



# STAFF DISCIPLINARY POLICY AND PROCEDURES

Last review date	September 2021
Date approved by the Trust Board	October 2019
Date for next review	September 2022

# Table of Contents

<b>Introduction</b>	3
Guidance	3
Policy Statement	3
Scope	4
Criminal Offences Outside Employment	4
<b>Procedure</b>	5
Informal Approach	5
Formal Approach	5
Disciplinary Investigation	6
Gross Misconduct	6
Suspension	7
Disciplinary Meeting	8
<b>Disciplinary Action</b>	9
Oral Warning	9
Stage One- Written Warning	9
Stage Two - Final Written Warning	9
Dismissal	9
<b>Appeals</b>	10
Appeals against Oral, Written and Final Written Warnings	10
Appeals Against Dismissal	10
<b>Other Related Matters</b>	11
Investigation Following Resignation	11
Grievance Raised During the Disciplinary Process	11

---

## Introduction

The Leading Edge Academies Partnership (the 'Trust') is a team of school leaders that aim to be Leading Edge and pioneering in their approach to education and well-being. We are a growing family of like-minded schools that offer a values-based education to the communities we serve and welcome staff, workers, students, parents/carers and volunteers from all different ethnic groups and backgrounds.

The term 'Trust Community' includes all staff, trustees, governors, students, parents/carers, volunteers and visitors.

We are a values-based Trust, which means all actions are guided by our three 'Es' as follows:

- **Excellence** – 'Outstanding quality'
- **Evolution** – 'Continuous change'
- **Equity** – 'Fairness and social justice'

This policy is based on the value of being 'Equity'

## Guidance

Every member of staff has a role to play in both achieving and sustaining the highest standards of conduct and performance. This procedure is designed to ensure that the conduct of employees meets the standards required of them and to ensure that employees are treated fairly and consistently and in line with the relevant legislation. One of its primary aims is to encourage a permanent improvement in employee conduct

## Policy Statement

The Trust is fully committed to ensuring that high standards of conduct are achieved and maintained within the academies. It also considers that all staff accept the need for high standards of conduct, particularly in the school environment and do not find any difficulty in abiding by them.

The Trust aims to ensure that in complying with legal requirements and acting as a reasonable employer, that a fair and equitable process will be adhered to in progressing disciplinary matters. Adopting this approach will:

- Allow disciplinary matters to be dealt with quickly.
- Set standards of conduct at work.
- Ensure that employees are aware of the standards expected of them.
- Treat all employees on an equal basis.
- Maintain good employee relations.
- Reduce the likelihood of arbitrary decisions by managers.
- Assist the Trust in operating effectively.
- Apply appropriate disciplinary measures where needed.

This procedure reflects the legal provisions relating to dismissal, Sections 35 and 36 of the Education Act 2002, the School Staffing (England) Regulations 2009 (which replace the provisions set out in Schedule 16 and 17 of the School Standards and Framework Act 1998), and the ACAS Code of Practice 'Disciplinary Practice and Procedures' as amended by the ACAS guide 'Discipline and Grievance at Work'.

## Scope

The procedure will be applied consistently and equitably in respect of the conduct of all employees of the Trust.

The standards of behaviour contained within this procedure also apply to sub-contractors and people providing services to the Trust, as well as to people on work experience. The procedure relates to disciplinary action and/or dismissal on conduct.

Dismissals for any other reason, for example ill health, redundancy or non-renewal of a fixed term contract are dealt with by way of separate procedures. The procedure does not apply to the management of issues relating to capability alone (to which a separate procedure applies).

Although the procedure identifies the sanctions to be used, its aims are to, wherever possible, facilitate an improvement in conduct.

The procedure recognises the importance of informal intervention aimed at improving/changing conduct. Wherever possible, problems should be resolved through an informal process, once facts have been established. In many situations, informal methods, for example, performance management meetings, coaching or counselling, may prove valuable in bringing about improvements in the employee's conduct before the formal disciplinary procedure is implemented. Such measures shall be documented by mutual agreement, be signed and dated on the individual's personal file but are not to be treated as a formal stage of the Disciplinary Procedure. However, where such action fails or where it is inappropriate, the formal disciplinary procedure will apply.

