

STAFF DISCIPLINARY POLICY

1. Introduction

- 1.1 This disciplinary policy, supported by a robust procedure, is the means by which rules are observed and standards are maintained which are necessary for the efficient and safe performance of work and for the maintenance of satisfactory working relations within the schools across the Trust.
- 1.2 This policy and related procedure are intended to ensure that all employees are treated fairly and consistently. Whilst the ultimate sanction of dismissal can be applied for continual misconduct (or for gross misconduct), it is the intention of the procedure to bring the consequences of misconduct or inadequate performance to the attention of the employees concerned so that they can improve their conduct and avoid disciplinary sanction.
- 1.3 The aims of the disciplinary policy are:
 - 1.3.1 to ensure that all employees comply with the Trust's rules and procedures;
 - 1.3.2 to ensure a fair and consistent approach when dealing with disciplinary issues;
 - 1.3.3 to bring unsatisfactory conduct or performance to your attention; and
 - 1.3.4 to resolve problems of conduct or performance and wherever possible avoid dismissal.
- 1.4 If you are in any doubt as to your responsibilities or the standards of conduct expected you should speak to your line manager.
- 1.5 This policy does not form part of your contract of employment and we may amend it at any time.

2. Scope/Application

- 2.1 The Policy and associated Disciplinary Procedure applies to all staff (Headteacher, teachers and support staff) within all of the schools across the Trust.
- 2.2 The responsibility for the application of this policy and related procedure lies with the Headteacher and/or Trustees / Governing Body, as appropriate, who will have the authority to impose any of the sanctions laid down in the procedure.

3. Aims/Principles

3.1 The Trust aims to ensure that it:

- Promotes fairness and equality in the treatment of individuals
- Applies any disciplinary action in a consistent manner
- Only applies a disciplinary sanction after full and careful investigation of the facts and after employees have had the opportunity to be represented and present their case
- Takes the circumstances of each case fully into account
- Gives consideration to the employee's past record
- Considers the need to act reasonably in all the circumstances
- Only applies progressively more severe penalties to those employees who have failed to respond to disciplinary action
- Provides a sufficient and effective means of dealing with cases of serious and gross misconduct. Appendix 1 sets out some examples of behaviours that may be considered to amount to gross misconduct.
- Informs employees fully and promptly of any allegations made against them and of the progress of any investigations into the allegations
- Adheres to the ACAS Code of Practice on Disciplinary and Grievance Procedures.

4. Policy

- 4.1 No disciplinary action will be taken against an employee until the facts of the case have been established by conducting an investigation and consideration has been given to the reasonableness of the proposed action in all the circumstances.
- 4.2 Employees will have the right to be accompanied at disciplinary and appeal hearings by an accredited trade union official or work colleague and to call their own witnesses.
- 4.3 Witnesses who have provided a statement may be requested to attend the hearing and answer questions from the panel and representatives
- 4.4 Employees will be given a written explanation for any formal disciplinary action taken and informed of the improvements that are required of them.
- 4.5 There will be a right of appeal against any disciplinary decision.
- 4.6 Issues will be dealt with thoroughly and as promptly as possible, within agreed and appropriate timescales.
- 4.7 Proceedings, witness statements and records and other personal data will be dealt with in accordance with the Data Protection Policy.
- 4.8 No action under this procedure, including suspension will take place in respect of an officer who is an accredited representative of a trade union, and whose status has been notified to the school in writing, until the circumstances of the case have been discussed with a full time official of the trade union concerned.

- 4.9 Reasonable adjustments will be made to enable employees with specific needs to fully participate in hearings and respond to any allegations made against them.
- 4.10 The Trust/Governing Body/School has the legal right to recover from employees or former employees, through any appropriate mechanism, any losses which result from fraud or irregularity carried out by the employee or former employee.

5. Definitions

- 5.1 Circumstances that may lead to an employee being subject to the disciplinary procedure are deliberate (wilful or negligent) breaches of discipline/acts of misconduct, which are considered sufficiently serious to warrant formal investigation. Such breaches may be single events (which may or may not amount to gross misconduct), or persistent minor breaches which the normal management process has failed to prevent or to rectify.
- 5.2 It is impossible to prescribe a common set of disciplinary standards covering all aspects of employment but the examples contained within Appendix 1 may, depending on the circumstances, be considered as misconduct or gross misconduct, and may therefore result in dismissal. This list is neither exclusive nor exhaustive.
- 5.3 Gross misconduct is misconduct serious enough to destroy the employment contract between the employee and the employer and to make trust and a further working relationship impossible.

6. Relationship with grievance and capability procedures

- 6.1 If at any stage in proceedings it becomes apparent that the matter is actually one of capability rather than discipline, it is appropriate to switch to the application of the Capability Procedure.

