



# CANNOCK CHASE HIGH SCHOOL

A C H I E V E M E N T F O R A L L

## **DISCIPLINE POLICY**

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## **1 Legislative Framework**

**1.1** Important provisions governing discipline at work are to be found in:

**1.1.2 The Employment Act 2008:** The current framework for resolving employment disputes is based on the Employment Act 2008. The Act paved the way for the ACAS statutory Code of Practice on discipline and grievance, which sets out the principles that employers and employees should follow when dealing with disputes at work. The Code emphasises the importance of the early resolution of workplace matters and sets out the principles that employers and employees should follow when dealing with disputes at work.

**1.1.3 The Employment Tribunals (Constitution and Rules of Procedure) (Amendment) Regulations 2008.**

**1.2** Numerous other pieces of legislation either cross refer or relate to discipline issues. Some important examples include:

**1.2.1 The Employment Rights Act 1996** as amended

**1.2.2 The Employment Rights Dispute Resolution Act 1998.**

**1.2.3 The Employment Relations Act 1999:** This provides employees with the legal right to be accompanied by a trade union.

**1.2.4 The Employment Rights Act 2004.**

**1.2.5 The Equality Act 2010.**

## **2 Policy Statement**

**2.1** This policy is designed to support both manager and member of staff in the handling of situations where difficulties are perceived to be present regarding the standard of an employee's conduct; however, it is important to note that many potential disciplinary issues can be resolved informally. Managers and employees must always consider whether a disciplinary issue can be resolved informally within the workplace. Where this is not possible then an independent third party could be used to help resolve the problem. Where an issue cannot be resolved informally, e.g. given its gravity or informal steps have been taken previously and failed to resolve the issue then it may be pursued formally.

**2.2** This policy provides the mechanisms for responding to any allegation of unacceptable conduct and must be followed in order to mitigate any subsequent difficulties that may arise in a consistent and fair way for all employees.

## **3 Scope of Policy**

**3.1** This policy and the associated disciplinary process has been developed in line with the appropriate national conditions of service for all employees.

**3.2** Contractors, consultants or volunteers working within the academy are not employees and do not come within the scope of this policy.

## **4. Principles of the Policy**

**4.1** This policy provides a framework to manage disciplinary issues in ways that are founded on the following principles:

- Impartial and fair investigation;
- Efficiency and effectiveness of handling sensitive and complex matters;
- That all avenues are explored informally before any formal process is put into place utilising mediation where appropriate;
- Equity and fairness of treatment that is at all times non-discriminatory;
- Consistency of application of the process and procedures agreed for handling disciplinary matters;
- Timeliness (in accordance with reasonable timelines);
- Confidentiality;
- Where appropriate, disclosures of information to relevant parties.

## **5 Accountabilities**

**5.1** The roles and accountabilities described in this document should be carried out in accordance with the delegated functions agreed by the Governing Body.

### **5.2 Manager Accountabilities:**

- All managers will ensure that employees are aware of the expected standards of conduct at all times through awareness of academy policies and procedures;
- Where it is alleged that an employee has fallen short of this standard all relevant information will be provided that will demonstrate this, either orally as part of an informal process or in writing where the process followed is a formal one;
- All managers will normally consider an informal approach to support and encourage employees to change their conduct where it is felt to fall short of the acceptable standards;
- Ensure that where it can be shown that there are disciplinary issues the employee is made aware of their conduct, what they need to do to put this right and when they need to do this by the provision of written information;
- Where it is necessary to convene a meeting make any reasonable adjustments to take account of any disability or child care issues;
- Support employees where they are acting as witnesses to either party in a disciplinary;
- Ensure that any recommendations from a disciplinary hearing are put in to place;
- Ensure that any investigation carried out is impartial, fair and thorough;
- Ensure that an employee receives clear information relating to the allegation(s) and/or complaint(s) made against them. This should include relevant facts such as alleged dates/locations so that the employee is able to respond;
- Ensure confidentiality throughout any process;
- Ensure they maintain knowledge of the current Academy's HR policies and procedures in the handling of people issues.

### 5.3 Employee Accountabilities:

- All employees have a part to play in ensuring that they meet acceptable standards of conduct and are expected to co-operate with any procedure;
- Employees should engage in informal approaches aimed at changing their conduct to meet the expected standards and if an employee fails to co-operate in the disciplinary procedure this may result in an outcome based on the information available to the hearing at that time.

