

Staff Disciplinary Policy & Procedure

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1. Context

This Disciplinary Policy & Procedure is a model policy for schools to adopt. This policy will also apply to colleagues employed in the Central Team of the Trust, who are not assigned to a particular school.

Any deviations from the content of this policy by schools should be discussed with the Director of HR for the Trust.

2. Legal and Advisory Framework

This policy and procedure complies with the ACAS Code of practice on disciplinary matters and with current employment legislation.

This document should be read alongside:

- Appeals Procedure
- Probation Policy

3. Aims/Scope

This policy and procedure:

- applies to all staff who have completed their probationary period of employment with the School/Trust and is intended to provide a fair method of dealing with alleged failures to observe standards of conduct;
- does not apply to staff who are still in their probationary period who will be dealt with in accordance with the Probationary policy;
- has been adopted by the Governing Board of the School/Board of Trustees (delete as appropriate) of the Ascendancy Partnership Trust
- does not apply to allegations of sub-standard work (for which the Capability policy will be used) unless it is clear that the member of staff is capable of reaching the required standard and is alleged not to have done so
- does not apply in circumstances relating to redundancy or ill health
- shall not be used in respect of a trade union representative without consulting an official of the appropriate trade union concerned.

4. Administration of the Disciplinary Policy and Procedure

The **Headteacher or CEO** in the case of the Headteacher, is responsible for the overall management of standards of conduct within the School and holds the authority to take action under this policy.

The Headteacher will nominate those senior employees in the school who can support this process and also have the authority to issue formal warnings. Disciplinary panels will usually comprise at least two members of senior staff. The Headteacher and nominated colleagues will seek advice from the relevant HR lead before taking any action.

The **CEO or Chair of Trustees** in the case of the CEO, is responsible for the overall management of standards of conduct within the Central Team of the Ascendancy Partnership Trust. The CEO may nominate Executive Leadership Team (ELT) members who can support this process for the Trust.

In cases of potential gross misconduct leading to summary dismissal (dismissal without notice or pay in lieu of notice), the Headteacher will usually hear the case together with another senior member of staff. In the case of the Headteacher this role would fall to the CEO who may convene a panel of ELT members. For the Trust this will usually be the CEO together with another member of the ELT.

The members of staff nominated to hear the case will be accompanied by the relevant HR Lead who will advise on procedure. For the Trust this will be the Director of HR.

School Governing Boards will form a Panel to hear appeals against warnings.

The **Executive Leadership Team** of the Trust will form a Panel to hear appeals against dismissal which will include a Governor from the relevant school.

Trustees will form a Panel to hear appeals against warnings or dismissal from the Central Team of the Trust.

Please refer to the Appeals Procedure for further details on hearing appeals.

5. Conduct

All misconduct cases will be assessed with regards to the seriousness and where appropriate the individual will be supported to improve or redress the situation.

Conduct of all staff outside of work is covered by this policy if misconduct has the potential to bring the school into disrepute.

There is discretion for cases of minor misconduct to be dealt with informally in the first instance. A quiet word may be all that is required to improve a member of staff's conduct or performance. In some cases, additional training, coaching and advice may be what is needed. The individual's manager will discuss the issue with them and offer appropriate guidance. Such a step does not form part of the disciplinary records of the member of staff. It may be appropriate to make a note of any agreed actions or support offered to ensure that acceptable conduct is maintained.

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Where there is no improvement in conduct or where there is a succession of minor cases, the formal procedure outlined below may be used.

6. Principles

Formal disciplinary action will only take place after an investigation into the circumstances surrounding an alleged breach of acceptable conduct.

At every stage of the disciplinary procedure the member of staff will be advised of the nature of the complaint against them and will be given the opportunity to state their case before a decision is made.

Staff have the right to be accompanied at disciplinary hearings by a trade union representative or a work colleague. Companions have an important role to play and will be allowed to ask questions and participate as fully as possible in the hearing. The companion will be permitted reasonable time to confer privately with the employee either in the hearing room or outside. Reasonable adjustments will be made to enable those with a disability to attend and participate fully in any disciplinary meeting.

Staff who act as witnesses in disciplinary investigations will be expected to co-operate fully with the Investigating Officer. They will be required to attend meetings as requested and to provide a signed witness statement. They may also be required to attend any disciplinary hearing to answer questions, if necessary. There is no entitlement for witnesses to be accompanied at meetings, however we will try to accommodate reasonable requests for them

to be accompanied to disciplinary hearings. If it is apparent that a witness is distressed by the line of questioning or the questioning is excessive or aggressive, the Chair has the right to intervene.

No member of staff will be dismissed for a first breach of discipline except in cases of gross misconduct.

The disciplinary procedure may be implemented at any stage if the alleged misconduct warrants such action.