7. Rules of Conduct

- 7.1 While working for the Trust you should at all times maintain professional and responsible standards of conduct. In particular you should:
- 7.1.1 Observe the terms and conditions of your contract; particularly in relation to hours of work and confidentiality;
 - 7.1.2 Observe all Trust policies, procedures and regulations;
 - 7.1.3 Take reasonable care in respect of the health and safety of colleagues and third parties and comply with the Health and Safety Policy;
 - 7.1.4 Comply with all reasonable instructions given by managers; and
 - 7.1.5 At all times act in good faith and in the best interests of the Trust.
- 7.2 Failure to maintain satisfactory standard of conduct may result in action being taken under the Disciplinary Policy.

8. Equality Act 2010

- 8.1 In accordance with its Public Sector Equality Duty, the Governing Body of *The Learning Trust* has given due regard to equality considerations in adopting this policy/procedure and is satisfied that its application will not impact adversely on members of staff who have a protected characteristic (age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation) within the meaning of the Equality Act 2010.

Approved by the Trustees on 17 July 2018

Misconduct

The following are examples of matters that will normally be regarded as misconduct and will be dealt with under our Disciplinary Procedure:

- Minor breaches of our policies including the Sickness Absence Policy, IT Systems Policy, and Health and Safety Policy;
- Minor breaches of your contract;
- Damage to, or unauthorised use of, our property;
- Poor timekeeping;
- Time wasting;
- Unauthorised absence from work;
- Refusal to follow instructions;
- Excessive use of our telephones for personal calls;
- Excessive personal e-mail or internet usage;
- Obscene language or other offensive behaviour;
- Negligence in the performance of your duties; or
- Smoking in no-smoking areas.

This list is intended as a guide and is not exhaustive.

Gross Misconduct

Gross misconduct is a serious breach of contract and includes misconduct which, in our opinion, is likely to prejudice our business or reputation or irreparably damage the working relationship and trust between us. Gross misconduct will be dealt with under our Disciplinary Procedure and will normally lead to dismissal without notice or pay in lieu of notice (summary dismissal).

It is impossible to prescribe a common set of disciplinary standards covering all aspects of employment but the following examples may, depending on the circumstances, be considered as gross misconduct, and may therefore result in dismissal.

This list is neither exclusive nor exhaustive.

- Child abuse or inappropriate professional conduct involving a child or young person under 19 years of age.
- Abuse of a position of trust.
- Violence or the threat of violence to another employee or any other person.
- Harassment and bullying.
- Theft of Trust / School or another person's property.
- Fraud, forgery or other dishonesty.
- Deliberate falsification of any document.
- Criminal conduct at work.
- Criminal conduct away from the workplace bringing the school into disrepute or rendering the individual unable to perform their normal duties
- Corrupt or improper practice.
- Unlawful discrimination or harassment.

- Breaking the Trust / School's safety rules.
- Reporting for, or being at, work while adversely affected by drink or non prescribed drugs.
- Unauthorised use of Trust / School property.
- Knowingly disclosing confidential information.
- Neglect of duty or behaviour liable to bring the Trust / School into disrepute.
- Breach of professional standards or requirements
- Breach of trust and confidence
- Serious breach of IT acceptable use / Social Media policy (including accessing internet sites containing pornographic, offensive or obscene material).
- Repeated / prolonged unauthorised absence / lateness.
- Deliberate damage to our buildings, fittings, property or equipment, or the property of a colleague, contractor, pupil or member of the public.
- Serious misuse of our property or name.
- Repeated or serious failure to obey instructions, or any other serious act of insubordination.
- Serious or repeated breach of health and safety rules or serious misuse of safety equipment.
- Conviction for a criminal offence that in our opinion may affect our reputation or our relationships with our staff, pupils or the public, or otherwise affects your suitability to continue to work for us.
- Possession, use, supply or attempted supply of illegal drugs.
- Unauthorised use or disclosure of confidential information or failure to ensure that confidential information in your possession is kept secure.
- Serious neglect of duties, or a serious or deliberate breach of your contract or operating procedures.
- Unauthorised use, processing or disclosure of personal data contrary to our Data Protection Policy.
- Causing loss, damage or injury through serious negligence.
- Accepting or offering a bribe or other secret payment.
- Accepting a gift above the value of £25.00 from a parent or pupil in connection with your employment without the prior written consent of your manager.
- Harrassment of, or discrimination against, pupils, parents, governors, contractors, colleagues or members of the public related to gender, marital or civil partner status, gender reassignment, race, colour, nationality, ethnic or national origin, disability, religion or belief or age.
- Giving false information as to qualifications or entitlement to work (including immigration status) in order to gain employment or benefits.
- Refusal to disclose any of the information required by your employment or any other information that may have a bearing on the performance of your duties.
- Knowingly taking parental, paternity or adoption leave when not eligible to do so or for a purpose other than supporting a child.
- Making untrue allegations in bad faith against a colleague.
- Making a disclosure of false or misleading information under the Whistleblowing Policy maliciously, for personal gain or otherwise in bad faith.
- Victimising a colleague who has raised concerns, made a complaint or given evidence or information under the Whistleblowing Policy, Ant-Corruption and Bribery Policy, Anti-Harrassment and Bullying Policy, Grievance or Disciplinary Policy or otherwise.

The above list is intended as a guide and is not exhaustive.