## 6 Suspension

**6.1** Suspension of any employee can cause great distress and so will apply only when allegations involve gross misconduct and or when it can be shown that a continued presence at work that will prejudice an investigation, or put the individual/others at personal risk. In line with the school's scheme of delegation, the relevant manager may consider a short period of suspension from work and in all cases this would be with full pay (see 6.2). This action must be taken only as a last resort. Should suspension be deemed necessary, the employee will be informed verbally and in writing of the decision, including the reason for the suspension in each case. The continued need for the employee to remain suspended must be reviewed regularly (and at least monthly).

**6.2** Suspension should not be taken to indicate a presumption of guilt. Therefore, an employee will be entitled to receive any permanent payments that they would have received but for the suspension (e.g. essential car user allowance).

## 7 The Process

**7.1** Disciplinary issues must be handled through one or more the following steps:

- Step 1** - The informal stage
- Step 2** - Investigation
- Step 3** - Formal hearing
- Step 4** - The right to appeal



Mediation can be considered at any point within the process.

**7.2 Step 1** - The informal stage

Before resorting to formal process, every reasonable effort should be made to address conduct issues informally through normal supervision and support.

Where the informal process is followed, the manager should speak to the employee as soon as possible as issues/problems dealt with early enough can often be 'nipped in the bud' – the matter may then be settled without recourse to the formal disciplinary process using mediation as appropriate to resolve it. Only when this fails to bring about the desired improvement should the formal disciplinary procedure be applied.

**7.3 Step 2** - Investigation

The manager will arrange for the alleged misconduct to be investigated.

**7.4** An investigation is a structured, impartial process of evidence gathering, in response to a specific allegation(s) about an employee's conduct. The purpose of the investigation is to determine whether or not there is a case to answer at a formal disciplinary hearing. All investigations will be carried out fairly, reasonably, promptly and normally within 90 calendar days. It is in everyone's interest that an investigation is completed as quickly as possible.

**7.5** The policies adopted by the school are intended to promote equality, eliminate unlawful discrimination and actively promote good relationships regardless of age, disability, race or ethnicity, religion and belief and sexual orientation. Given these policies, the investigating officer will consider the content of any information that emerges from any witness statement and may recommend further investigation of any matter that may indicate a discriminatory practice.

**7.6** The investigating officer will not have been involved in or have prior knowledge of the circumstances of the case except where the manager's prior knowledge can be shown to have no prejudicial impact on the proceeding.

**7.7** It is essential that an employee is provided with an opportunity to respond to any allegations made and for this purpose an employee will receive information relating to the allegation(s) and/or complaint(s) made against them. Upon request, and where details are provided, this information can be provided to the companion\*.

**7.8** Any report produced by the investigating officer will include all relevant facts and any mitigating circumstances.

**7.9 Step 3 - Formal hearing**

Where it is deemed necessary to hold a formal meeting the employee must be given at least 14 calendar days prior written notice of the hearing. The hearing can be re-scheduled to accommodate the employee/their representative, and must be re-scheduled within five working days of the original hearing date.

**7.10** The notice will state:

- The name of the person(s) conducting the hearing;
- The time and the place of the hearing;
- Confirmation that the hearing is called under the disciplinary procedure and could result in disciplinary action, including dismissal where appropriate but that no decision will be taken until the employee has had an opportunity to take part in a hearing;
- A description of the alleged misconduct;

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The Presenting Officer should be an appropriate manager to present information and findings to the hearing. The Investigating Officer and the Presenting Officer may be one and same manager or may be separate. In the event that the two roles are separated the Investigating Officer is to be treated as a witness at the hearing.

\* A companion may be a trade union representative, fellow worker, or an official employed by the trade union. The companion should be allowed to address the meeting to put and sum up the employee's case, respond on behalf of the employee to any views expressed at the meeting, ask questions of anyone present and privately confer with the employee before, during and following the meeting. The companion however does not have the right to answer questions on behalf of the employee.

- The names of any witnesses to be called and any documents to be used to support the complaint;
- Advice on right to be accompanied by a companion.

Not later than 14 calendar days prior to the hearing, there must be a full provision of any documentation to be used and full disclosure of any witnesses.