Where an employee raises a grievance during the disciplinary process the disciplinary process may be temporarily paused to deal with the grievance. For example:

- bias is alleged in the conduct of the disciplinary meeting
- there is possible discrimination.

Where the grievance and disciplinary cases are related it may be appropriate to deal with both issues concurrently.

If an employee starts a period of sick leave after disciplinary allegations, during a disciplinary investigation or a period of suspension this will not prevent the operation of the disciplinary procedure. It is in the interests of the school and the employee that any disciplinary allegations are resolved within a reasonable timescale. At least two attempts will be made to arrange an investigatory meeting or convene a hearing that the employee can attend. If the employee is still unable to attend, the meeting or hearing can proceed with a representative of their choice in attendance. If the employee does not wish any other person to attend as their representative the hearing can proceed without them. Employees must provide evidence of the reason for absence. The employee may be given the opportunity to attend the meeting virtually (online e.g. Teams) if appropriate.

Staff will have the right to appeal against any disciplinary penalty imposed.

7. Investigations

Disciplinary action will only take place after an investigation into the circumstances surrounding an alleged breach of acceptable conduct has been carried out. Investigations will be carried out by an independent person, who is more senior than the member of staff in

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question and will not be carried out by any individual who could potentially hear any resulting disciplinary meeting. In most cases, the HR Lead or a senior manager will conduct the investigation.

If the alleged misconduct appears to involve the possibility of a criminal offence having been committed, no action should be taken to investigate further before the relevant HR Lead has been consulted and legal advice may be sought. If it is considered that a criminal offence may have been committed, the relevant HR lead will advise the Headteacher that referral to the police is necessary. Either the Headteacher or relevant HR Lead may make this referral. The Chair of Governors or Trustees will be kept informed of developments.

Where a member of staff confesses to or is convicted of a serious criminal offence whether or not in connection with employment, the circumstances of the case will be considered carefully and appropriate legal advice sought before any further action is taken.

A member of staff who is interviewed as part of an investigation has the right to be accompanied by a trade union representative or a work colleague. Statements gathered during investigatory meetings must be signed by the person providing the information or confirmed by email.

The person conducting the investigation will write a report of the investigation and forward this to the relevant HR Lead together with any witness statements and supporting information. All such information will be shared with the CEO or Headteacher (whichever is appropriate), who will decide whether there is a case to answer. If there is a case to answer, such information will also be shared with the member of staff concerned prior to the date of any disciplinary hearing.

If an allegation is made against a member of staff involving a child or young person, the CEO or Headteacher (whichever is appropriate) or relevant HR Lead will consult the Local Authority Designated Officer (LADO) for advice.

8. Suspension

The CEO or Headteacher (whichever is appropriate) in consultation with the relevant HR Lead may suspend a member of staff for alleged gross misconduct or other good and urgent cause. In the case of the Headteacher, this role will fall to the CEO or in their absence the Director of Education. In the case of the Central Team of the Trust this will fall to the CEO.

Suspension will be on full pay for such a period as is necessary to carry out an investigation. This does not however constitute disciplinary action and should not be viewed as such.

Suspension will only be considered in extreme circumstances and where the presence of the member of staff in the workplace:

- makes a fair investigation impossible
- represents a serious risk to the safety of others or themselves
- represents a serious risk to the School/Trust's operation
- seriously undermines the reputation of the School/Trust.

Whenever reasonably practicable, a member of staff called to a meeting to be informed of suspension should be offered the opportunity to be accompanied by a trade union representative or a work colleague. The reason for the suspension will be confirmed in writing within 5 working days. A member of staff who is suspended may seek support from their trade union representative or in the absence of a trade union representative a nominated contact at the school.

The contract of employment remains in force during a period of suspension, however, access to IT systems, the employee's security pass and keys will temporarily be removed. The employee will not be permitted to enter School/Trust property or contact anyone associated with the School/Trust without the consent of the CEO/Headteacher (or CEO in the case of the Headteacher).

The employee must make themselves available for interviews during the procedure and must not take alternative employment while the contract of employment still applies. Where secondary employment has already been approved by the school, this may continue, except where potential conflict of interest is the cause of the suspension.

Any suspension should be lifted as soon as reasonably practicable by either convening a disciplinary hearing or enabling the member of staff to return to work if a disciplinary hearing is not being pursued or if the initial investigation finds the allegation not as serious as originally thought. Support will be offered to the member of staff to enable them to reintegrate back into the workplace.

The CEO, Headteacher, Chair of Governors or Trustees (whichever is appropriate) in consultation with the relevant HR lead may lift the suspension.

A member of staff who has been suspended is required to be available to attend any investigatory or occupational health meetings as may be necessary during their normal working hours.

The suspended staff member should be offered the name of a nominated manager with no involvement in the case that they may contact if they require additional support. They should also be provided with the contact details of the Employee Assistance Programme.

