Disciplinary Policy

Audience:	All employees Local Governing Bodies
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REAch2 Disciplinary Policy

At REAch2, our actions and our intentions as school leaders are guided by our Touchstones:

Integrity	We recognise that we lead by example and if we want children to grow behave appropriately and with integrity then we must model this behaviour
Responsibility	We act judiciously with sensitivity and care. We don't make excuses, but min answer for actions and continually seek to make improvements
Inclusion	We acknowledge and celebrate that all people are different and can play a r the REAch2 family whatever their background or learning style
Enjoyment	Providing learning that is relevant, motivating and engaging releases a c curiosity and fun, so that a task can be tackled and their goals achieved
Inspiration	Inspiration breathes life into our schools. Introducing children to influ experiences of people and place, motivates them to live their lives to the ful
Learning	Children and adults will flourish in their learning and through learning disc future that is worth pursuing
Leadership	REAch2 aspires for high quality leadership by seeking out talent, devel potential and spotting the possible in people as well as the actual

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1. POLICY OVERVIEW

1.1 Overarching Principles

This policy has been developed to ensure fair and consistent treatment across the Trust where conduct falls below the standards required.

The disciplinary procedure will be applied fairly and in accordance with employment law and REAch2's Equal Opportunities policies. This policy is non contractual.

1.2 Intended Impact

This aim of the policy is to help and encourage all employees to achieve and maintain appropriate standards of behaviour and conduct and to:

- Improve conduct primarily by informal advice and support;
- Provide a fair and equitable method of dealing with alleged breaches in standards of conduct.

1.3 Roles and Responsibilities

Employee's responsibilities

- To have a personal responsibility to maintain appropriate standards of professional conduct,
- To familiarise themselves with the Disciplinary Policy,
- To familiarise themselves with their job description, standards of work and conduct including their terms and conditions of employment, REAch2 policies and any relevant standards or rules relating to their role, or employment,
- To behave in a way that promotes a positive working environment,
- To co-operate with the disciplinary process including being available for meetings, providing a statement and/or documents and attendance at hearings
- To provide evidence, or act as a witness, if requested.

Line Manager's responsibilities

- To make sure that all employees are treated fairly, reasonably and consistently under this policy,
- To ensure that all employees have access to the Disciplinary Policy,
- To ensure that staff are aware of what is expected of their role and standards required,
- To bring any matter of potential misconduct to the employee's attention as soon as possible,
- Where an investigation is required, that this is undertaken in a fair and timely manner,
- To give full and fair consideration to any appeal,
- To adhere to the timescales set out in the policy.

Human Resources responsibilities:

- To advise line managers at each stage of the formal procedure, this will include supporting managers during formal investigations, disciplinary hearings and appeals.

- To support line managers to consider options taking equality, precedence, risk, legal and practical considerations into account before any final decision on appropriate action.
- To monitor the application of the procedure to ensure it is applied in a fair and consistent way across the Trust.
- To monitor and record the outcomes of action taken under the formal stages of the procedure.
- To review this policy at least every two years.

2. POLICY PRINCIPLES IN DETAIL

This policy applies to anyone employed by the Trust in a permanent, fixed term or temporary post. The disciplinary procedure is not contractual and does not apply where there are matters of:

- **Competence or capability** which is dealt with under the REAch2 Capability Policy, unless it is clear that the employee is capable of reaching the required standard and has actively not done so.
- **Ill health** which is dealt with under Sickness Absence procedures unless there is good reason to believe that the absence or ill health are not genuine.
- **Bullying, harassment, discrimination and/or victimisation** which are dealt with in the first instance under the Dignity at Work policy.

Employers and employees should raise and deal with issues promptly and informal action will be considered, where it's appropriate.

If formal action is taken, the employee will be advised of the nature of the allegations in writing and will be given the opportunity to state their case before any decision is made at a disciplinary hearing.

Unless the matter is deemed to be an act of gross misconduct, it is unlikely that an employee will be dismissed for a first breach of discipline.

Employees have the right to appeal against any disciplinary action.

This procedure may be implemented at any stage as appropriate for the alleged misconduct.

The Headteacher in each academy has overall responsibility for ensuring consistent application of the procedure. Where the alleged misconduct involves the head teacher, their Line Manager will have responsibility for initiating disciplinary action.