The hearing is a part of a formal process; only those who have a specific role will be entitled to attend and accordingly attendance will normally be limited to:

- i). The Individual or Committee conducting the hearing;
- ii). Specialist Adviser to the Individual or Committee conducting the hearing;
- iii). A Presenting Officer;
- iv). Investigating Officer;
- v). Note taker;
- vi). The Employee;
- vii). The Employee's companion;
- viii). Witness(es)\*.

#### **7.11 The Right to Be Accompanied**

The employee will have the right to be accompanied by a companion at any meeting as part of the formal discipline procedure. This will include any investigation meetings that are necessary as part of the formal process. A companion may be a trade union representative, fellow worker or an official employed by the trade union. A legal representative may be permitted employee representation rights where there is a possibility that the employee could end up on a professional barring list.

It is the responsibility of the employee to arrange the availability of their companion and because of this employees are advised to contact their companion at the earliest opportunity.

**7.12** The person chairing the hearing will arrange for any or all of the following to be present at the hearing:

- Specialist Adviser;
- A Note Taker.

**7.13** The process to be followed at the hearing will be:

- The person chairing the hearing will explain its purpose and the procedure to be followed;
- The Presenting Officer will introduce the report and any supporting evidence, including any documents and witnesses as appropriate;
- The employee and/or their representative will have the opportunity to ask any questions which they may deem appropriate, including direct questions of any witnesses;

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\* A witness is someone who is able to give a first-hand account of something seen, heard, or experienced directly involved in the disciplinary case. Witnesses called to provide a statement and/or attend a disciplinary hearing should be reassured that it is not a court of law, but part of a formal procedural system for addressing complaints relating to disciplinary matters.

- The person(s) conducting the hearing, and their adviser as appropriate, will have an opportunity to ask questions, including direct questions of any witnesses;
- The employee or their representative will then introduce evidence in support of their position, including any documents and witnesses as appropriate. The representative may ask the employee any questions;
- The Presenting Officer will have the opportunity to ask questions of the employee including direct questions of any witnesses;
- The person(s) conducting the hearing, or their adviser, will have the opportunity to ask questions, including direct questions of any witnesses;
- The Presenting Officer will sum up;
- The employee and their representative will have the opportunity to sum up or make any final comments;
- Although they can offer clarification if called upon, the employee's representative cannot answer questions directed to the employee;
- Where the same witness is called by both parties, arrangements may be made for questioning to take place at the same time.

**7.14** The disciplinary outcome must be confirmed in writing to the employee within seven calendar days of the hearing. The letter should state:

- The name of the person/committee that took the decision;
- The names of all those present at the hearing, including witnesses;
- A description of the nature of the complaint(s);
- The conclusion reached on the complaints(s);
- The decision reached. This will include decisions not to take any action. If a warning is given, the letter will stipulate the form of warning e.g whether or not it is a final warning and for how long it will remain in force;
- An indication of the type of action which is likely to result if there is further misconduct;
- The employee's right of appeal, the name and contact details of the person to whom an appeal would be made and the period during which an appeal can be made;
- Advice on consulting a companion.

A copy will be sent to the employee's companion where they attended the hearing.

#### **7.15 Step 4 - Appeal Hearing**

**7.16** Employees have a right of appeal against all stages of the formal process. The employee's appeal will be to the appropriate manager/committee in line with the academy's Scheme of Delegation. Where a manager or committee member, in line with the scheme of delegation, has already been involved in the process, the appeal will be submitted to an equivalent manager or committee whose members have played no previous role in the process.

**7.17** To exercise their right of appeal the employee must do so in writing within 14 calendar days of receiving the written confirmation of the outcome that they wish to appeal. Their letter should state the grounds for appeal which may include:

- Facts disputed;

- Procedural fault or principle(s) not followed;
- Previous evidence not fully investigated;
- Evidence not previously considered;
- Level of disciplinary action not considered to be appropriate e.g. too severe.

The employee should also provide copies of any additional information not used at the original hearing that they wish considered at the appeal.

The manager or appeals committee may decide to revoke, reduce or confirm the original penalty. This decision is final.

## 8 Forms of Disciplinary Action

**8.1** Where evidence supports a disciplinary sanction, the following forms of action can be taken.

**Informal Action**

**Formal Action:**

**Stage 1** - First written warning

**Stage 2** - Final written warning

**Stage 3** - Dismissal or other sanction short of dismissal.

Mediation can be considered at any point within the process.

