



Staff Disciplinary Policy

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| Date of Policy Approval | Approval By | Policy Author |
| 22 April 2020 | Trust Board (Minute 162) (People and Remuneration Committee) | Chief Finance and Operations Director |

This is a Category 3 Policy (i.e. agreed by the Trust Board and delegated to individual Academie.

The Executive has full delegated authority to:

- implement the Policy; and
- make non-material amendments to the Policy;

and is required to provide summary Assurance Reports to the Committee on the actions taken / incidents arising under the delegations that apply to the Policy.

The Executive is also required formally to review the Policy and report to the Committee in accordance with the agreed Programme of Policy Review. This includes reporting that a review of the Policy has taken place, but no amendments are necessary. All material amendment to the Policy must be approved by the Trust Board on recommendation of the Committee.

Policy Review: Three Yearly or as required by legislation

| Review date | Policy Reviewed & action taken if any |
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| Spring term 2023 | |
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This policy applies to all staff including the Headteacher based at each school within the Apollo Partnership Trust and should be read in conjunction with the associated Disciplinary Guidance.

For the purposes of this policy Headteacher/Head of School will be referred to as Headteacher. In accordance with the Apollo Partnership Trust's Scheme of Delegation and Articles of Association, application of this policy is devolved to individual Academies within The Trust, unless otherwise stated. The constitution of formal panels are determined by the Trust's Scheme of Delegation.

This policy does not form part of employees' terms and conditions of employment and therefore may be subject to change at the discretion of the Trust.

1. Purpose

- 1.1 The purpose of this policy is to ensure that all employees achieve and maintain satisfactory standards of conduct and behaviour. It also provides a fair and consistent method of dealing with alleged failures to observe these standards.

2. Safeguarding

- 2.1 Any allegations of misconduct that involve potential safeguarding issues will be dealt with in accordance with 'Keeping Children Safe in Education – statutory guidance for Schools and Colleges' and each school's safeguarding policy. If an allegation is in any way connected to the safeguarding of children then a referral will be made to the Disclosure & Barring Service (DBS) at the appropriate point in the process and in addition, to the Teaching Regulation Agency (TRA) (for Teaching staff). Information provided by the Police or other agencies (e.g. investigation outcome, statements) will be shared with the employee, unless specifically advised otherwise, particularly if this information will form part of the management case at a subsequent disciplinary hearing.

3. Investigating Officer

- 3.1 An "Investigating Officer", will be appointed to investigate the alleged misconduct and will either be:
- The Headteacher/employee's Line Manager
 - An alternative Manager, Governor or Trustee within the Trust or an externally commissioned Investigating Officer
- 3.2 On completion of the Investigation the Investigating Officer will:
- Decide whether there is sufficient evidence to take disciplinary action (where appropriate) or
 - Report their findings and investigations back to a Commissioning/Decision Making Manager, who will then decide how to proceed with the case.
- 3.3 The Headteacher/Governor will only be the Investigating Officer in circumstances where they will not be responsible for making any decisions about a potential dismissal or other sanction.

4. Initial Discussion

- 4.1 In cases of misconduct (see Appendix A), the appropriate manager may make initial enquiries about the incident/concern. The purpose of this discussion is to ascertain the employee's immediate response to the concern(s) and to establish the facts to determine whether any further action (e.g. further investigation or suspension) is required. It is important to note that this meeting is not a Formal Investigatory Meeting but a conversation regarding the concern(s) and forms part of day to day management.
- 4.2 The potential outcomes of the conversation are:
- No further action is necessary;
 - Deal with the matter informally, i.e. good practice discussion/expectation letter, mediation, training;
 - Refer the matter to a Formal Investigatory Meeting (possibly including suspension of the employee).
- 4.3 In cases where gross misconduct (see Appendix B) is alleged, the manager may bypass the initial discussion meeting and progress directly to a Formal Investigatory Meeting.

5. Suspension

- 5.1 Suspension is not a disciplinary penalty. It will not pre-determine in any way the outcome of any investigation. Employees may be suspended at any stage during the investigation process; the duration of suspension will be kept to a minimum.
- 5.2 Suspension will only be considered if there are concerns about the employee remaining in the work place and will be kept under regular review. The reason for the suspension (i.e. due to the seriousness of the concerns) will be made clear to the employee and confirmed in writing.

6. Formal Investigatory Meeting

- 6.1 No formal disciplinary action will be taken until the matter has been fully investigated which includes the employee attending a Formal Investigatory Meeting. Before meeting with the employee, the Investigating Officer should be clear on the terms of reference, make enquiries regarding the concerns, which may include interviewing witnesses, and present evidence to the employee at the Formal Investigatory Meeting.
- 6.2 At least 5 working days' notice will be given for this meeting and the employee has the right to be accompanied by a work colleague or Trade Union representative. The letter will outline the nature of the concerns. Notes will be taken at this meeting and a copy sent to the employee.
- 6.3 At the meeting the Investigating Officer will:
- Make clear to the employee what concerns have been raised;

- Ask the employee to respond to the concern(s) against them;
- Warn the employee that the matter may result in a formal disciplinary hearing at which they will have the right to be accompanied by a work colleague or Trade Union representative;
- Interview/obtain signed statements from witnesses following the employee's evidence (if applicable).

The employee will:

- Respond to the allegations/questions;
- Produce evidence that supports their position;
- Provide the names of witnesses (if applicable).

6.4 The Investigating Officer will collect all the evidence and consider whether there is a case to answer.

The potential outcomes of the investigation are:

- a) No further action is necessary;
- b) Deal with the matter informally, i.e. good practice discussion/expectation letter, mediation, training;
- c) Refer the matter to a formal disciplinary hearing (possibly including suspension of the employee).

