



# Disciplinary Policy

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## INTRODUCTION

- a) This policy aims to provide a fair and consistent framework for dealing with allegations against staff (disciplinary matters)
- 1.2. It will cover the majority of such cases, although in some cases particular procedures will be more appropriate, such as the school's policies on Allegations of Abuse against Staff and Whistleblowing. Performance issues should be dealt with in accordance with the policies on Appraisals and Capability or Managing Sickness Absence. It applies to all employees, including the Headteacher and CEO.
- 1.3. Statutory guidance is contained in the [ACAS Code of Practice on Disciplinary and Grievance Procedures](#) ("the ACAS Code"). This policy aims to adhere to that and other ACAS guidance, where applicable.
- 1.4. The Governing Body has delegated to the Headteacher and CEO the authority to conduct disciplinary proceedings in all cases save for those in which dismissal is contemplated.
- 1.5. For simplicity, this policy uses "you" throughout for the person accused or the person who has raised the complaint, and "we" for the school.
- 1.6. This policy is non-contractual and so does not form part of your contract of employment. For those in their first two years of service the disciplinary procedure may be shortened or departed from.

### Disciplinary procedure

- 1.7. Any disciplinary matter must be dealt with fairly and steps taken to establish the facts and to give you the opportunity to respond before taking any formal action. You may bring a companion to all meetings under this policy/all meetings where a warning or dismissal may be a potential outcome. Your companion may be either a trade union representative or a work colleague. For a first act of misconduct, dismissal would not normally be the case, unless it amounts to gross misconduct or you have not completed a probationary period.
- 1.8. If at any point in implementing this policy, there is a possibility of dismissal the CEO must be informed.

### Suspensions

- 1.9. The Headteacher and CEO have delegated authority from the Horizon Multi Academy Trust to suspend any member of staff. This will not occur without serious consideration, and in particular will not follow automatically when an allegation of abuse or gross misconduct is made. (See also the policy on

Managing Allegations Against Staff). Depending on the nature of the case, it may be possible that alternative arrangements are made such as work location or reorganisation of duties, and these will be considered before a decision to suspend is made.

- 1.10. Suspension is not a disciplinary penalty and does not imply that any decision has been made about the allegations. If you are suspended, you will receive confirmation in writing as soon as possible and will be informed of the reasons. The suspension will be for no longer than necessary and will be kept under review. You will continue to receive full pay and benefits during any period of suspension.

### **Step 1 Disciplinary Investigation**

- 1.11. When misconduct comes to light the Headteacher or CEO will usually appoint someone to carry out the investigation or will carry out the investigation themselves. The investigation is to establish a fair and balanced view of the facts. The extent of investigation needed will depend on the nature of the allegations and will vary from case to case. It may involve interviewing you and any witnesses, and reviewing relevant documents or other information. The Investigating Officer will inform you that they are going to initiate an investigation.
- 1.12. Where any allegation is made, the Headteacher and CEO should be informed and a meeting will be arranged with you. The Chair of the Local Governors may be informed. If the Headteacher is the person accused, the CEO will arrange the meeting, and will assume all the duties of the Headteacher set out below. If the CEO is the person accused, the Chair of Trustees will arrange the meeting, and will assume all the duties of the Headteacher set out below
- 1.13. The Investigating Officer will produce a report containing details of the allegation, the steps undertaken as part of the investigation (e.g. interviewing witnesses and reviewing documents) and a conclusion which will include a recommendation. The Investigating Officer will include a recommendation as to whether a disciplinary hearing should take place.
- 1.14. The Headteacher and CEO will consider this recommendation and make the decision as to the appropriate course of action.
- 1.15. Where misconduct is not considered to be serious enough to warrant a disciplinary hearing your manager may meet with you informally to discuss the circumstances surrounding your misconduct. Written records of this discussion will be kept, as will documentation of any information from witnesses. You can bring a colleague to this meeting if you wish. The Headteacher and CEO may also

decide that further training, mediation or a referral to occupational health is appropriate.

## **Step 2 Notification of Disciplinary Hearing**

- 1.16. When a disciplinary hearing is required, you will be notified by letter as soon as practicable of:
- a) the date, time and location of the hearing;
  - b) the identification of the person/persons chairing the hearing;
  - c) the allegations against you;
  - d) the investigation report, including all relevant documentation, setting out the basis of those allegations;
  - e) the likely range of sanctions if the allegations are upheld.
- 1.17. The letter will remind you of your right to be accompanied. If you wish to bring a companion, you must make the necessary arrangements with them.
- 1.18. The disciplinary hearing will be convened before a Local Governors Staffing Panel, made up of at least three Governors, none of whom have had any previous involvement with the case. The Chair of the Local Governors will chair the hearing where dismissal is contemplated or where the Headteacher is subject to the disciplinary proceedings.
- 1.19. If you fail to attend without good reason, the hearing may be held in your absence and a decision made on the basis of the information available. This may also occur if you are persistently unable to attend for health or similar reasons.
- 1.20. The Investigating Officer will normally have interviewed relevant witnesses and taken statements from them as part of the investigation report. The witnesses will not normally attend the hearing. If there are any relevant witnesses who have not been interviewed, you should bring this to the attention of the Headteacher in good time before the hearing. You should not contact them directly to obtain a statement or to attend the hearing. Equally, if you believe that there is a particular reason why a witness should attend the hearing you should raise this in advance. Witnesses cannot however be required to attend.

## **Step 3 Disciplinary Hearing**

- 1.21. As well as the Panel, the Investigating Officer will attend to present the findings of their investigation. A note-taker will also be present.