### 8.2 Informal Action

Before resorting to formal process, every reasonable effort should be made to address conduct issues informally through normal supervision and support. The aim should always be to tackle issues promptly and to secure the required improvement.

The employee should be spoken to as soon as possible as problems dealt with early enough can be ‘nipped in the bud’ – the matter may then be settled without recourse to the formal disciplinary process. Only when this fails to bring about the desired improvement should the formal disciplinary procedure be applied.

### 8.3 Stage 1 - First written warning

A prerequisite for all forms of disciplinary action is a hearing set up and conducted as described. Generally speaking, a first warning would be appropriate and proportionate for a first misdemeanour which does not in itself amount to serious misconduct. The letter conveying the warning should make clear:

- The reason for the warning;
- That this warning is the first stage of the disciplinary procedure;
- Their right of appeal;
- That this is the start of a process that could ultimately lead to dismissal.

A copy of the warning should be kept on file for a period of 6 months, after which time will lapse, subject to satisfactory conduct and/or performance.



#### **8.4 Stage 2 - Final written warning**

Where the offence is sufficiently serious, or there is a failure to improve during the effective period of a prior disciplinary warning for the same type of offence, the manager will provide a written warning within seven calendar days of the hearing. This will set out:

- The reason for the warning;
- The improvement required and the timescale for change;
- The right of appeal to the relevant manager in line with the scheme of delegation within 14 calendar days of receiving the warning and their right to be accompanied at the appeal;
- That this is the final stage of the disciplinary penalties before dismissal;
- That dismissal or some other sanction may be considered if there is no sustained satisfactory improvement or change in their behaviour.

A copy of the warning should be kept on file for a period of 12 months, after which time will lapse subject to satisfactory conduct and/or performance.

#### **Note:**

- *A warning will remain in place until the relevant period of time has elapsed.*
- *Warnings, which are time expired or spent, will be disregarded in determining a future disciplinary penalty.*
- *The formal stages may be invoked at any level, depending upon the severity of the infringement i.e. if the infringement is proved to be of a serious nature, Stage 1 may be bypassed in consideration of a second or final written warning being issued or dismissal.*

#### **8.5 Stage 3 – Dismissal or other sanction short of dismissal**

Where there is still a failure to improve, the final step in the procedure may be dismissal or some other action short of dismissal.

For sanctions short of dismissal, the manager should review the employees conduct, in line with the details in the written warning.

A copy of the warning should be kept on file for a period of 18 months, after which time will lapse subject to satisfactory conduct and/or performance.

**8.6** Normally no employee will be dismissed for a first breach of discipline except in the case of gross misconduct, when the penalty will be dismissal without notice or payment in lieu of notice.

### **9 Action Against a Trade Union Official**

**9.1** Where disciplinary action is being considered against an employee who is a trade union representative, this policy will be followed. The employee(s) will be informed that the case will be discussed with a full time regional official of the trade union. No hearing shall be arranged to consider disciplinary action against a trade union official without the Headteacher/Chair of Governors having discussed the complaint with the appropriate Regional Officer of the relevant trade union.

## **10. Other Considerations**

### **10.1 Cases Involving Criminal Allegations**

Specific protocols will apply where the alleged misconduct would also constitute an offence under the criminal law if proved in a Court of Law e.g. theft.

### **10.2 Equality Impact Assessment**

The school's policies are intended to promote equality, eliminate unlawful legislation and actively promote good relationships regardless of age, disability, race or ethnicity, religion and belief and sexual orientation

### **10.3 Pension**

Employees who are dismissed should seek advice from Teachers' Pensions or Staffordshire County Council Pension Services in relation to the Local Government Pension Scheme as appropriate.

## **11 Further Advice and Information**

**11.1** Managers and employees must fulfil their responsibilities in relation to this policy. Employees are expected to engage appropriately insofar as they are affected by the policy. Abuse or misuse of this policy is unacceptable and may give rise to action under the Academy's formal procedures.

**11.2** Further background information on this topic is available on the following websites:

[www.gov.uk](http://www.gov.uk)

[www.acas.org.uk](http://www.acas.org.uk)

[www.local.gov.uk](http://www.local.gov.uk)

See also national conditions of service and local agreements before determining or issuing advice:

- NJC for Local Government Services (Green Book);
- School Teachers Pay & Conditions Document;
- Conditions of Service for School Teachers in England and Wales (Burgundy Book).

Date for Review: \_\_\_\_\_