Formal Disciplinary Action will therefore, only take place when it is decided that:

- Further counselling or training will not bring about the improvement required.
- The alleged misconduct warrants immediate disciplinary action owing to the serious nature of the allegation.
- There is a clear breach of standards and procedures

## Criminal Offences Outside Employment

If an employee is arrested, charged or summoned for questioning in relation to any alleged offence, they must inform their manager in writing as soon as reasonably possible. This includes employees whose job involves driving, who must inform their manager in writing if charged with a driving offence. Failure to do so will be considered as misconduct and appropriate disciplinary action may be taken. Any action taken after notification will be dependent upon the relationship of the alleged offence to the duties undertaken.

A member of staff will not be dismissed solely because they are the subject of police enquiries or charges relating to a criminal offence outside their employment or they are absent through having been remanded in custody. This applies regardless of whether the offence has any relevance to the duties of the individual as a staff member.

If an employee is subject to an investigation by the police for alleged offences, which are relevant to the nature of the employee's employment, the Leading Edge Academies Partnership will be entitled to pursue its own parallel enquiries, but these must not hinder the police enquiry.

Investigation and disciplinary action under this procedure will not necessarily await or be dependent upon the outcome of police enquiries or legal proceedings. Where at the request of the Police an investigation is halted the timescale will commence at the resumption of the investigation.

Disciplinary action may be taken if the alleged conduct has, on the balance of probabilities, occurred and is relevant to the nature of the employee's employment, affects their ability to carry out their duties, is likely to bring the Leading Edge Academies Partnership into disrepute,

or undermines the Leading Edge Academies Partnership and confidence between employer and employee.

## Procedure

Disciplinary action will not be undertaken until the facts have been established. For issues, which are of a minor nature or where the facts are not in dispute, a fact gathering exercise will take place prior to taking a decision on whether or not to progress to a disciplinary meeting.

In more serious cases, including gross misconduct, it may be necessary to undertake a separate investigation and interviews to decide whether or not to proceed with a disciplinary meeting, unless the modified procedure applies, (see below).

Under the Employment Act 2002, there are two forms of statutory dismissal and disciplinary procedure:

- standard (three-step) procedure
- modified (two-step) procedure.

## Informal Approach

Minor failures to achieve standards of conduct or adhere to established rules will be dealt with informally in the immediate work environment, i.e. between the line manager and staff member. This may take the form of a discussion, and/or advice. The staff member will be advised of the improvement in conduct required and the possible consequences of formal action in the event of failure to achieve the required level of improvement.

The informal approach will normally be the first step unless the offence is repeated or serious enough to warrant recourse to the formal procedure. The objective of any such action will be to help the staff member improve.

Line managers will retain their own notes of informal action as they may be relevant if formal action is taken later. Hard copy notes should be kept securely and confidentially on the staff member's personal file and a copy of any notes kept should be given to the staff member. If a satisfactory improvement in conduct is achieved and sustained under the informal process, the notes will be removed from the file. This is likely to be within 6 months.

However, if the informal approach does not rectify the situation or if more serious action is deemed necessary, the line manager may recommend to the Principal/Headteacher that a formal disciplinary investigation be conducted in accordance with the formal procedure.

## Formal Approach

The decision to invoke the formal Disciplinary Procedure rests with the Principal/Headteacher and/or the CEO and Board of Trustees.

The procedure is designed to be a series of progressive warnings to employees and to incorporate at each stage the opportunity to improve conduct.

1. First Written Warning
2. Final Written Warning
3. Dismissal

However, it may be necessary in certain circumstances involving serious or gross misconduct, or where an employee is still within their probationary period for the procedure to be adapted and to move immediately to a Final Written Warning or to consider Dismissal.

## **Disciplinary Investigation**

The date of receipt of an allegation or complaint will be recorded. This includes when an allegation or complaint becomes construed as a disciplinary matter. The appointed investigation officer(s) will be selected to enable the investigation to commence no later than 5 working days after receipt of the allegation as a guide.

The employee under investigation and their representative will be kept informed of the progress of the investigation and will be given a contact for information (usually the appointed investigating officer) should they require it.

For issues that are of a minor nature and where the facts are not in dispute, investigation may take place within the disciplinary meeting. In such circumstances, the maximum disciplinary sanction is a first written warning.

All statements taken as part of the investigation should, unless circumstances are exceptional, be signed and dated by the individual concerned in order to ensure accuracy.

It is the role of the appointed investigating officer, who would not be involved in any subsequent disciplinary meeting (with advice from the Trust HR Advisor) to decide whether or not there is a prima facie case (ie on face value, there is a case) to answer and to agree appropriate action, which may include arranging training or recommending a disciplinary meeting. The outcome of this meeting will be notified to the individual in writing. A disciplinary meeting cannot be convened until this investigation has concluded except for a matter of a minor nature or where the facts are not in dispute.

