

## Staff Discipline Policy

### Aim of the Trust

To provide an outstanding education for every child in the trust through high aspirations and the principles of quality learning using curiosity, exploration and discovery.

This policy is linked to:

- Capability Procedure
- Equality Policy
- Grievance Procedure

### Principles

Disciplinary procedures are necessary for promoting fairness and order in staff relations. This document has been drawn up in order to ensure that all employees who may become subject to disciplinary action are dealt with in a fair and equitable manner.

The disciplinary procedure reflects:

- the provisions of the Employment Rights Act 1996;
- the provisions of the ACAS Code of Practice on Disciplinary and Grievance Procedures.

### Purposes

- To establish a clear and fair policy for staff discipline
- To provide a framework for dealing with instances of misconduct and for ensuring that acceptable standards of behaviour are maintained

### Guidelines

#### 1. The Procedure

1.0. This procedure shall operate alongside the relevant statutory requirements in relation to the exercise by governing bodies of their power in relation to discipline and dismissal.

1.1. This disciplinary procedure is separate and distinct from the grievance procedure whereby an employee is entitled to air a grievance relating to his/her employment. The grievance procedure shall not be used as a means of imposing any disciplinary penalty on the member of staff. If, however, the question of disciplinary proceedings arises as a result of the hearing of a grievance, the disciplinary matter shall be dealt with in accordance with the procedure set out below.

1.2. This procedure shall apply where the Trust, Executive Principal/Headteacher is contemplating dismissing, or taking disciplinary action against a member of staff in the Trust.

1.3. Save in exceptional circumstances, this procedure shall not apply to cases of absenteeism or of allegedly inadequate performance/capability which shall be dealt with by other appropriate measures seeking to achieve improvement by positive means. It is recognised, however, that ultimately, this procedure may need to be invoked where attempts to resolve such problems by other means have been exhausted.

1.4. It is recognised that minor cases of misconduct and most cases of poor performance are best dealt with by informal advice, coaching/counselling and/or informal oral warnings. Such actions shall not be considered to form part of formal disciplinary action.

1.5. At all formal meetings held under the terms of this procedure, a member of staff shall have the right to be accompanied by a workplace colleague or trade union representative. Such meetings shall not be restricted to formal hearings but may also include any investigative interviews.

1.6. No disciplinary action shall be taken against a trade union representative until the case has been discussed with a senior representative or full-time official of the union concerned.

## **2. Disciplinary Committees and Appeal Committees**

2.1. The Executive Principal/Headteacher in each Academy shall usually be responsible for considering disciplinary cases including cases which may possibly result in dismissal. However in certain circumstances it may be necessary for a panel of governors/trustees to consider disciplinary cases (see 3.3).

2.2. The Trust shall establish a Staff Disciplinary Appeals Committee which shall be responsible for considering appeals against decisions of the Executive Principal/Headteacher. An appeals panel established to hear an appeal against a determination that a member of staff should be dismissed, should consist of at least three governors and/or Trustees.

2.3. The Chair of the Trust shall not sit on the staff disciplinary appeals committee in order that s/he is able to advise the Executive Principal/Headteacher when considering cases involving staff other than the Executive Principal/Headteacher and to seek advice in cases involving the Executive Principal/ Headteacher.

## **3. Investigations**

3.1. Prior to any disciplinary action, allegations shall be promptly and carefully investigated and statements from witnesses shall be obtained where appropriate.

3.2. Members of staff against whom allegations are made have the right to know about these allegations.

3.3. Formal investigations shall, where possible, be undertaken by a senior member of staff other than the Executive Principal/Headteacher, in order that the Executive Principal/Headteacher is subsequently able to consider matters under informal action or formal disciplinary procedures without prior involvement. If, through the course of the investigation, the Executive Principal/ Headteacher does have prior involvement, then that individual can no longer chair a disciplinary hearing. In this case, a panel of 3 Governors and/or Trustees will hear the case. If this then goes to appeal, a different panel of 3 Governors and/or Trustees would hear the case.

3.4. The investigating officer will produce a summary report which will include a statement indicating as to whether, in their opinion, based on the balance of probability, there is a case to answer. This report should be shared with the member of staff prior to any disciplinary hearing.

3.5 If, after investigating the matter, it appears that there are no reasonable grounds for concern, the person(s) concerned will be informed and, if relevant, allowed to return to work as normal.

3.6. If the investigation is into the conduct of the Executive Principal/Headteacher, an Investigating Officer will be appointed by the Chair of Governors.

3.7. Where the member of staff is being investigated by the police, the Trust will not normally carry out its own investigation into the same issue until the police investigation has been concluded or where the police are satisfied that an internal investigation will not undermine their own investigation.

#### **4. The Disciplinary Procedure**

##### **Informal Action**

4.1. Cases of minor misconduct will normally be dealt with informally by a Line Manager. This could involve giving advice on how a member of staff's conduct can be improved.

