absence the Vice-Chair).

Suspension may be appropriate where an allegation of gross misconduct is made and/or where continued working may give rise to further misconduct or interfere with the process of a fair investigation. Suspension is not a disciplinary sanction nor is it a presumption of guilt. It is a precautionary measure. It is important that staff are made aware of this when a suspension occurs.

Whilst suspended from duty an employee will continue to receive their normal pay and their suspension will be reviewed on a regular basis throughout the disciplinary process. The Trust will endeavour to deal with disciplinary matters swiftly and thoroughly, ensuring that staff are not placed on suspension for longer than is necessary.

Staff on suspension are not allowed to enter Trust premises. HR will discuss and agree with the employee which colleagues they can speak to, ensuring the investigation is not compromised and that confidentiality is maintained. It is also expected that staff make themselves available for interviews and meetings with representatives of the Trust to enable a swift completion of the disciplinary process. An agreement will also be reached regarding the brief staff can be advised of in relation to the absence of the employee. The suspended employee will be encouraged to access support (e.g. their Trade Union and the employee assistance package).

9. INVESTIGATION

When an allegation is made against a member of staff an appropriate manager must undertake a fact finding preliminary investigation (with advice and guidance from the Human Resources Department). This investigation will inform the decision as to whether the matter can be resolved informally, whether suspension is necessary and whether a formal disciplinary investigation is required.

Where a formal investigation is required an investigating officer will be identified (which may be the individual's line manager or another appropriate manager) and they will work with a member of the Human Resources Department to ascertain the facts of the case. This may involve undertaking fact finding meetings and reviewing evidence and any statements taken will be shared with the individual for checking and signing. Once the investigation is complete the investigating officer will produce a report which details their investigation and their findings and this will be shared with the person that commissioned the investigation, who can then decide on the necessary course of action (which may include no case to answer, informal supportive action, management advice or progress to a disciplinary hearing). The report may be presented to a panel and the member of staff and their representative if the case progresses to a hearing.

If at any stage of the investigation the decision is made that there is no case to answer, the employee and their representative will be informed immediately and in writing.

Managers undertaking an investigating role must act in accordance with the values of the Trust throughout the disciplinary process, ensuring the investigation is balanced and fair, that

employees facing potential disciplinary action, their representatives and any witnesses are treated with dignity and respect.

10. DISCIPLINARY HEARING

Before any disciplinary action is taken a disciplinary hearing must be convened at which the investigating officer will present the management case and the employee will have an opportunity to state their case. Wherever possible, the hearing should be arranged at a mutually convenient date, time and place. The arrangements must be confirmed in writing with the allegations confirmed and the evidence to be presented by the investigating officer enclosed. The relevant documentation should be circulated at least 10 working days in advance of the hearing and if an employee wishes to submit a written response they should do so at least 1 working day before the hearing (the employee may ask their Trade Union representative to do this on their behalf).

If witnesses are to be called they must be prepared for the hearing by the person requesting they attend (e.g. the employee or the investigating officer) and they should be advised that they are entitled to bring a trade union representative or work colleague with them for additional support (not to answer questions or speak on their behalf) .

11. DISCIPLINARY SANCTIONS

Disciplinary sanctions must be reasonable and proportionate, taking into account factors such as the severity of the misconduct, the employee's understanding of expectations, the employee's active disciplinary record and the impact of the misconduct.

Depending on the circumstances of the case the panel for the hearing may also consider reviewing:

- the employee's place of work (e.g. their team or the area in which they work)
- the employee's line management structure
- the employee's learning and development plans and training needs

Disciplinary sanctions must be explained to the employee along with the rationale for the sanction and future expectations.

First Written Warning

If the employee's conduct does not meet acceptable standards and evidence presented at the hearing supports the allegation(s) the employee may be given a first written warning. They must be advised that it will remain active on their file for 6 months (in that if a further offence occurs within 6 months this warning would be considered by the panel). They must also be advised of their right of appeal. The employee must receive written confirmation of the sanction within 5 working days, the rationale for the sanction and their right of appeal following the disciplinary hearing. A copy of the letter will be retained on the employee's personal file.

Second Written Warning

If the disciplinary offence is a serious one, or if there is a pattern of behaviour or a further offence, a second written warning may be given to the employee. They must be advised that the warning will remain active on their file for 12 months (in that if a further offence occurs within 12 months this warning would be considered by the panel). The employee must also

be advised of their right of appeal. The employee must receive written confirmation of the sanction, the rationale for the sanction and their right of appeal following the disciplinary hearing. A copy of the letter will be retained on the employee's personal file.

Final Written Warning

If the misconduct is sufficiently serious, or if there is a pattern of cumulative behaviour, a final written warning may be given to the employee. They must be advised that the warning will remain active on their file for 18 months (in that if a further offence occurs within 18 months this warning would be considered by the panel). The employee must also be advised of their right of appeal. The employee must receive written confirmation of the sanction, the rationale for the sanction and their right of appeal following the disciplinary hearing. A copy of the letter will be retained on the employee's personal file.

Dismissal

If the misconduct is sufficiently serious, or if there is a pattern of cumulative behaviour, the employee may be dismissed with paid notice (which might be paid in lieu of notice). The employee must receive written confirmation of the decision, the rationale for the decision and their right of appeal following the disciplinary hearing. A copy of the letter will be placed on the employee's file. In cases of gross misconduct the outcome may be summary dismissal with immediate effect without notice.