All line managers are responsible for ensuring staff receive adequate supervision and advice in connection with their work and made aware of the relevant standards so as to encourage them to achieve and maintain the required standards of conduct.

Employees have the right to be accompanied by a trade union representative or work colleague at all stages of this procedure.

3. IMPLEMENTATION

Informal Process

Some potential disciplinary issues can be resolved informally and in many cases, the right word at the right time and in the right way may be all that is needed. Informal action may often be a more satisfactory way of dealing with a breach of rules or minor misconduct than a disciplinary meeting if it takes the form of a discussion with the objective of encouraging and helping the employee. It must not turn into a disciplinary meeting.

In addition:

- A Management Instruction can be given about acceptable conduct and standards and what is expected.
- Any note of informal action will be provided to the employee and kept on their personal file.
- The employee may submit a written statement, or explanation, if they wish to be kept on file.
- Repeated misconduct after an informal meeting would normally lead to a more serious disciplinary action in accordance with this procedure.
- Unless the informal process relates to a safeguarding concern all notes relating to the disciplinary issue, including any Management Instruction, will be removed after 3 months and in line with General Data Protection Regulations (GDPR).

There is no appeal against an informal warning or management advice or instruction which should be confirmed in a letter to the individual.

Investigations by external agencies

Where an employee is subject to an allegation being investigated by an external body they should be encouraged to consult their professional association/trade union for support.

If an employee is either charged, or under investigation, by an external statutory body, e.g. Police, Social Care, it may be necessary for them to be suspended from duty.

Please refer to the section in this policy on Suspension.

If the allegations involve Child Protection issues advice will be sought immediately from the Local Authority Designated Officer (LADO) or Multi Agency Safeguarding Hub (MASH). No attempt should be made to investigate Child Protection allegations without seeking advice from the LADO or MASH. HR will provide support in these cases.

Once external investigations have concluded (whether or not they lead to criminal proceedings), an internal disciplinary investigation may be held which may in turn lead to referral to the Independent Safeguarding Authority to assess whether the member of staff should be placed on a list of persons barred from working with children, and/or to the General Teaching Council for England, to assess whether a teacher should continue to be registered.

Complaints regarding conduct outside work

If a complaint is made regarding an employee's conduct outside of the Trust and/or if issues of concern come to light following an application for a Disclosure and Barring Service (DBS) disclosure

report, consideration will be given to whether the alleged conduct would affect the suitability of the employee to continue working for the Trust, and to fulfil the contract of employment. This requires individual consideration in each case.

Right to be accompanied

Employees have the right to be represented at all formal meetings under this procedure by a recognised professional association/trade union, or a workplace colleague. The representative has the right to speak on behalf of the employee, state their case, and summarise the points made. The representative cannot answer questions on behalf of the employee.

It is the responsibility of the employee to arrange for their representative to attend. If the employee's chosen companion is not available at the time fixed for the meeting, it will be rescheduled to accommodate the availability of the companion, as long as a reasonable alternative date is offered which is within 5 working days of the date originally proposed.

Suspension

Suspension is, in no way, a disciplinary sanction and carries no assumption of guilt. However, suspension will be considered when the employee's continued presence:

- constitutes a potential risk to other staff or pupils or to themselves,
- would potentially impede or prevent a full and proper investigation,
- seriously undermines the reputation of the academy or the Trust, or
- constitutes a risk of a repetition of any serious alleged misconduct.

During suspension employees will continue to receive their full pay.

Managers will consider alternatives to suspension such as a temporary change to duties, working arrangements or a transfer of workplace. In the case of an employee losing accreditation, REAch2 will make every effort to place the individual in another post in the first instance.

Suspension will be confirmed in writing within three working days of the suspension meeting.

The employee will be provided with a named contact to direct any queries towards during their suspension and arrangements will be made to keep in touch with a suspended employee, e.g. to keep them informed as to the progress of the investigation, while they are away from work.

REAch2 recognises that being suspended can be an anxious time for an employee and support from counselling services and other services may be provided – this may include a referral to the Occupational Health service. Employees should be encouraged to consult with their professional association/trade union for support as well.

Pre-Investigation Stage/ Fact Finding

In certain cases, it will be necessary to gather information regarding complaints, incidents and allegations before the start of a disciplinary investigation to determine whether:

- There is any substance to the complaint and a full disciplinary investigation is appropriate.

- The allegations warrant suspension of the employee.

