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# Disciplinary Policy

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RESPONSIBLE DIRECTOR  
Chief Executive Officer

RATIFIED BY TRUST  
December 2022

REVIEW DATE  
December 2024

## Policy statement

1. The aims of this Disciplinary Procedure are to set out the standards of conduct expected of all staff and to provide a framework within which managers can work with employees to maintain satisfactory standards of conduct and to encourage improvement where necessary.
2. It is important to distinguish issues of conduct from capability. The former is addressed under this policy and the latter is addressed under the Knowledge Schools Trust's (the "Trust") Capability Policy and Procedure.
3. It is our policy to ensure that any disciplinary matter is dealt with fairly and that steps are taken to establish the facts and to give employees the opportunity to respond before taking any formal action.
4. This procedure does not form part of any employee's contract of employment, and it may be amended by the Trust at any time. We may also vary this procedure, including any time limits, as appropriate in any case.

The Head means the Head of School or the Headteacher

## Who is covered by the policy?

5. The procedure applies to all employees of the Trust regardless of length of service and which school they work in. It does not apply to agency workers or self-employed contractors.

## What is covered by the procedure?

6. This procedure is used to deal with misconduct. It does not apply to cases involving genuine sickness absence, proposed redundancies or poor performance. In those cases, reference should be made to the appropriate policy or procedure.
7. Minor conduct issues can often be resolved informally between you and your line manager. These discussions should be held in private and without undue delay whenever there is cause for concern. Where appropriate, a note of any such informal discussions may be placed on your personnel file held by the central HR team but will be ignored for the purposes of any future disciplinary hearings. In some cases, an informal verbal warning may be given, which will not form part of your disciplinary records. Formal steps will be taken under this procedure if the matter is not resolved, or if informal discussion is not appropriate (for example, because of the seriousness of the allegation).
8. You will not normally be dismissed for a first act of misconduct, unless we decide it amounts to gross misconduct or you have not yet completed your probationary period.

9. If you have difficulty at any stage of the procedure because of a disability, you should discuss the situation with the Head (or if you are the Head, the CEO or Chair of the Trust Board) as soon as possible.

## Confidentiality

10. Our aim is to deal with disciplinary matters sensitively and with due respect for the privacy of any individuals involved. All employees must treat as confidential any information communicated to them in connection with an investigation or disciplinary matter.
11. You, and anyone accompanying you (including witnesses), must not make electronic recordings of any meetings or hearings conducted under this procedure.
12. You will normally be told the names of any witnesses whose evidence is relevant to disciplinary proceedings against you, unless we believe that a witness's identity should remain confidential.

## Investigations

13. The purpose of an investigation is for us to establish a fair and balanced view of the facts relating to any disciplinary allegations against you, before deciding whether to proceed with a disciplinary hearing. The amount of investigation required will depend on the nature of the allegations and will vary from case to case. It may involve interviewing and taking statements from you and any witnesses, and/or reviewing relevant documents. An Investigating Officer will be appointed by the Head of the School in which you work, unless the process concerns that Head, in which case the Investigating Officer will be appointed by the CEO or Chair of the Trust Board, to carry out the investigation. The Investigating Officer will ordinarily be a member of the Senior leadership Team or a Director or a member of the school's LGB (Local Governing Body) if the investigation concerns the Head of a school.
14. Investigative interviews are solely for fact-finding, and no decision on disciplinary action will be taken until after a disciplinary hearing.
15. You do not normally have the right to bring a companion to an investigative interview. However, we may allow you to bring a companion if it helps you to overcome any disability, or any difficulty in understanding English. See the section below on the Right to be accompanied for further details.
16. You must co-operate fully and promptly in any investigation. This will include informing us of the names of any relevant witnesses, disclosing any relevant documents to us and attending investigative interviews if required.

## Criminal charges

17. Where your conduct is the subject of a criminal investigation, charge or conviction we will investigate the facts before deciding whether to take formal disciplinary action.
18. We will not usually wait for the outcome of any prosecution before deciding what action, if any, to take. Where you are unable or have been advised not to attend a disciplinary hearing or say anything about a pending criminal matter, we may have to take a decision based on the available evidence.
19. A criminal investigation, charge or conviction relating to conduct outside work may be treated as a disciplinary matter if we consider that it is relevant to your employment.