All documentation that was collated as part of the investigation will be shared with the individual, their representative and the panel (unless it is mutually agreed that a particular document should be excluded or there are exceptional circumstances warranting its non-disclosure). However, disciplinary decision-making will be based on the evidence specifically referred to and presented within the meeting.

In extreme circumstances, eg bullying and harassment allegations, consideration will be given to anonymity. This will be discussed and agreed with the union colleague.

Careful consideration should be given to identifying the appropriate person to undertake the investigation. In all cases, the person undertaking the investigation should be senior to the employee facing the concerns or allegations.

It is important that an investigation of the facts of the case is undertaken before any disciplinary action is taken. Every attempt will be made to conclude an investigation as quickly as is reasonably possible - particularly in the case of an individual who is suspended whilst the investigation is carried out - although the need for thorough consideration of all the relevant facts is paramount.

## **Gross Misconduct**

Gross misconduct occurs where a member of staff acts in a way that is incompatible with the faithful discharge of their duty to the employer. The misconduct must be gross or grave, seen in the light of all the circumstances of the case and so serious that it goes to the root of the contract of employment and makes the staff member's continued employment incompatible with the best interests of the Trust.

Some examples of conduct that could potentially amount to gross misconduct (justifying summary dismissal (that is, instant dismissal without notice or payment in lieu of notice)) might include:

- all fraud, theft or serious dishonesty at work
- deliberate, serious (negligent) acts which have the potential for causing serious injury to staff members or pupils

- damaging academy property deliberately or recklessly
- serious violent or threatening behaviour at work
- deliberate serious breach of confidentiality
- supplying or being in possession of illegal drugs
- serious or persistent sexual or racial harassment
- drunkenness (such as to impair the performance of duties) or being under the influence of illegal drugs during school hours
- insolent or abusive behaviour towards parents, pupils, or other members of staff
- sexual misconduct
- serious act of insubordination

(This list is not exhaustive)

## Suspension

The Trust reserves the right to suspend an employee from work at any stage of the procedure. However, suspension is not a sanction or detriment to the member of staff, nor is it a presumption of guilt; it is an entirely neutral act.

If there is an allegation which is considered to affect the wellbeing of students, the Designated Safeguarding Officer should be informed and should confirm whether suspension is necessary.

Suspension will apply in circumstances where it is deemed inappropriate by the Principal/Headteacher for the staff member to remain at work while the facts and relevant information are being obtained. Suspension will apply where the allegations may amount to gross misconduct or where a staff member is the subject of a police investigation for an alleged offence considered relevant to their duties. In these cases, suspension will apply for the duration of the disciplinary process.

An employee cannot be suspended without authorisation from the CEO and in some cases the Designated Safeguarding Officer. In the event of a decision being taken to suspend a staff member, the Principal/Headteacher will immediately inform Chair of the LAC (in writing or verbally).

At the time of suspension, the staff member will be interviewed by the disciplining manager and will be given an adequate opportunity to offer an early explanation. The staff member will be encouraged to be accompanied by a trade union representative or a workplace colleague at this interview. The non-availability of a specific companion will not result in the postponement of the interview.

At the interview the staff member will be verbally advised of the details of the allegation, that an investigation will be carried out and the anticipated timescales and that he or she is to be suspended on full pay pending the outcome of the investigation. This will be confirmed in writing in a letter to the staff member.

During the period of suspension the member of staff will be required to remain away from their workplace and should not contact work colleagues, other than the Principal/Headteacher.

The period of suspension will depend on the complexity of the investigation and may be determined by police enquiries or legal proceedings. It should not be unnecessarily protracted.

The staff member's suspension should be reviewed throughout the course of the investigation. The Principal/Headteacher may make the decision to end a suspension in consultation with the CEO.

A staff colleague should be nominated to maintain contact with the member of staff during the period of suspension.

## Disciplinary Meeting

In the event of formal disciplinary action being taken the staff member will be requested, in writing, to attend a disciplinary meeting.

In most cases, **a minimum of 2 calendar weeks' notice** will be given in order to allow the member of staff reasonable time to prepare their case. In certain circumstances, this period can be curtailed if all parties agree at the outset and in the best interests of the employee.

Where a workplace colleague or trade union representative are not available on the proposed date, the employee can offer an alternative time and date as long as it is reasonable and is within 1 calendar week of the original scheduled date. Only one postponement will be allowed.