9. Disciplinary Procedure

The member of staff will be given at least 5 working days' notice in writing of the date of the disciplinary hearing, or 10 working days' notice in the case of alleged gross misconduct.

The member of staff will be provided with full details of the complaint including any evidence and written documentation. The member of staff will be informed of their right to be accompanied by a recognised trade union representative, staff representative or a work colleague and will be asked to confirm whether or not they will be accompanied and, if so, who their companion will be.

The right to be accompanied does not extend to solicitors or other legal representatives or individuals who are not staff of the school. If the employee's companion cannot attend on a proposed date, the employee can suggest an alternative time and date so long as it is reasonable and it is not more than 5 working days after the original date.

If a member of staff does not attend a disciplinary hearing and does not provide written explanation giving reasonable justification for non-attendance, the hearing may proceed in their absence and the outcome will be notified in writing. (See Principles section above regarding employees on sick leave).

The member of staff may submit any supporting evidence or documentation in advance of the disciplinary hearing, and this should be forwarded to the relevant HR lead as soon as possible and at least two working days prior to the hearing.

Witnesses may be called to attend the disciplinary hearing by management, or the member of

staff concerned. The relevant HR lead should be informed of the intention to call witnesses and all parties will then be notified prior to the date of the disciplinary hearing.

During the disciplinary hearing the case of alleged misconduct will be outlined by the investigator and the member of staff will have the opportunity to respond and state their case. Witnesses may be called by either party.

All parties may ask questions of each other and of the witnesses. The member of staff's representative may not answer questions on behalf of the employee.

The investigator and then the member of staff and/or their representative will have the opportunity to sum up their case and make any closing remarks before the panel deliberates in private.

Should it be necessary to clear any point of uncertainty about the evidence given, both parties shall return to give and/or hear the clarification.

The role of the clerk (or other independent body) is to make a note of the hearing and not to participate in any other way. The clerk may also support the panel by making a note of their decision making.

If the panel is able to make a decision within a reasonable timeframe on the day of the hearing, the member of staff, their representative and the investigator will be recalled and informed in person of the outcome of the hearing. If the panel is unlikely to be able to reach a decision on the day of the hearing, the decision will be communicated in writing. In all cases the decision will be confirmed in writing within five working days.

The member of staff will be informed of their right to appeal against the disciplinary decision in accordance with the School/Trust's appeal's procedure.

10. Possible Outcomes

The panel may decide to dismiss the allegations and not to issue a disciplinary warning.

Stage one: written warning

If alleged misconduct occurs, the member of staff will be given a formal written warning which will give details of the complaint, the improvement required, the timescale allowed for this, and the consequences of failure to improve.

The warning will state that a final written warning may be considered if there is no sustained improvement or change. A copy of the written warning will be kept on the member of staff's personal file and reviewed after 12 months when, subject to satisfactory conduct attendance or performance, it will be disregarded for disciplinary purposes.

Stage two: final written warning

Where there is still a failure to improve conduct or the misconduct is sufficiently serious to warrant only one written warning, but insufficiently serious to justify dismissal (in effect both first and final written warning), a final written warning will be given to the member of staff. It will provide details of the complaint, what improvement in conduct is required, how this might be achieved and warn that any further misconduct, or continued failure to improve to acceptable standards could result in dismissal.

A copy of the final written warning will be kept on the member of staff's personal file and reviewed after 12 months (in exceptional cases this period may be longer) when subject to satisfactory conduct it will be disregarded for disciplinary purposes.

Stage three: dismissal

Where a member of staff's conduct remains unsatisfactory and they fail to meet the prescribed standards, dismissal will result. The member of staff will be provided with written reasons for dismissal as soon as reasonably practicable, and will be informed, in writing, within 5 working days of the decision to dismiss and of the date upon which their contract of employment will terminate.

Summary dismissal

- The School/Trust will only dismiss members of staff summarily (without notice or pay in lieu of notice) in the event of gross misconduct or some other fundamental breach of School/Trust rules.
- In all cases the member of staff will be informed of their right of appeal and provided with a copy of the School/Trust's Appeals procedure.
- Where a teacher is dismissed for gross misconduct a referral to the Teaching Regulation Agency will be made so they may consider whether the teacher should be prevented from teaching.
- For any safeguarding-related dismissals, the case will be referred to the Disclosure and

Barring Service (DBS).