## Suspension

20. In some circumstances we may need to suspend you from work. The suspension will be for no longer than is necessary to investigate the allegations and we will confirm the arrangements to you in writing. While suspended you should not visit our premises or contact any of our pupils, parents, suppliers, contractors or staff, unless you have been authorised to do so by the Head of the School in which you work, or their nominated officer, unless the process involves that Head, in which case suspension must be authorised by the CEO or Chair of the Trust Board, or nominated representative.
21. Suspension of this kind is not a disciplinary penalty and does not imply that any decision has already been made about the allegations. You will continue to receive your normal basic salary and benefits during the period of suspension (this may be for example sick pay if you are off sick).

## Notification of hearing

22. Following any investigation, if we consider there are grounds for disciplinary action, you will be required to attend a disciplinary hearing. We will inform you in writing of the allegations against you, the basis for those allegations, and what the likely range of consequences will be if we decide after the hearing that the allegations are true. We will also include the following where appropriate:
  - a. a summary of relevant information gathered during the investigation;
  - b. a copy of any relevant documents which will be used at the disciplinary hearing; and
  - c. a copy of any relevant witness statements, except where a witness's identity is to be kept confidential, in which case we will give you as much information as possible while maintaining confidentiality

23. We will give you written notice of the date, time and place of the disciplinary hearing. The hearing will be held as soon as reasonably practicable, but you will be given a reasonable amount of time, usually 3 to 5 days, to prepare your case based on the information we have given you.

## Right to be accompanied

24. You may bring a companion to any disciplinary hearing or appeal hearing under this procedure. The companion may be either a trade union representative (either a paid official of the relevant union or someone certified by the union as having experience or training in acting as a companion at disciplinary hearings) or a work colleague. You must tell the Investigating Officer who your chosen companion is in good time before the hearing.
25. A companion who is a colleague is allowed reasonable time off from duties without loss of pay but no-one is obliged to act as a companion if they do not wish to do so.
26. If your chosen companion is unavailable at the time proposed for the hearing you may suggest a reasonable alternative time which is no more than 5 working days after the date first proposed. Where it is practicable to do so the hearing will then be held at the proposed alternative time, although we may need to postpone further if, for example, not all witnesses are available at the time proposed.
27. We may, at our discretion, allow you to bring a companion who is not a colleague or union representative (for example, a member of your family) if this will help overcome a disability, or if you have difficulty understanding English.

## Procedure at disciplinary hearings

28. If you or your companion cannot attend the hearing you should inform us immediately and we will arrange an alternative time. You must make every effort to attend the hearing, and failure to attend without good reason may be treated as misconduct in itself. If you fail to attend without good reason or are persistently unable to do so (for example for health reasons), we may have to take a decision based on the available evidence.
29. The hearing will be chaired by the Head of the School in which you work or by a panel of Directors/members of the LGB (Local Governing Body) if the matter involves that Head or if he/she has been involved in the investigation. The Investigating Officer will be present and other representatives from the school or the Trust may also be present. You may bring a companion with you to the disciplinary hearing (see 'Right to be accompanied').
30. At the disciplinary hearing we will go through the allegations against you and the evidence that has been gathered. You will be able to respond and

present any evidence of your own. Your companion may make representations to us and ask questions but should not answer questions on your behalf. You may confer privately with your companion at any time during the hearing.

31. You may ask relevant witnesses to appear at the hearing, provided you give us sufficient advance notice to arrange their attendance. You will be given the opportunity to respond to any information given by a witness. However, you will not normally be permitted to cross-examine witnesses unless, in exceptional circumstances, we decide that a fair hearing could not be held otherwise.
32. We may adjourn the disciplinary hearing if we need to carry out any further investigations such as re-interviewing witnesses in the light of any new points you have raised at the hearing. You will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.
33. We will inform you in writing of our decision and our reasons for it, usually within one week of the disciplinary hearing. Where possible we will also explain this information to you in person.