This is not a formal stage of the procedure and would not be considered within the stipulated timescales of the procedure, but must be carried out as speedily as possible. Any information uncovered at this stage would be provided to the Investigating Officer as appropriate.

Formal Process

Timescales

For the purposes of the part of the procedure, timescales are expressed in working days. For all employees, a working day should be regarded as a day that they would normally be required to attend for work.

Employees have the statutory right to be represented by a work colleague or a trade union representative at any formal part of a disciplinary process. If the employee's chosen representative is not available at the time proposed for a hearing by the employer and the employee proposes an alternative time within 5 working days of the original date that is reasonable to both parties, then the employer will postpone the hearing to the time proposed.

Where a disciplinary case arises just before a school holiday, arrangements to resolve the matter speedily should be discussed between the parties. A school holiday should not itself be a cause for an undue delay in resolving the case.

The following timescales (in working days) should be adhered to: -

Written notice of disciplinary hearings – 10 working days

Written notice of outcome of disciplinary hearings – 3 working days

Written notice of employee's intention to appeal – 10 working days following receipt of the decision in writing

Written notice of appeal hearing – 10 working days

Timescales may vary by mutual agreement if the case is complex and involves a substantial volume of paperwork.

Should an employee fail to attend two formal hearing dates, the case will be heard in their absence, unless acceptable reasons have been presented in advance and it is therefore agreed to postpone the hearing to a later date.

Investigation

No formal disciplinary action will be taken without an appropriate investigation into the circumstances during which all parties have the opportunity to present their version of events. Advice should be sought from REAch2 HR at an early stage when considering formal procedures.

Investigations should normally be carried out by an Investigating Officer, appointed by the Commissioning Manager who is usually the employee's immediate line manager.

The Investigating Officer will write to the employee at the earliest opportunity and give the following information: -

- Details of the allegation/s
- Copies of appropriate and available information and documentation
- Names of witnesses
- A copy of the disciplinary procedure
- Time and date of an investigation meeting
- Confirmation of their right to representation by a trade union representative or work colleague/companion, at all meetings.

Minutes of these meetings will be taken and agreed with the employee as a true record.

At the conclusion of the investigation the Investigating Officer will produce a thorough and clearly written report with supporting evidence. The investigation report will be completed as soon as possible and at latest within 20 working days of the time the Investigating Officer begins their investigation. If the investigation takes longer than 20 days, the employee will be informed and a reason given. The report will recommend whether:

- There is no further action required
- Management guidance is appropriate
- Training is required
- The case should be referred to a disciplinary hearing.

The Investigating Officer will conclude whether there is sufficient evidence for formal action. Where formal action is not required, the Commissioning Manager may provide informal guidance or counselling may be arranged. If there is no case to answer the matter will be closed and all documentation removed from the employee's file.

The employee will be informed in writing of the conclusion.

Disciplinary Panel

The disciplinary panel will comprise two members from head teachers, senior managers, SLT (Central Team) or governors, who have had no previous direct involvement in the case. All must be at a higher level in the organisation than the employee who has submitted an appeal and the panel will be supported by a member of REAch2 HR.

Disciplinary Hearing

The employee will receive a full copy of the report and will be given written notice of the hearing in line with the above timescales, in order to prepare and arrange representation. The date of the hearing can be postponed for up to 5 working days if the employee's representative is not available.

The employee, or their representative, and the Commissioning Manager may call witnesses and introduce documents in support of a response to the allegations. Copies of documents to be presented at the hearing, together with details of any witnesses to be called, will be sent to the employee in advance of the hearing, and at least five working days before the hearing.

At the hearing, all parties present will be given an opportunity to address the hearing, call witnesses and ask questions or challenge the reports/evidence submitted by all witnesses.

Witnesses should only be present whilst giving their information and being questioned on it. A person assisting in presenting a case may be present throughout the presentation of evidence even though they may also be acting as a witness. When the person chairing the hearing has heard all the evidence submitted, all others present will withdraw from the hearing, except any specialist HR adviser present.

The panel will then consider their decision and what action or appropriate sanction is necessary.

If it's necessary to ask further questions of anyone present during the hearing, all those attending (except witnesses) must be present. This is to ensure that no evidence is given unless the other party has the opportunity to respond and present a view on it.