4.2. The Line Manager may deal with matters by giving oral advice. Such advice shall not be regarded as part of formal disciplinary procedures. However a note will be made that advice was given and this note will be placed on the member of staff's file and a copy provided to the employee concerned. The Line Manager may make it clear in such cases that formal action might be taken against the member of staff on recurrence of the conduct in question.

##### **5. Formal Disciplinary Action: Formal Warnings and Dismissal**

5.1. In the event of a complaint relating to the conduct of a member of staff which on investigation may require the issue of a formal warning, a disciplinary meeting shall be arranged to take place as soon as is reasonably possible and, where possible, at a mutually convenient time. Such a meeting will be chaired and arranged by the Executive Principal/Headteacher.

5.2. The member of staff shall be informed in writing of the date, time and purpose of the meeting, the nature of the allegations and the possible outcomes in a reasonable period in advance of the meeting. The member of staff shall at the same time be provided with any evidence to be presented and the names of any witnesses to be called at the meeting.

5.3. If the member of staff is unable to attend the meeting through unforeseen circumstances outside the member of staff's control (e.g. illness) the meeting will be rearranged. If the member of staff is unable to attend a meeting within a reasonable timescale, or fails to attend without good reason, then the meeting may be held in their absence.

5.4. Where the member of staff's chosen companion cannot attend on the date proposed, the member of staff shall be entitled to propose a reasonable alternative time and date which falls before the end of the period of five working days beginning with the first working day after the date proposed, or a mutually agreed alternative date.

5.5. At the disciplinary meeting, the member of staff shall have the opportunity to answer allegations made, question any witnesses and state his/her case before any decision is reached.

5.6. Initial complaints relating to conduct, where proven, shall normally be dealt with by means of a first written warning, which may be given verbally in the first instance before being confirmed in writing. The letter confirming the written warning should be issued within 5 working days of the disciplinary meeting. A copy of the letter shall be placed on the member of staff's personal file.

5.7. In the event of a further complaint within the lifespan of a first written warning (see 5.8), or a complaint of a more serious nature, consideration may be given to a final written warning. Such a warning may be given verbally in the first instance before being confirmed in writing. The letter confirming the written warning should be issued within 5 working days of the disciplinary meeting. A copy of the letter shall be placed on the member of staff's personal file and he/she shall also be given a copy.

5.8. Warnings shall be disregarded for disciplinary purposes after a specified period. This will normally be 12 months for written warnings including final written warnings, although shorter or longer periods may be determined depending on the particular circumstances.

5.9. In the event of a further complaint within the lifespan of a written warning (see 5.8), or a complaint that may be regarded as gross misconduct (see 9.1) consideration will be given as to whether the employee should be dismissed. A disciplinary meeting shall be arranged to take place as soon as is reasonably possible but giving a minimum of 10 working days' notice. Such a meeting will be chaired and arranged by the Executive Principal/Headteacher.

5.10. Where a determination which may lead to dismissal is considered to be a possible outcome, this shall be clearly stated in writing in this letter of notification. The member of staff shall be provided with copies of any evidence to be presented and the names of any witnesses to be called at the meeting at least 5 working days in advance of the meeting.

5.11. Should the employee wish to submit any further evidence then they should do so at least 2 working days in advance of the meeting.

5.12. The Executive Principal/Headteacher may adjourn the proceedings at any stage if this appears necessary or desirable. If adjourning for the purpose of enabling further information to be obtained, the Executive Principal/Headteacher will specify the nature of that information. Both parties may ask for an adjournment for the purpose of consultation. Any adjournment will normally be for a specified limited period of time.

5.13. The Executive Principal/Headteacher shall consider his/her decision in private and, depending on the circumstances, may decide that:

- no action be taken;
- a formal written warning or final written warning be issued; or that
- the member of staff should cease to work at the Academy.

5.14. A first breach of discipline shall not normally lead to a determination which may lead to dismissal, save in any case of gross misconduct - misconduct so serious as to warrant such action according to principles of contract law and those governing unfair dismissal in law.

5.15. The Executive Principal/Headteacher's decision shall be communicated in writing within 5 working days. The notice must inform the member of staff of his or her right of appeal. Where the Executive Principal/Headteacher decides that a member of staff should cease to work at either of the Academies, the Executive Principal/Headteacher shall include a written statement of the reasons for his decision in his letter of confirmation to the member of staff.

5.16. The letter of confirmation shall also include notification of dismissal with notice as appropriate to the circumstances

5.17. The outcome of disciplinary proceedings shall normally remain confidential to the parties involved save as required by law.

## **6. Appeals against Formal Warnings or Dismissal**

6.1. The member of staff shall be entitled to appeal against the issue of any warning or decision to dismiss. The member of staff must notify in writing his/her wish to appeal within 5 working days of receipt of the decision, whether first received verbally or in writing, clearly stating their grounds for appeal. That appeal shall be heard by a staff disciplinary appeals committee usually made up of three governors and/or Trustees. The appeal should be heard within a reasonable time of it being lodged. The member of staff shall be informed in writing of the date, time and purpose of the meeting at least 10 working days in advance.