## Disciplinary penalties

34. The usual penalties for misconduct are set out below. No penalty should be imposed without a hearing, although as described above, in certain circumstances a hearing may be held in your absence. We aim to treat all employees fairly and consistently, and a penalty imposed on another employee for similar misconduct will usually be taken into account but should not be treated as a precedent. Each case will be assessed on its own merits.
35. **Stage 1 – First written warning.** A first written warning may be authorised by the Head of the School in which you work or their nominated representative, unless the process concerns that Head, in which case it will be authorised by the CEO or Chair of the Trust Board or nominated representative. It will usually be appropriate for a first act of misconduct where there are no other active written warnings on your disciplinary record.
36. **Stage 2 – Final written warning.** A final written warning may be authorised by the Head of the School in which you work or their nominated representative, unless the process concerns that Head, in which case it will be authorised by the CEO or Chair of the Trust Board, or nominated representative. It will usually be appropriate for:
  - a. misconduct where there is already an active written warning on your record; or
  - b. misconduct that we consider sufficiently serious to warrant a final written warning even though there are no other active warnings on your record.

37. **Stage 3 – Dismissal.** Dismissal may be authorised by the Head of the School in which you work or their nominated representative, unless the process concerns that Head, in which case it will be authorised by the CEO or Chair of the Trust Board or nominated representative. It will usually only be appropriate for:
- a. any misconduct during your probationary period;
  - b. further misconduct where there is an active final written warning on your record; or
  - c. any gross misconduct regardless of whether there are active warnings on your record. Gross misconduct will usually result in immediate dismissal without notice or payment in lieu of notice (summary dismissal). A non-exhaustive list of examples of gross misconduct are set out in Schedule 1.
38. **Alternatives to dismissal.** In some cases, we may at our discretion consider alternatives to dismissal. These may be authorised by the Head of the School in which you work or their nominated representative, unless the process concerns that Head, in which case it will be authorised by the CEO or Chair of the Trust Board, or his nominated representative, and will usually be accompanied by a final written warning. Examples include:
- a. Demotion.
  - b. Transfer to another department or job
  - c. A period of suspension without pay.
  - d. Loss of seniority.
  - e. Reduction in pay.
  - f. Loss of future pay increment or bonus.
  - g. Loss of overtime.

## The effect of a warning

39. Written warnings will set out the nature of the misconduct, the change in behaviour required, the period for which the warning will remain active, and the likely consequences of further misconduct in that active period.
40. A first written warning will usually remain active for 12 months and a final written warning will usually remain active for 24 months. In exceptional cases verging on gross misconduct, a final written warning may state that it will remain active for a longer period of time than stated above, up to and including lasting indefinitely. Your conduct may be reviewed at the end of a warning's active period and if it has not improved sufficiently, we may decide to extend the active period.
41. After the active period, the warning will remain permanently on your personnel file but will be disregarded in deciding the outcome of future disciplinary proceedings.

## Appeals against disciplinary action

42. If you feel that disciplinary action taken against you is wrong or unjust you should appeal in writing, stating your full grounds of appeal, to the person detailed in your outcome letter within one week of the date on which you were informed of the decision.
43. If you are appealing against dismissal, the date on which dismissal takes effect will not be delayed pending the outcome of the appeal. However, if your appeal is successful, you will be reinstated with no loss of continuity or pay.
44. If you raise any new matters in your appeal, we may need to carry out further investigation. If any new information comes to light, we will provide you with a summary including, where appropriate, copies of additional relevant documents and witness statements. You will have a reasonable opportunity to consider this information before the hearing.
45. We will give you written notice of the date, time and place of the appeal hearing. This will normally be five to seven days after you receive the written notice.
46. We will give you written notice of the date, time and place of the appeal hearing. This will normally be five to seven days after you receive the written notice
47. Where possible, the appeal hearing will be conducted impartially by a senior manager or panel of Directors or members of the LGB who has/have not been previously involved in the case. The Investigating Officer and the manager who conducted the disciplinary hearing will also usually be present and there may also be other representatives from the school or the Trust present. You may bring a companion with you to the appeal hearing (see 'Right to be accompanied').
48. We may adjourn the appeal hearing if we need to carry out any further investigations in the light of any new points you have raised at the hearing. You will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.
49. Following the appeal hearing we may:
  - a. confirm the original decision;
  - b. revoke the original decision; or
  - c. substitute a different, though not a more severe penalty.
50. We will inform you in writing of our final decision as soon as possible, usually within one week of the appeal hearing. Where possible we will also explain this to you in person. There will be no further right of appeal.