- 1.22. The Chair will go through the allegations and ask you to respond. You can also present any evidence of your own.
- 1.23. The hearing is an information-gathering exercise. The aim is to give you the fullest possible opportunity to explain your position. It is not intended to be an interrogation, and questions will be put to you to explore your response. Evidence in the investigation report will be raised with and you will be invited to comment on each aspect. As far as practicable any follow-up questions will be put in an open format, such as by asking “where”, “when”, “why” or “how”?]
- 1.24. Your companion can make points or ask questions on your behalf during the hearing, but should not answer questions for you.
- 1.25. If, exceptionally, a witness does attend in person to give evidence, you will again be given the opportunity to respond to any information they provide but will not normally be permitted to cross-examine them directly.
- 1.26. At the end of the hearing you (or your companion) will have a further opportunity to make representations.
- 1.27. The hearing may be adjourned if it is deemed necessary to carry out any further investigations and you will be given a reasonable opportunity to consider any new information before the hearing is reconvened.
- 1.28. The person chairing the hearing may be in a position to verbally communicate the decision on the day. In all cases, the decision will be communicated in writing.

#### **Step 4 Disciplinary Outcome**

- 1.29. You will be informed in writing of the decision and the reasons for it, usually within 5 days of the hearing. The panel/Headteacher may find that there is no case to answer and refer the case back to an informal process. Alternatively, the panel/Headteacher may give you a disciplinary first warning or final warning or dismiss you.
- 1.30. Written warnings will set out the nature of the misconduct, the period for which the warning will remain active and the likely consequences of further misconduct in that active period. After the active period, the warning will remain permanently on your personal file but will be disregarded in deciding the outcome of future disciplinary proceedings.
- 1.31. Once all the processes in this policy have been completed any decision to dismiss an employee has to be ratified by the Trust Board.

## **Step 5 Appeal**

- 1.32. You can appeal against the outcome to the CEO but must do so within 5 days of the date on which you were informed of the decision.
- 1.33. The appeal will be dealt with as impartially as possible and where possible, will be conducted by a panel of Trust Board members not previously involved in the case.
- 1.34. You will be given written notice of the date, time and place of the appeal hearing no less than 5 working days before the hearing. At the same time, you will also be provided with a copy of the notes taken at the disciplinary hearing.
- 1.35. [The appeal hearing will be a complete rehearing of the case. It will therefore be conducted in the same way as the original hearing, with the Investigating Officer in attendance to present his or her report.]
- 1.36. Following the appeal hearing, the panel may confirm or revoke the original penalty or substitute a different penalty, but the penalty will not be increased on appeal. You will be informed in writing of the decision and the reasons for it, usually within 5 working days of the hearing.

## **Confidentiality**

- 1.37. We will make every effort to protect the privacy of all parties during and after an investigation into misconduct. It is in everyone's best interest to maintain this confidentiality to ensure a fair investigation with minimum impact for all parties. You must treat information communicated to you in connection with an investigation or disciplinary matter as confidential.
- 1.38. A breach of confidentiality will be taken seriously and may warrant its own investigation.

## **Resignations**

- 1.39. If you hand in your resignation when a disciplinary hearing has been ordered or during an investigation, the investigation may still continue until an outcome has been reached, with or without your cooperation. If so, you will still be given a full opportunity to respond to the allegation.

## **Record keeping**

- 1.40. Detailed records of all investigations and outcomes should be kept securely, and in line with the Data Protection Act, in your personal file. You should also be given a copy of the same information. This will enable us to provide all the necessary information for future schools if you require a reference. Where DBS

checks highlight allegations that did not result in any criminal charges, records will need to show exactly what happened, what points of action were taken during and after the investigation, and how the result of the investigation was reached.

- 1.41. Allegations or investigations that are proven to be malicious will not be kept on your records or used in your references.

## 2. TYPES OF MISCONDUCT

- 2.1. Listed below are some actions normally considered to be misconduct or gross misconduct that would be dealt with under this policy. These lists are a guide and are not exhaustive.

### **Misconduct**

- a) Breaches of your contract of employment;
- b) Breaches of our policies, including the sickness absence policy, IT user policy and health and safety policy;
- c) A breach of confidentiality or school regulations.
- d) Unauthorised absence from work;
- e) Unauthorised use of our facilities – for example using the internet for excessive personal emailing;
- f) Inappropriate or offensive behaviour – for example, using foul or abusive language;
- g) Intentionally disregarding the reasonable instructions of a senior member of staff;
- h) Gross misconduct

2.2. Gross misconduct is a serious breach of contract and includes misconduct, which in our opinion is likely to prejudice our reputation or irreparably damage the working relationship and trust between us and you. It will normally lead to dismissal without notice or pay in lieu of notice. The following list is non-exhaustive, but examples of gross misconduct can include:

- a) Inappropriate conduct with children or young people, including failing to maintain appropriate professional boundaries;
- b) Serious failure to follow our child protection procedures;

- c) Harassment or discrimination related to any of the protected characteristics – see other relevant policies including equal opportunities, and anti-harassment and bullying;
- d) Serious or repeated breaches of health and safety requirements;
- e) Physical assaults or threats to a colleague, pupil or member of the public;
- f) Unauthorised removal of school property, or malicious damage to school property or equipment;
- g) Criminal offences that in our opinion may undermine your ability to do your job or adversely affect internal relations, staff or pupils;
- h) Theft or dishonesty at work;
- i) Fraud or forgery, including falsification of documents such as expense claims, pupils' work;
- j) Being under the influence of alcohol, illegal drugs or other substances during working hours or not being incapable of fulfilling your duties;
- k) Any action that seriously harms the school's reputation;
- l) Publishing material and/or content which has the potential to damage the reputation of the school;
- m) Serious negligence or a serious or deliberate breach of your contract of employment;
- n) Serious or repeated failure to obey instructions, or any other serious act of insubordination.