After due consideration the person chairing the hearing will convey the decision to the employee. It may be appropriate for the panel to adjourn to discuss the evidence before coming to a conclusion. The decision will be given verbally as soon as it has been taken and any formal disciplinary sanction will be given at the same time. The decision and any formal disciplinary warning will be confirmed in writing within five working days. Exceptionally, the decision may be deferred and given in writing later, together with any formal disciplinary warning. The letter confirming, or giving, a formal warning will set out the rights of appeal.

Should an employee fail to attend two formal hearings, the case will be heard in their absence, unless acceptable reasons have been presented in advance and it is therefore agreed to postpone the hearing to a later date.

Possible sanctions include:

- No further action and all records relating to the process will be destroyed
- Formal verbal warning - which will remain on file for 6 months
- A formal written warning- this will set out the nature of the misconduct/reasons for the warning and any improvements and the change in behavior required. The employee will be notified that the warning constitutes part of the formal disciplinary process and the consequences of any further misconduct could be a further written warning and ultimately dismissal. It will remain on file for 12 months
- A final formal written warning- this will be given where misconduct is serious but is not considered serious enough to justify dismissal. A final written warning may also be issued where there is a failure to improve following previous written warning/s. It will remain on file for 18 months
- Dismissal with notice or summary dismissal.

All records relating to the disciplinary procedure will be destroyed at the end of the sanction period, in line with GDPR requirements, unless it relates to a safeguarding matter.

Special Situations

Grievances raised during the course of the disciplinary procedure

An employee may raise a grievance during a disciplinary process. Where this happens, it may be appropriate to suspend the disciplinary procedure for a period until the grievance can be considered in accordance with the Grievance Procedure.

Discipline of Employee Representatives

Any disciplinary action being contemplated in respect of staff representatives of recognised trade unions within this procedure should not be instigated without notification in advance to the full-time official or nominee, of the appropriate Trade Union. Consent will be sought from the staff representative before this happens.

Gross Misconduct

Gross misconduct is misconduct which is so serious it may destroy the employment contract between the employer and the employee and make further working relationships and trust impossible. Some gross misconduct breaches of discipline may be regarded as serious enough to warrant summary dismissal without reference to any prior warnings.

If, following an investigation, it is decided that the employee has committed an offence similar in nature to the following non-exhaustive list then the normal consequence will be summary dismissal without notice or payment in lieu of notice. While the alleged gross misconduct is being investigated, the employee may be suspended, during which time normal rates of pay will be applied, and such suspension will be for as short a period as possible. Paid suspension is not regarded as a form of disciplinary action. Examples of acts of gross misconduct are:

- Fraud
- Theft
- Being under the influence of alcohol or illegal drugs at work
- Violence, abuse or threatening behaviour
- Bullying
- Sexual or racial harassment
- Gross negligence
- Gross insubordination
- Falsification of documents/records
- Damage to property (employer's or other's).

Appeal Hearings

An employee has the right of appeal against any formal disciplinary action taken.

The appeal must be made in writing to the Chair of the hearing panel within 5 working days of receipt of the decision letter clearly stating the grounds for appeal together with details of any new evidence/witnesses they wish to present.

Arrangements for the appeal hearing will be made by the Chair of the panel on receipt of the appeal letter. The appeal will be heard as soon as possible and within 10 working days of the appeal being received in writing, or by email. The employee will be given at least 10 working days' notice of the appeal hearing.

The appeals panel will be formed from head teachers, governors, senior managers, SLT (Central Team) or executive directors. All must be at a higher level in the organisation than the employee who has submitted an appeal and no member of the disciplinary hearing panel shall be a member of the appeal panel.

An appeal hearing against any sanction is not a re-hearing of the disciplinary case and as such, an appeal may only proceed on the following grounds:

- The proper procedure was not followed and this materially affected the decision
- The decision reached was incorrect in that the conclusion reached was not supported by the evidence presented
- The sanction awarded was too severe, taking into account the nature of the misconduct and the mitigating circumstances
- Where new evidence which is pertinent and was not reasonably available at the time, has become accessible

An appeal hearing will result in one of the following outcomes:

- The appeal is upheld and any sanction imposed by the original hearing officer is withdrawn
- The appeal is not upheld but a lesser sanction is considered
- The appeal is not upheld and the original sanction remains in place

An appeal hearing cannot increase the sanction imposed on the employee and where an appeal against dismissal is successful, reinstatement will be from the original date with no break in employment continuity.

The appeal hearing is the final stage and there is no further right of appeal following a decision.

End.