

## Staff Disciplinary Policy/Procedure

Approval confirmed:

Designation	Name	Date	Signature
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<b>Monitoring and Evaluation</b>	
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Review delegated to:	Finance & Resources committee

### **Document Version control**

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1.0	Initial set up of Trust-wide policy	October 2020
	CEO Reviewed – no changes	April 2022

## **1. Introduction**

- 1.1. The Staff Conduct Policy and the Disciplinary Procedure, with which all employees have a responsibility to familiarise themselves, are designed to promote fairness and consistency in the treatment of all employees and to assist the Academy Trust and its schools to function effectively.
- 1.2. This procedure will apply to any disciplinary situation which includes misconduct and also cases of poor performance that result from misconduct. It is not contractual but applies to all employees (save for those in their first two years of service) who should familiarise themselves with its provisions. Performance issues that do not relate to misconduct will be dealt with in accordance with the Capability Procedure. However, the two procedures may be run in parallel at first in order to investigate the underlying cause of the concern.
- 1.3. The Staff Conduct Policy sets standards of required conduct at work.
- 1.4. This Disciplinary Procedure is designed to ensure that these standards are adhered to and provides a fair method of dealing with any alleged failures to observe them. The procedure does not preclude minor disciplinary situations from being dealt with informally.
- 1.5. In cases other than gross misconduct or in the first two years of employment (as noted above), an employee whose conduct does not meet the standards will normally first be counselled in an attempt to achieve the required improvement. However, the School reserves the right to commence the procedure at any stage if the circumstances warrant such action.
- 1.6. No disciplinary action will be taken until the case has been investigated and the employee has had the opportunity to respond to the allegations in accordance with the procedure set out below. All disciplinary situations will be dealt without unreasonable delay. ((ACAS))
- 1.7. In the event of absence of any of those involved, except for the employee who is the subject of the procedure, a deputy may take their place provided that this will not jeopardise the likelihood of a fair outcome.

## **2. Confidentiality**

- 2.1. Our aim is to deal with disciplinary matters sensitively and with due respect for the privacy of any individuals involved. All employees must treat as confidential any information communicated to them in connection with an investigation or disciplinary matter.
- 2.2. An employee, and anyone accompanying them (including witnesses), must not make electronic recordings of any meetings or hearings conducted under this procedure.
- 2.3. Employees will normally be told the names of any witnesses whose evidence is relevant to disciplinary proceedings against them, unless the witnesses have not consented to the disclosure of their identity or evidence, or we believe that a witness' identity should remain confidential.

## **3. Criminal Allegations**

- 3.1. Where an employee's conduct is the subject of a criminal investigation, charge or conviction we will investigate the facts before deciding whether to take formal disciplinary action.
- 3.2. Subject to the receipt of external advice, we will not normally wait for the outcome of any criminal prosecution before deciding what action, if any, to take. Where you are unable or have

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.

- 3.3. 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 your employment.

#### **4. Suspension**

- 4.1. Where an employee is accused of an act of serious or gross misconduct, or where the circumstance otherwise warrant it, after careful consideration he/she may be suspended from work on full pay pending the outcome of the disciplinary procedure. Such suspension is not a form of disciplinary action and does not imply that any decision has already been made about the allegations.

#### **5. Investigation**

- 5.1. When a disciplinary situation arises a senior member of staff will, as soon as reasonably practicable, carry out an investigation into the matter. The investigation will be confined to establishing the facts and gathering any relevant documentation. Where necessary, the investigating officer will obtain statements from any relevant individuals. An investigatory meeting with the employee may take place if considered appropriate by the investigating officer.

#### **6. Notification**

- 6.1. If, as a result of the investigation, it is decided that there is a disciplinary case to answer, the employee will be invited to attend a disciplinary meeting.
- 6.2. The employee will be informed in writing of the nature of the complaint and where appropriate, will be provided with copies of any written evidence gathered during the investigation.
- 6.3. Where either party intends to call any relevant witnesses at the disciplinary meeting, advance notice of their intention to do so must be given.

#### **7. Disciplinary Meeting**

- 7.1. A disciplinary meeting will be conducted by the Headteacher (or an appropriate senior member of staff appointed by them, who has had no prior involvement in the matter). The employee may be accompanied by a trade union representative or colleague if desired. The employee and their companion should make every effort to attend the disciplinary meeting. In the event that the employee fails to attend the disciplinary meeting this will usually be rearranged once, but should they fail to attend the rearranged meeting then a decision may be reached in their absence.
- 7.2. The employee will be given the full opportunity at the disciplinary meeting to explain the matter and respond to the allegations.
- 7.3. A note taker will usually be present but will not be involved in the decision making process.
- 7.4. If, following the disciplinary meeting, it is decided that disciplinary action is warranted, the employee will be advised of the decision in writing and will specify the details of:
  - 7.4.1. the failure to meet the required standard;
  - 7.4.2. any action required by the employee to remedy the situation;

7.4.3. any relevant review period /duration of warning and the consequences of continued or subsequent failure to reach and sustain the required standard of performance or conduct; and

7.4.4. the right of appeal.