At the disciplinary meeting the employee will have the right to be accompanied by a trade union representative or colleague. The purpose of the meeting is to give the employee the opportunity to present their version of events and any points the employee would like the disciplinary panel/disciplining manager to take into account, including mitigating factors.

Where the allegations faced by the employee are serious and there is the possibility that a Final Written Warning or Dismissal may be appropriate (see below) a disciplinary panel of two or more will be appointed in which the Disciplining Manager/Chair should be, where possible the CEO, or Principal/Headteacher.

The HR Advisor may be present in an advisory capacity and can also advise on the constitution of the panel prior to the disciplinary meeting.

Wherever possible, the role of the Disciplining Manager will be undertaken by a more Senior Manager at progressive stages of the Disciplinary Procedure.

The employee may be informed of the outcome of the hearing verbally, but the meeting outcome will be confirmed in writing within 2 calendar weeks.

Employees will be notified of the length of time during which their warning will remain current.

Unless circumstances are exceptional, warnings should cease to be 'live' following the specified period of satisfactory conduct and should be disregarded for future disciplinary purposes. In exceptional circumstances, there may be occasions where an employee's conduct is satisfactory throughout the period the warning is in force only to lapse very soon thereafter. Where a pattern emerges and there is evidence of similar offences, the employee's disciplinary record should be borne in mind in deciding how long any current warning should last. In such circumstances, it may be appropriate to extend the time scales indicated.

Warnings will generally remain 'live' on an employee's record for the following periods of time;

- First written warning – 26-52 weeks
- Final written warning – 52 weeks

The outcome of the meeting will be confirmed to the member of staff in writing within **1 calendar week** and a copy held on the employee's personnel file. The letter will detail:

- The reason that the warning was issued together with a summary of the employee's and their representative's comments.
- The improvements required and the period over which they are expected.
- Any action necessary by management to assist achievement of improved conduct, for example, attendance on a training course.
- That any further act of misconduct or a failure to achieve the required level of conduct may result in further disciplinary action.



- The period of time the warning will remain on file.
- The fact that the employee chose to be accompanied at the hearing and by whom or, if appropriate, the fact that they chose not to be accompanied.
- A copy of this letter will be sent to both the individual and their representative if one was present at the hearing and the Trust's HR manager.

## Disciplinary Action

### Oral Warning

- If an oral warning is deemed necessary, the staff member will be informed that their conduct is expected to improve. Objectives may be specified to confirm the accepted standard and it will be made clear by the supervisor that if further acts of misconduct occur, then further disciplinary action may be taken.
- An **oral warning will remain active for a period of 6 months** after the hearing and will be disregarded for future disciplinary purposes.

### Stage One- Written Warning

- In the case of more serious concerns or a repeat of the misconduct for which an oral warning has been given, the staff member may be given a formal written warning.
- If a written warning is determined, the staff member will be informed that should any further act of misconduct occur, further disciplinary action may be taken.
- A **written warning will remain active for a period up to 12 months** after the hearing and will be disregarded for future disciplinary purposes.

### Stage Two - Final Written Warning

- In the case of very serious concerns, or a repeat of the misconduct for which a written warning was issued, a final written warning may be issued.
- If a final warning is determined, the member of staff will be informed that should any further act of misconduct occur, further disciplinary action may be taken.
- A **final warning will normally remain active for a maximum of 12 months** after the hearing (with the exception of the circumstance where a final written warning is issued as an alternative to dismissal – see paragraph 18.1) and will normally be disregarded for future disciplinary purposes.

## Dismissal

Taking into consideration the recommendation of the School Staffing (England) Regulations 2009 for the Principal/Headteacher to normally lead in all initial staff dismissal decisions, the Board of Trustees may delegate the responsibility for dismissal to the CEO. In such circumstances it is recommended that the CEO involves other Trustees in this process in the interests of objectivity.

It is strongly advised that a representative from the HR advisory team is in attendance at the Disciplinary Hearing to give advice where dismissal is the potential outcome. The CEO /Disciplinary Panel will need to consider any advice given prior to making a decision to dismiss. Dismissal should not take place before advice is sought from the Trust's HR advisors.

Once the decision is taken to dismiss, the member of staff will be advised verbally at the hearing of the decision and of the right of appeal. **This decision will be confirmed in writing**

**to the staff member, within 1 calendar week.** This letter will state the date of dismissal (with or without notice) and will include the right of appeal.

In the case of summary dismissal for gross misconduct, the date of dismissal will be the date of the disciplinary panel's decision to dismiss and pay will be stopped immediately. Should the dismissal be overturned at appeal, pay will be reinstated from the date of dismissal.