6.2. The staff disciplinary appeals committee shall not, however, be empowered to impose a more severe penalty than that originally imposed by the Executive Principal/Headteacher.

6.3. The procedure at the Appeal Hearing shall be the same as that for the Disciplinary Hearing, except that it will be for the appellant to put forward their grounds for appeal first. Where new evidence arises during the appeal the evidence will be made available to all parties and an opportunity will be given to all parties to comment before any action is taken

6.4. When the Appeal Panel has made a decision, it will be communicated in writing as soon as practicable, but within 5 working days at the most.

6.5. If the member of staff, having been dismissed, is then reinstated on appeal, the continuity of employment will be unaffected.

6.6. The decision of the Appeal Panel is final.

## **7. Witnesses**

7.1 Either party may call witnesses at a hearing however potential witnesses cannot be compelled to attend a hearing.

7.2 If the witnesses are students then it will be the decision of the Chair of the Hearing as to whether this is deemed appropriate or not. It may be that students can represent their views by answering questions set by both parties to avoid having to be present at a hearing.

## **8. Grievances Raised During an Investigation**

8.1. If a grievance is raised in the course of the meeting, the Executive Principal/Headteacher will decide whether:

- the grievance should be heard alongside the disciplinary matter;
- the procedure should be suspended while the grievance is dealt with or
- the grievance should be dealt with as a separate matter.

## **9. Gross Misconduct**

9.1. Where it has been determined that an employee has committed an act of gross misconduct the Executive Principal/Headteacher may dismiss without notice. Examples of what the Trust considers to be gross misconduct are set out below:

- Conduct (whether committed at or outside work) which is likely to damage the Academy's reputation;
- Indecent or violent behaviour whether committed at or outside work;
- Deliberate and/or serious misuse of, or deliberate damage to, Academy property;
- Fraud, theft or dishonesty;
- Deliberately accessing internet sites containing pornographic, offensive, or obscene material;
- Being on duty whilst unfit due to the influence of drugs and/or alcohol
- Bullying/harassment;
- Discrimination (including harassment or victimisation) on grounds of a protected characteristic, e.g. sexuality, gender, religion, age, race or disability;
- Serious breach of health and safety rules/requirements;
- Causing loss, damage or injury through serious negligence;
- Wilful neglect
- Refusal of a reasonable managerial instruction;
- Deliberate misuse of confidential information;
- Offences related to drug abuse, sexual misconduct or the abuse of children; and - Serious incapability at work brought about by alcohol or illegal drugs.

This is not an exhaustive list and should also be seen within the context of any relevant professional Standards

9.2 Teachers uphold public trust in the profession and maintain high standards of ethics and behaviour, within and outside school, by:

- Treating students with dignity, building relationships rooted in mutual respect, and at all times observing proper boundaries appropriate to a teacher's professional position
- Having regard for the need to safeguard students' well-being, in accordance with statutory provisions
- Showing tolerance of and respect for the rights of others
- Not undermining fundamental British values, including democracy, the rule of law, individual liberty and mutual respect, and tolerance of those with different faiths and beliefs
- Ensuring that personal beliefs are not expressed in ways which exploit students' vulnerability or might lead them to break the law
- Teachers must have a proper and professional regard for the ethos, policies and practice of the school in which they teach, and maintain high standards in their own attendance and punctuality

- Teachers must have an understanding of, and always act within, the statutory frameworks which set out their professional duties and responsibilities

The National College for Teaching and Leadership (NCTL) use part Two of the Teachers' Standards, when assessing cases of serious misconduct.

## **10. Suspensions**

10.1. It is important to note that suspension from duty is a neutral act. It is not a disciplinary penalty and carries no assumption of guilt.

10.2. The decision to suspend a member of staff may only be made by the Executive Principal/Headteacher or the Chair of Governors of each Academy.

10.3. Suspension from duty pending a formal disciplinary hearing shall only be considered following an initial investigation:

- where suspension appears on good grounds to be necessary for the protection of pupils, other staff or property; or
- where the continued presence at work of the person against whom allegations are made would be an obstacle to proper investigation; or
- where the allegation is one of gross misconduct.

10.4. Prior to making a decision on whether to suspend someone the Executive Principal/Headteacher will consider whether there are any other viable alternatives such as temporary variations in:

- duties
- working arrangements
- working location
- and/or an initial 'cooling off' period for a period not exceeding five days or a period of 'garden leave'

10.5. Suspensions may only be lifted by the Trust or Local Governing Body. The Executive Principal/Headteacher shall, when suspending an employee, immediately inform the Chair of Governors.

10.6. Suspension shall be on full pay and will be reviewed regularly by the Executive Principal/Headteacher.

10.7. When a member of staff is suspended from work the Executive Principal/Headteacher will arrange for a Designated person within the senior team to maintain regular contact with the member of staff concerned.

## **11. Other dismissals**

11.1. In the event that one of the Academies is contemplating dismissal for a reason not relating to misconduct or capability issues (e.g. Non-renewal of a fixed term contract), then a process in line with sections 5 and 6 of this procedure will be followed according to the particular circumstances.

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