## Schedule 1

### Examples of Misconduct

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

- a. Minor breaches of our policies including the Sickness Absence Policy, ICT and Social Media Acceptable Use Policy), Health and Safety Policy and other areas identified in the Staff Code of Conduct;
- b. Minor breaches of your contract;
- c. Damage to, or unauthorised use of, our property;
- d. Poor timekeeping;
- e. Time wasting;
- f. Unauthorised absence from work;
- g. Refusal to follow instructions;
- h. Excessive use of our telephones for personal calls;
- i. Excessive personal e-mail or internet usage;
- j. Obscene language or other offensive behaviour;
- k. Negligence in the performance of your duties; or
- l. Smoking in no-smoking areas.

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

### Examples of Gross Misconduct

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

- a. Any action on your part which results in a referral to Disclosure and Barring Service for consideration of your inclusion on the Children's Barred List.
- b. Breaching standards of professional conduct.
- c. Theft, misappropriation, serious misuse or malicious damage to the School's or another employee's property.
- d. Acceptance of bribes or other secret payments.
- e. Unauthorised use of the School or the Trust property.
- f. Misuse, or the unauthorised use, of the Trust premises.
- g. Fraud, deceit, or deception including, but not restricted to:
  - i. falsification of, or aiding and abetting the falsification of, any of the Trust's records, including, subsistence and expenses claims, and timesheets.

- ii. giving false information as to qualifications or entitlement to work (including immigration status).
- h. Actual or threatened violent, offensive or other intimidating conduct.
- i. Harassment of any employee, parent, carer or student of the Trust.
- j. Discrimination against any employee, parent, carer or student of the Trust on the grounds of age, gender, sexual orientation, marital or civil partner status, gender reassignment, race, colour, nationality, ethnic or national origin, religion or belief or disability.
- k. The use of alcohol or drugs while at work. Excepted are the moderate drinking of alcohol at social events held on the Trust premises where alcohol has been authorised by a Head to be served; and drugs to treat a recognised medical condition, which do not diminish the competence, capability or capacity of the employee, and which are prescribed by a medical practitioner who is licensed by the British Medical Association. The quantity of the drugs taken, and the frequency of their use must comply with the advice provided by the licensed medical practitioner for this exception to apply.
- l. Possession use or supply, or attempted supply of illegal drugs.
- m. Conduct that constitutes a criminal offence, whether committed on the Trust premises or elsewhere, excluding minor driving offences.
- n. Inappropriate use of the internet, telephone or email, including, but not restricted to deliberately accessing pornographic, offensive or obscene material
- o. Inappropriate use of Social Networking sites that results, for example, in bringing the Trust, pupils or staff into disrepute.
- p. Acts or omissions likely to cause injury or otherwise impair the health and safety of you or others whilst on the business, or at the premises of the Trust.
- q. Serious negligence leading to loss, damage or injury.
- r. Acts or omissions likely to lead to a serious breach of confidentiality.
- s. Involvement in private activities which in the opinion of the Trust, place the employee's interests in conflict with those of the Trust.
- t. Involvement in additional employment which in the opinion of the Trust, place the employee's interests in conflict with those of the Trust. Employees should consult the Headteacher or CEO prior to accepting additional employment, if in doubt.
- u. Involvement in any activities which could weaken public confidence in the Trust.
- v. Serious insubordination, including the failure to comply with a reasonable instruction given by, or with the authority of a more senior person.

- w. Misconduct so incompatible with the employee's duties and responsibilities their continued presence within the organization is insupportable.
- x. A serious breach of the Trust's policy or procedures.
- y. Bringing the Trust into disrepute.
- z. Knowingly taking parental, paternity or adoption leave when not eligible to do so or for a purpose other than supporting a child.
- aa. Making a disclosure of false or misleading information under the Whistle Blowing Policy, save as permitted by that policy as may be amended from time to time.
- bb. Making untrue allegations in bad faith against a colleague.
- cc. Victimising a colleague who has raised concerns, made a complaint or given evidence information under Whistleblowing provisions, Anti-harassment and Bullying Policy, Grievance Procedure, Disciplinary Procedure or otherwise.

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



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