Should the member of staff choose not to stay to hear the outcome, the decision will only be given and confirmed in writing to the staff member. A second copy of the letter will be enclosed for the employee to forward to his/her trade union representative.

## Appeals

### Appeals against Oral, Written and Final Written Warnings

Appeals against oral or written warnings must be made by the staff member in writing to the Chair of the LAC or, where the appellant is the CEO, COO or Trust Governance Professional, outlining the reason for the **appeal, within 1 calendar week of receiving written confirmation of the warning.** The appeal must clearly detail the grounds on which the appeal is being made. A failure to clearly state the grounds of the appeal within the 1-week period will result in the appeal being out of time.

Appeals will be heard by the Appeals Committee of the LAC/Board of Trustees as appropriate. The Appeals Panel of the LAC/Board of Trustees will exclude any members who sat on the Disciplinary Panel which made the original recommendation to issue an oral/written warning. In addition, the number of governors/trustees constituting the Appeals Panel of the LAC/Board of Trustees cannot be less than the number of individuals who sat on the Disciplinary Panel which made the decision to issue a written warning.

An Appeal Panel will give specific consideration to the grounds of appeal as identified in the employee's letter of appeal and will not typically be conducted as a full re-hearing of the case.

The outcome of the appeal, including the reason for the decision, will be confirmed in writing within **1 calendar week.**

### Appeals Against Dismissal

An appeal against dismissal may be made by the staff member in writing to the CEO or, where the appellant is the CEO, to the Chair of the Trustees, outlining the reason for the appeal, within **1 calendar week** of receiving the written confirmation of the dismissal. The appeal must clearly detail the grounds on which the appeal is being made. A failure to clearly state the grounds of the appeal within the 1-week period will result in the appeal being out of time.

Appeals will be heard, where practicable, within **2 calendar weeks** of receipt of the appeal application.

The appeal will be heard by an Appeals Panel of at least three Trustees who have not been involved in any previous action or decision connected with the dismissal. Where there is an insufficient number of Trustees available, the appeal may be heard by two Trustees and a governor from another school may be seconded to the Panel. Where applicable, there should be an equal number of Trustees on dismissal hearings and appeal hearings.

Appeals against dismissal will take the form of a full hearing of the case, depending on the grounds for dismissal. Further advice should be sought from the Trust's HR advisors.

## **Other Related Matters**

### **Investigation Following Resignation**

The fact that a person resigns must not prevent an allegation being followed up. It is important that every effort is made to reach a conclusion in all cases of allegations bearing on the safety or welfare of children. This includes cases in which the person concerned refuses to co-operate with the process. Wherever possible the person should be given a full opportunity to answer the allegation and make representations. However, the process of recording the allegation and any supporting evidence, and reaching a judgement about whether it can be regarded as substantiated should continue even if the person does not co-operate or respond. It may not be possible to apply disciplinary sanctions if a person's notice period expires before completion of the process, but it is important to reach and record a conclusion wherever possible.

### **Disciplinary Action Against CEO/COO/Principal/Trust Governance Professional**

Where the CEO/COO/Principal/Headteacher or Trust Governance Professional is the subject of disciplinary action, the Chair of the Trustees may request the Head of Service (Schools and Achievement) (or representative) to present the case against the CEO/COO/Principal/Trust Governance Professional to a Committee of the Board of Trustees.

Where the Chair of the Trustees believes the alleged misconduct of the CEO/COO/Principal/Headteacher or Trust Governance Professional is so serious it may constitute 'gross misconduct', immediate advice will be sought from at least two other Trustees and the Trust's solicitors and HR advisors will be consulted before suspending the CEO/COO/Principal/Headteacher or Trust Governance Professional on full pay pending a formal investigation.

### **Grievance Raised During the Disciplinary Process**

If in the course of a disciplinary process, a staff member raises a grievance that is related to the case, the Trust's Grievance Procedure may apply. The CEO/Board of Trustees should consult the Trust's HR advisors to consider whether or not to suspend the disciplinary procedure for a short period while consideration is given as to how the grievance is dealt with. Depending on the nature of the grievance, consideration may need to be given to who continues to deal with the disciplinary process.

The current ACAS Guide 'Discipline and Grievance at Work, April 2009 gives the following guidance:

- Where an employee raises a grievance during a disciplinary process, the process may be temporarily suspended in order to deal with the grievance.
- However, where the grievance is related to the disciplinary case it is recommended that both issues are dealt with concurrently.