7.5. In the event that disciplinary action is warranted, one of the sanctions below may be issued. A sanction may be imposed at any level including summary dismissal depending on the circumstances.

## **8. Written Warning**

8.1. In the case of a first act of misconduct, or a repetition of earlier minor offences or a failure to improve, the employee will be given a written warning, setting out the precise nature of the issue(s), the likely consequences of further misconduct and specifying, if appropriate, the improvement required and over what period.

## **9. Final Written Warning**

9.1. In the case of a sufficiently serious offence, or a repetition of earlier offences the employee will be given a final written warning, setting out the precise nature of the offence, the likely consequences of further offences and specifying, if appropriate, the improvement required and over what period. This may include a statement that any recurrence or no improvement may lead to a dismissal or to some other action short of dismissal.

## **10. Dismissal**

10.1. This stage will normally result from continued failure by the employee to act on previous warnings or an act of gross misconduct. In the case of gross misconduct the employee will normally be dismissed without notice or payment in lieu of notice. If the decision to dismiss is made the employee will be informed in writing of the reason for dismissal, the date on which the contract between the parties will terminate and the appropriate period of notice.

## **11. Alternatives to Dismissal**

11.1. In exceptional circumstances, the following actions short of dismissal may be considered as an alternative to dismissal:

11.1.1. suspension without pay;

11.1.2. demotion; or

11.1.3. transfer.

## **12. Gross Misconduct**

12.1. In exceptional circumstances, employees may be dismissed without notice if it has been established, after investigation and after hearing the employee's explanation at a disciplinary meeting, that there has been an act which constitutes gross misconduct.

12.2. Examples of actions which constitute gross misconduct include (but are not limited to):

12.2.1. gross insubordination;

12.2.2. serious breach of health and safety rules;

- 12.2.3. serious breach of the School Use of Telephone, Email, Systems and Internet Policy;
- 12.2.4. theft or fraud from either the School or co-workers or deliberate damage to School property or that of co-workers;
- 12.2.5. being under the influence of drink or illegal drugs at work;
- 12.2.6. disorderly or threatening conduct on school premises;
- 12.2.7. contravention of the equal opportunities and discrimination policy;
- 12.2.8. negligence resulting in serious loss, damage, or injury;
- 12.2.9. assault or attempted assault;
- 12.2.10. falsification of records;
- 12.2.11. conviction on a criminal charge;
- 12.2.12. acceptance of a police caution;
- 12.2.13. breach of School policies or procedures;
- 12.2.14. bullying or harassment of colleagues, pupils or parents;
- 12.2.15. abuse or suspected abuse of your position of trust in relation to pupils at the School;  
or
- 12.2.16. bringing the School into disrepute.

### **13. Appeals**

- 13.1. If an employee feels that the disciplinary action taken against them is wrong or unjust, they may appeal against the decision within five working days of receipt of the written decision. Such appeals are to be made in writing, through the clerk, to the Trustees.
- 13.2. The appeal hearing will be convened as soon as is reasonably practicable and will give an employee written notice of the date, time and place of the appeal hearing. The appeal hearing will be held by the a panel of up to three Trustees (who have had no prior involvement). The Headteacher will not hear the appeal if they held the disciplinary meeting.
- 13.3. The appeal hearing may, depending upon all the circumstances, be a complete re-hearing of the matter or it may 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 come to light.. This decision will be at our discretion depending on the circumstances of the case. In any event, the appeal will be dealt with as impartially as possible.
- 13.4. Where new evidence arises prior to or during the appeal, we may need to carry out further investigation. The employee will be given access to any relevant new information or evidence and will have the opportunity to consider this before the hearing and make representations. All documentary evidence, including any new evidence, will be provided to all parties at least 5 days prior to the appeal
- 13.5. The employee will have the right to be accompanied at any appeal hearing by a colleague or trade union representative.
- 13.6. The employee will be informed in writing of the decision of the appeal hearing as soon as is reasonably practicable following the conclusion of the hearing. The outcome may be that:

- 13.6.1. the original decision is confirmed;
  - 13.6.2. the original decision is revoked; or
  - 13.6.3. a lesser penalty is issued.
- 13.7. Such decision will be final and there will be no further right of appeal.
- 13.8. In the event of an unsuccessful appeal against a decision to dismiss the original dismissal date shall stand. However, if an employee's appeal is successful, they will be reinstated with no loss of continuity or pay.

#### **14. Record Keeping**

- 14.1. A copy of all formal warnings will be retained on an employee's personnel file and in accordance with the School's Staff Privacy Notice and Data Retention Policy but will be considered spent after a period of twelve months.