6.5 Where the investigating Officer has been commissioned externally or does not have the authority to make such decisions, they will present their report back to the Commissioning/Decision Making Manager who will then decide how the case will proceed.

7. Disciplinary Hearing

7.1 At least 5 working days' notice will be given to attend a formal hearing in which the employee will be informed of the reasons for the hearing and their right to be accompanied by a work colleague or Trade Union representative. If applicable, the letter will state that a potential outcome of the hearing is dismissal. Employees will also receive copies of any relevant documentation that will be used as evidence. Employees will be given an opportunity to provide evidence. Notes will be taken at the hearing and a copy sent to the employee. For the format of the hearing refer to the Hearing Guidance for Academies.

7.2 The following outcomes are available to the panel or delegated person dependent on the seriousness of the offence:

- a) No further formal action is necessary;
- b) First written warning (which will remain on file for 6 months);
- c) Final written warning (which will remain on file for 12 months);
- d) Dismissal (with or without notice).

7.3 Employees will be dismissed with notice except in the case of gross misconduct. In the case of gross misconduct, the employee will be summarily dismissed with no notice.

7.4 The employee will be notified in writing of the outcome of the hearing. If the outcome is dismissal, the letter will include the reason for the dismissal and the date this is effective from. The letter will

also include details of the employee's right to appeal.

8. Dismissal

- 8.1 Once the panel or delegated person has decided that the employee will be dismissed, this will be confirmed in writing to the employee including the date employment will be terminated. The panel will also confirm whether the dismissal is with notice or, in the case of gross misconduct, without notice.

9. Right of Appeal

- 9.1 Individuals will have the right to appeal the decision, and appeals are to be made in accordance with the Trust's Appeal Policy.

10. Case Referral

- 10.1 Where a teacher/Headteacher is dismissed for misconduct or resigns prior to the completion of the disciplinary process, the Investigating Officer or panel/delegated person may consider making the appropriate referral to the Teaching Regulation Agency in accordance with the TRA's "Teachers Misconduct: Disciplinary procedures for the teaching profession" document (updated April 2018) which sets out the procedures for the regulatory systems relating to teacher misconduct.

11. The Disclosure & Barring Service (DBS)

- 11.1 If the allegation against any member of staff (both Teaching and Support staff) is in any way connected to the safeguarding of children, a referral will be made to the Disclosure & Barring Service (DBS) by the Designated Safeguarding Lead in conjunction with the Investigating Officer.
- 11.2 If misconduct and safeguarding are both involved, a referral will be made to both the DBS and the TRA.

Examples of Misconduct – Appendix A

The following list is not exhaustive but gives examples of offences which may amount to misconduct:

- Persistent bad timekeeping;
- Unauthorised absence from work;
- Failure to follow reporting procedures;
- Damage to school property;
- Failure to follow policies and procedures;
- Abusive or disruptive behaviour;
- Minor breaches of Health and Safety regulations;
- Misuse of school facilities;
- Insubordination;
- Failure to exercise proper control or supervision of students;
- Undertaking unauthorised employment;
- Failure to comply with the procedure for the notification of sickness absence;
- Improper behaviour or conduct towards colleagues, parents or members of the public;
- Unreasonable refusal to follow a management instruction;
- Showing inappropriate information/footage to students which is outside of the curriculum;
- Complaints from parents that have been upheld on balance of probabilities;
- Inappropriate use of social media which may affect your role in the school.
- Smoking on school premises (including company vehicles);

Serious examples of any of the above may amount to gross misconduct.

Examples of Gross Misconduct – Appendix B

The following list is not intended to be exhaustive and gives only an indication of the types of offences which could be considered as gross misconduct:

- Serious incapability as a result of being intoxicated by reason of alcohol, non-prescribed drugs, illegal drugs or prescribed drugs which may have an adverse effect on performance and safety;
- Deliberate falsification of documentation and/or records
- Theft, removal or unauthorised possession or deliberately aiding another person to remove or failure to properly account for any property or facilities belonging to the school or to another employee or student;
- Repeated and/or refusal to carry out duties or reasonable instructions
- Failure to comply with the Trust’s policies and procedures;
- Serious damage deliberately sustained to school property or to the property of another employee or pupil;
- Repeatedly leaving school premises during normal working hours without obtaining the permission of the line manager;
- Any indecent act (which is defined as any act of a lewd, suggestive or indecent nature which could cause any person to be offended or feel threatened);
- Serious acts of insubordination;
- Serious breach of the Trust’s policies and procedures concerning health and safety at work;
- Acts of bullying, harassment or discrimination;
- Any tampering with the Trust’s computer systems which results in loss or damage to hardware or software or unauthorized exposure of confidential information including the accidental installation of virus programs. This also includes any contravention of the General Data Protection Regulations and the disclosure of any password or key to unauthorized persons or to install, run, load or download any pornography, unauthorised software or to copy, run, transfer or load software such as public domain programs or games of any description or to disregard any operating protocol;
- Serious negligence/incompetence which causes unacceptable loss, damage or injury;
- Personal behaviour which is likely to bring the School into serious disrepute and/or have an adverse effect on students;
- A criminal offence, which may (whether it is committed during or outside of the employee’s hours of work) adversely affect the Trust’s reputation, the employee’s suitability for the type of work they are employed to perform, or their acceptability to other employees or students;
- Violent or threatening behaviour;
- Breach of the Safe Guarding Vulnerable Groups Act 2006;
- Inappropriate use of social media which may affect your role in the school;
- Maladministration.

1 - In certain cases drugs prescribed by a doctor or purchased from a chemist can induce drowsiness and will include the advice not to operate machinery. Employees must inform their line manager if they have taken such medicine and would normally be required to operate machinery or drive a vehicle during the course of their work.