There may be occasions where, as an alternative to dismissal, the Trust wishes to propose a move to another role within the Trust, which may include an offer of demotion. If the Trust wishes to offer an alternative role rather than dismiss an individual, they may suggest this to the employee and their trade union. An alternative role can only be established if agreed by the Trust and the employee.

12. ABSENCE DURING THE DISCIPLINARY PROCESS

If an employee reports sickness absence during the course of the disciplinary process the Trust Health and Wellbeing Policy and Procedure will be invoked. Employees who are absent for a short period will be given the opportunity to attend a re-arranged investigatory meeting or hearing if their absence clashes with a disciplinary meeting. Failure to attend a second meeting or hearing may result in the disciplinary process continuing in their absence in reasonable circumstances. This will not occur without the employee having the opportunity to make alternative representation either in writing or through their trade union representative or work colleague.

13. RIGHT OF APPEAL

If an employee feels that the disciplinary action taken against them is unfair they can appeal against the decision. At each stage of the Disciplinary Procedure where a sanction is given, the employee will be advised of their right of appeal. An appeal must be submitted by the individual or their Trade Union representative on their behalf and received by the Director of Human Resources within 10 working days of the date of the letter which issues the sanction. Details of authority to hear appeals can be found in Appendix A. The employee will receive

confirmation of the appeal meeting, providing them with 10 working days' notice of the meeting.

At the appeal hearing the disciplinary sanction imposed will be reviewed. Appeal hearings are convened to review the case, the decision and the rationale for the decision, not to re-hear the case. However, the pack submitted to the panel will include information presented at the hearing, any submissions made by the member of staff and/or their representative and notes of the hearing to ensure the panel understands the case fully. It is the decision of the Appeals Panel whether or not new information can be introduced at the appeal hearing, and the panel will consider the reasons for the information not being submitted at an earlier stage. The Appeals Panel will consider specific factors which the employee expresses have been dealt with unfairly, such as:

- an inconsistent, inappropriate or excessively harsh sanction
- extenuating circumstances
- unfairness in the conduct of the hearing
- new evidence subsequently coming to light

The outcome of an appeal can either be an upholding of the original decision or a lesser sanction. Where an appeal against dismissal fails, the effective date of termination will be the date on which the employee was originally dismissed.

The appeal hearing is the final stage of the Disciplinary Procedure therefore the Appeals Panel decision is final.

14. DISCIPLINARY RULES

Appropriate and professional standards of behaviour and conduct are expected of all employees. Any breach of the disciplinary rules may lead to disciplinary action. Staff should ensure they are aware of the Trust's Expectations and Code of Conduct and they should seek advice if they are unsure from their line manager in the first instance. Staff that witness misconduct are encouraged to report it as to ignore it is to condone the behaviour. Misconduct can be reported to managers, the senior leadership team or executive board members.

Examples of gross misconduct include the following (this list is not exhaustive):

- theft, fraud and deliberate falsification of records
- possessing, using or selling illegal drugs in the workplace and/or being convicted of any criminal offence connected with drugs, regardless of whether the offence took place inside or outside the workplace
- serious breaches of the Trust Expectations and Code of Conduct and/or Dignity and Respect Policy
- unlawful discrimination or harassment
- a conviction of a criminal offence which in the Trust's opinion may affect its reputation or relationship with students or staff
- serious deliberate damage to property
- serious insubordination
- serious misuse of school property and/or name
- bringing the Trust into disrepute

- reporting to work having consumed non-prescribed drugs or alcohol rendering the employee unfit or unsafe for work; consumed or be under the influence of drugs or alcohol whilst on duty; consuming alcohol during working hours or at break times
- serious negligence which causes or might cause unacceptable loss, damage or injury
- serious infringement of health and safety rules
- serious breach of trust and confidence
- negligence and/or ill treatment of students
- inappropriate relationships with students
- serious breach in confidentiality of data

Examples of misconduct include (this list is not exhaustive and in some cases they may be viewed as gross misconduct):

- wilful unsatisfactory work performance
- bullying/harassment
- poor timekeeping
- unauthorised absence
- failure to follow reasonable instructions

Conduct outside work may be considered and dealt with under this policy and where it is decided that incidents that have occurred outside of work mean that an employee is unsuitable to continue employment with the Trust, the incident may be viewed as an act of gross misconduct and the employee may be summarily dismissed.

15. WITNESSES

Staff may be called upon as witnesses. Witnesses may be asked to attend a fact finding meeting where they will be asked specific questions pertaining to the case under investigation.

Witnesses will be asked to check and sign a copy of their statement and if the case progresses to a disciplinary hearing, appeal or tribunal they may be asked to attend to clarify evidence.

16. MONITORING COMPLIANCE WITH AND EFFECTIVENESS OF THE POLICY

Effectiveness and compliance of this Policy will be monitored on an annual basis.

17. ASSOCIATED DOCUMENTATION

- Capability Policy and Procedure
- Alcohol and Substance Misuse and Smoking Policy
- Expectations and Code of Conduct
- Health and Wellbeing
- Performance Management policies for teachers and associate staff

18. REVIEW

This Policy and Procedure will be reviewed within two years of the date of implementation.

Authority to Take Action under the Disciplinary Procedure

Action	Duration	Authority	Appeal
First Written Warning	6 months	Executive Principal or Head of School	CEO
Second Written Warning	12 months	Executive Principal or Head of School	CEO
Final Written Warning	18 months	CEO, Executive Principal or Head of School	CEO (unless they heard the disciplinary case) or 3 Trustees, Members of Governors
Dismissal	Not applicable	As per the Scheme of Delegation	As per the Scheme of Delegation