- The School/Trust also reserves the right to recover resources, which might include:
 - Recovery of the cost of telephone calls, e-mails, internet accesses and official time used in any such abuse
 - Unauthorised expenses
 - Sick pay in cases of falsified sickness absence
 - Recovery of course fees if dismissal results in an incomplete course of sponsored study

Action short of dismissal

- In some circumstances the Disciplinary Panel may consider an alternative to dismissal such as transfer to alternative employment / reduction in seniority / level of responsibility. This will not be applicable in cases relating to safeguarding concerns or criminal activity. Should the employee decline this offer, the decision to dismiss the employee will stand. Any action short of dismissal should be reviewed after 12 months.
- Examples of misconduct and gross misconduct are given in [Appendix A](#).
- There may be occasions where an employee's conduct is satisfactory throughout the period the disciplinary warning is in force, only to lapse very soon thereafter. Where a pattern emerges and/or there is evidence of such a lapse, the employee's disciplinary record should be borne in mind in deciding how long any further warnings should last. In exceptional circumstances a disciplinary warning may last for more than 12 months.

The relevant HR lead will notify the Director of HR of the Trust of any likely or planned dismissals regardless of the reason.

11. Record-keeping

Records will be kept in accordance with the school's GDPR/Retention Policy. All decisions will be documented and minutes of meetings held on the employee's file.

12. Confidentiality

Confidentiality must be maintained by all parties throughout the disciplinary process.

13. Equalities Statement

The Ascendancy Partnership Trust is an equal opportunities and inclusive employer which celebrates and values diversity. We are committed to a workplace that inspires and respects all individuals without discrimination, regardless of any protected characteristic. Employment-related matters such as reward, progression and promotion will be based on individual merit.

Appendix A: Examples of Misconduct

Please note this is not exhaustive but provides examples of the types of conduct where formal action will be taken

- Failure to comply with a reasonable management instruction
- Failure to observe the School/Trust's standing orders, financial or other operational regulations
- Failure to observe School/Trust policy
- Breach of the Code of Conduct
- Negligence in the performance of duties
- Failure to provide a duty of care in the performance of role
- Breach of Health & Safety rules and requirements including any act or omission
- Poor timekeeping
- Misuse of School/Trust property and equipment including misuse of IT and telephone equipment
- Failure to follow the School's sickness notification procedures and certification requirements
- Failure to comply with the School/Trust's medical referrals procedure
- Actions during a period of sick leave likely to inhibit recovery or return to health
- Being under the influence of alcohol or drugs whilst at work
- Improper use of information obtained in the School/Trust's employment
- Abusive or inappropriate behaviour towards students, parents, fellow employees or members of the public
- Misconduct that brings the School/Trust into disrepute
- Creating or contributing to unsanitary conditions
- Smoking in a smoke-free area.

Examples of Gross Misconduct

Please note this list is not exhaustive but provides you with examples of the types of conduct which will be considered gross misconduct and if proven will lead to dismissal without notice or pay in lieu of notice:

- Serious acts of insubordination
- Serious breaches of Financial regulations or other operational regulations
- Gross negligence in the performance of duties
- Theft from the School/Trust, its employees, students or members of the public or other

acts of dishonesty

- Serious breach of duty concerning the handling of confidential information
- Improper use of social media including breach of the School/Trust's Electronic Communications and Social Media Policy or any social media activity with the potential to have an adverse impact on the reputation of the School/Trust, colleagues, students, parents or the wider school community
- Making unauthorised statements to the press or news media relating to School/Trust business
- Making malicious or unfounded allegations of a serious nature
- Serious breach of health and safety rules
- Failure to provide a safe working environment for children and young people
- Taking drugs on School/Trust premises for other than medical reasons
- Buying, selling or offering drugs on School/Trust premises
- Offering alcohol to students
- Fraud
- Falsification of information, for example qualifications or other relevant personal details in seeking and obtaining employment or promotion; information contained in timesheets, overtime claims, invoices, accounts, records or medical certificates
- Fighting, violent, offensive, abusive or indecent behaviour
- Unlawful acts of discrimination in the workplace
- Bullying and/or harassment
- Unauthorised removal of and/or serious misuse of and/or deliberate damage to School/Trust property including IT and telephone facilities
- Improper or unlawful use of internet indicating a breach of trust in the staff member's commitment to safeguarding
- Sexual misconduct at work
- Aiding or abetting any of the above
- Other actions which fundamentally breach the relationship of trust and confidence which exists between employer and employee
- Criminal offences and cautions outside of work including reprimands, final warnings or penalty notices
- Failure to disclose new or unspent criminal convictions including cautions and motoring offences.
- Failure to disclose personal or family involvement with social services, child protection or the police (it is recognised that families with SEN children often have social care support,

which is unlikely to be of disciplinary concern, however the school should be informed)

- Any unauthorised recording of work-related meetings
- Engaging in unauthorised employment during hours when contracted to work for the School/Trust or during periods of designated leave, for example annual or sick leave, time off for training, etc.
- Activities relating to radicalisation: defined as the process by which a person comes to support terrorism and forms of extremism leading to terrorism. (Please also refer to the School's Safeguarding Policy).

Appendix B: Flowchart of Disciplinary procedure:

