



**MOWBRAY**  
Education Trust

# Disciplinary Policy & Procedure

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Prepared by: Chief Operating Officer

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## 1 Introduction

The aims of this Disciplinary Policy & Procedure is 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.

It is the Trust's 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.

This procedure does not form part of any employee's contract of employment and it may be amended at any time. We may also vary application of this procedure, including any time scales for action, as appropriate. It has been formally adopted by the Trust.

## 2 Scope

The procedure applies to all employees regardless of length of service excluding those in their probationary period where separate arrangements apply. It does not apply to agency workers or self-employed contractors.

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.

Minor conduct issues can often be resolved informally between employees and their 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 the employee's HR file. In some cases an informal verbal warning or instruction may be given, which will not form part of the 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 concern).

Employees will not normally be dismissed for a first act of misconduct, unless the Trust decides that the conduct amounts to gross misconduct or the employee has not completed a probationary period.

As recognisable figures in the local community the behaviour and conduct of staff in the Trust outside of work can impact on their employment. Therefore, conduct outside work may be treated as a disciplinary matter if it is considered that it is relevant to the employee's employment.

### **3 Definitions**

In the context of this policy Manager means the following:

- Head Teacher for all school based staff
- Nursery Manager for all nursery based staff
- Chief Operating Officer for all central staff
- Executive Head Teacher for all Head Teachers
- CEO for Chief Operating Officer, Executive Head Teachers and Nursery Managers
- Chair of the Board for CEO

A Manager may delegate some actions in this policy to an appropriate person. Managers may not delegate decision making for warnings or dismissal to another without consultation with the HR Manager or Chief Operating Officer.

### **4 Confidentiality**

It is the aim of the Trust 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.

Employees, and anyone accompanying them (including witnesses), must not make electronic recordings of any meetings or hearings conducted under this procedure, unless this has been agreed with the relevant manager. Normally, where this has been so agreed, the Manager will make the recording and share it with the Employee after the meeting.

Employees will normally be told the names of any witnesses whose evidence is relevant to disciplinary proceedings against them, unless there is good reason that a witness's identity should remain confidential.

### **5 Allegations**

Allegations against a member of staff should be addressed through the Managing Allegations procedures in the MET Child Protection Policy.

### **6 Reporting concerns**

If you have a concern about the conduct of a member of staff you should report this to the appropriate Manager listed in section 3.

### **7 Investigations**

Upon receiving any concern against employees it is likely that further information will be required to establish what the next course of action should be. The Manager should seek to establish the basic facts of the situation; this may involve looking at records, speaking to witnesses, reviewing CCTV etc. prior to progressing to the formal stages of the Disciplinary Policy and Procedure.

### **Preliminary Investigation meeting**

A preliminary investigation meeting may be held with the employee to establish the basic facts of the circumstance and to enable the Manager to determine whether further investigation is required. Such a meeting can sometimes give a reasonable explanation in response to concerns which then enables the matter to be concluded. A preliminary meeting will not be required in all cases and it is for the Manager to decide if this is appropriate.

### **Investigating Officer**

After a preliminary investigation where it is determined that there is a need for investigation, or if the concerns are serious enough to warrant a full investigation immediately, the Manager will usually appoint an Investigating Officer to carry out the investigation. This will be an appropriate person to the nature of the concerns and the role of the employee.

### **Further investigation**

The purpose of an investigation is to establish a fair and balanced view of the facts relating to any disciplinary concerns made against an employee, before deciding whether to proceed with a disciplinary meeting. The amount of investigation required will depend on the nature of the concerns and will vary from case to case. It may involve interviewing and taking statements from the employee and any witnesses, and/or reviewing relevant documents and other information.

### **Interviewing witnesses**

It may be necessary to interview witnesses to obtain information that is relevant to the concerns. A record of the meeting will be made and the witness will have the opportunity to review the record, make amendments for clarification purposes and sign and date the record. The Trust recognises that some employees may find this difficult

or worrying, however all employees are expected to fully participate in any such investigation.

### **Interviewing the employee**

Investigation meetings are solely for the purpose of fact-finding and no decision on disciplinary action will be taken until after a disciplinary hearing has been held. Employees do not have the right to bring a companion to an investigation meeting. A record of the meeting will be made and the employee will have the opportunity to review the record, make amendments for clarification purposes and sign and date the record.

Employees must co-operate fully and promptly in any investigation. This will include providing the names of any relevant witnesses, disclosing any relevant documents or information and attending investigative interviews if required. As each investigation will vary in length and complexity it will be completed in as short a time frame as possible.

An employee is not entitled to representation from a colleague, friend, family member or trade union representative at the preliminary meeting stage.

## **8 Criminal charges**

Where conduct is the subject of a criminal investigation, arrest, charge or conviction the facts will be investigated before deciding whether to take formal disciplinary action. Disciplinary action will not be automatic and will depend upon the circumstances. Employees should inform their Manager immediately if they are involved in a criminal investigation, arrest, or are subject to a charge or conviction. Failure to notify their Manager may result in disciplinary action.

The Trust will not usually wait for the outcome of any prosecution before deciding what action, if any, to take. Where employees are unable or have been advised not to attend an investigation meeting or disciplinary meeting or say anything about a pending criminal matter, a decision may have to be made based on the available evidence.

A criminal investigation, charge or conviction relating to conduct outside work may be treated as a disciplinary matter if it is considered that it is relevant to the employee's employment.

Where a criminal investigation relates to concerns of abuse of children or young people the Trust will follow the guidelines in Keeping Children Safe in Education documentation and in the MET Child Protection policy, this may include sharing information about the employee with other relevant agencies as appropriate.

## 9 Suspension

In some circumstances it may be necessary to suspend the employee from work. The suspension will be for no longer than is necessary to investigate the concerns and conclude the disciplinary process. The arrangements will be confirmed to the employee in writing as soon as possible.

Any suspension will be considered carefully and only in serious circumstances where there are no alternatives. Suspension does not mean an employee has done anything wrong, and will not be used as a disciplinary measure.

Employees will continue to receive normal salary and benefits during the period of suspension.

Alternatives to suspension, for example re-organisation of duties, work location, temporary redeployment to another role etc will be explored where relevant before a decision to suspend is made. The nature and severity of the concerns will need to be considered as will the employee's role within the Trust.

The suspension will be kept under review as the investigation progresses. As information is gathered it may become appropriate to lift the suspension during the course of the investigation or prior to any disciplinary meeting.

Where concerns are made that involve the protection of children Headteachers will refer to the Managing Allegations training and procedures and Keeping Children Safe in Education document to make a decision on action to be taken.

In the case of a school based member of staff the decision to suspend an employee can be made by a Headteacher (the person accountable to Ofsted).

In the case of other Trust employees, the decision to suspend an employee can be made by the Executive team.

In the case of the CEO the decision to suspend can be made by the Trust Board.

### Disciplinary Hearing

Following any investigation, if there are grounds for disciplinary action, the employee will be required to attend a disciplinary hearing. The employee will be informed in writing of the concerns against them, the basis for those concerns, and what the likely range of consequences will be if it is decided at the hearing that the concerns are true. The following will also be included where appropriate;

- a summary of relevant information gathered during the investigation;
- a copy of any relevant documents which will be used at the disciplinary meeting;

and

- a copy of any relevant witness statements, except where a witness' identity is to be kept confidential, in which case as much information as possible will be provided while maintaining confidentiality.

A minimum of 2 working days' written notice of the date, time and place of the disciplinary hearing will be given to provide the employee with a reasonable amount of



time to prepare their case based on the information that they have been provided with. The hearing will be arranged as soon as is practicably possible.

The Manager will be responsible for ensuring that all of the arrangements for the hearing are made and that the employee receives the appropriate paperwork and notice of the meeting.

## **10 Role of companion at disciplinary hearings**

An employee may bring a trade union representative or workplace colleague to a disciplinary hearing under this policy. The employee must inform the Manager conducting the hearing who their chosen companion is, in good time before the hearing.

Should the employee choose to bring a companion to a hearing they will be responsible for making these arrangements and for providing their companion with any paperwork that they require.

Acting as a companion is voluntary and your colleagues are under no obligation to do so. If they agree to do so they will be allowed reasonable time off from duties without loss of pay to act as a companion.

If the choice of companion is not available at the time a disciplinary hearing is scheduled, the employee may propose an alternative time for the hearing to take place and so long as the alternative time is reasonable and within five working days after the original scheduled date, we will postpone the disciplinary hearing once. If the employee's chosen companion will not be available for more than five working days afterwards, we may ask the employee to choose someone else.

A trade union representative acting as companion may make representations, ask questions, and sum up the employee's position, but will not be allowed to answer questions on the employee's behalf. The employee may confer privately with their companion at any time during a meeting.

We may, at our discretion, allow the employee to bring a companion who is not a colleague or union representative (for example, a member of family) as a reasonable adjustment if the employee has a disability.

## **11 Procedure at disciplinary hearings**

Employees must make every effort to attend the disciplinary hearing and failure to attend without good reason may be treated as misconduct in itself. Failure to attend without good reason, or persistent inability to do so (for example for health reasons), may lead to a decision being taken based on the available evidence.

If the employee does not attend the hearing they may send a companion on their behalf and/or submit a written statement for consideration at the meeting.

The hearing will be chaired by the Manager. The Investigating Officer will also be present as will a note taker. A member of the HR Team may also be present.

At the disciplinary hearing the Investigating Officer will set out the management case. The employee will be able to respond and present any evidence of their own. The trade union representative may make representations to the Manager and ask questions, but should not answer questions on the employee's behalf. The employee may confer privately with the companion at any time during the hearing.

The Manager may adjourn the disciplinary hearing if there is a need to carry out any further investigations such as re-interviewing witnesses in the light of any new points that have been raised at the hearing. The employee will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.

The employee will be informed in writing of the decision and the reasons for it, usually within 5 working days of the disciplinary hearing. Where possible this information will also be explained to the employee in person.

## 12 Disciplinary sanctions

The Manager may find that there is no case to answer and may refer the case back to an informal process. Alternatively, the Manager may give the employee a disciplinary warning or dismiss the employee.

The usual penalties for misconduct are set out below. No penalty should be imposed without a disciplinary hearing. The Trust aims 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.

**First written warning.** A first written warning may be authorised by a Manager. It will usually be appropriate for a first act of misconduct where there are no other active written warnings on the employee's disciplinary record.

**Final written warning.** A final written warning may be authorised by a Manager. It will usually be appropriate for;

1. misconduct where there is already an active written warning on the employee's record; or
2. misconduct that is considered sufficiently serious to warrant a final written warning even though there are no other active warnings on the record.

**Dismissal.** Dismissal may be authorised by a Head Teacher, a panel of Governors or Board members, the CEO or Chief Operating Officer. It will usually only be appropriate for:

1. further misconduct where there is an active final written warning on the record; or
2. any gross misconduct regardless of whether there are active warnings on the record. Gross misconduct will usually result in immediate dismissal without notice or payment in lieu of notice (summary dismissal).

### **13 The effect of a warning**

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.

A first or final written warning will usually remain active for twelve months, this may be increased in consultation with the HR manager or Chief Operating Officer.

After the active period, the warning will remain permanently on the employee's HR file but will usually be disregarded in deciding the outcome of future disciplinary proceedings.

### **14 Appeals against disciplinary action**

The employee has the right to appeal against the disciplinary action taken against them. This must be in writing, stating the full grounds of appeal and sent to the Manager within 5 working days of the date on which the employee was informed of the decision.

If the employee is appealing against dismissal, the date on which dismissal takes effect will not be delayed pending the outcome of the appeal. However, if the appeal is successful they will be reinstated with no loss of continuity or pay.

If any new matters are raised in the appeal meeting further investigation may need to be carried out. The Chair may adjourn the appeal meeting if there is a need to carry out any further investigations such as re-interviewing witnesses in the light of any new points that have been raised at the meeting. If any new information comes to light this will be provided to the employee with a summary including, where appropriate, copies of additional relevant documents and witness statements. The employee will have a reasonable opportunity to consider this information before the meeting is reconvened.

The employee must be given written notice of the date, time and place of the appeal meeting. This will normally be no less than five working days. The employee may bring a companion to the appeal hearing (see section 10).

Where possible, the appeal meeting will be conducted by a more senior Manager or Panel not previously involved in the case. The meeting will be a review of the fairness of the original decision in the light of the points of appeal and any new information that may have come to light. The appeal will be dealt with as impartially as possible.

Following the appeal meeting the Manager or Panel may;

- confirm the original decision;
- revoke the original decision; or
- substitute a different penalty. Ordinarily a penalty will not be increased on appeal unless there is new information or evidence being available that requires further investigation.

The employee will be informed in writing of the decision and the reasons for it, usually within 5 working days of the appeal hearing. Where possible this information will also be explained to the employee in person. There is no further right to appeal.

## **15 Referrals to external bodies**

In cases where employees are dismissed or resign during a disciplinary process a referral to the Disclosure and Barring Service and Secretary of State will be made where the thresholds for referral are met.

## **16 Review**

This policy & procedure is reviewed biennially by the Trust. We will monitor the application and outcomes of this policy to ensure it is working effectively.

# Appendix 1 - Expectations of behaviour

## 1 Introduction

The aim the Expectations of Behaviour is to set out the standards of conduct expected of all staff and to provide guidance to Managers and line managers to enable them to work with staff to maintain those standards and encourage improvement where necessary.

If any employee is in any doubt as to their responsibilities or the standards of conduct expected they should speak to their line manager, Manager or a member of the HR Team.

## 2 Expectations of behaviour

While working for the Trust you should at all times maintain professional and responsible standards of conduct. In particular, you should;

- observe the terms and conditions of your contract, particularly with regard to:
  - hours of work;
  - confidentiality;
- ensure that you understand and follow our Expectations of Behaviour and our Code of Conduct;
- observe all of the Trust's policies, procedures and regulations which are available via the office in your place of work or notified to you from time to time by means of notice boards, e-mail, shared IT spaces or otherwise;
- take reasonable care in respect of the health and safety of colleagues, students and third parties and comply with our Health and Safety Policy;
- comply with all reasonable instructions given by the Managers; and
- act at all times in good faith and in the best interests of the Trust and those of our students and staff.

Failure to maintain satisfactory standards of conduct may result in action being taken under the Disciplinary Policy & Procedure.

### Misconduct

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

- a) Minor breaches of the Trust's policies;

- b) Minor breaches of an employee's contract of employment;
- c) Damage to, or unauthorised use of, the Trust's property;
- d) Poor timekeeping or time wasting;
- e) Unauthorised absence from work;
- f) Refusal to follow instructions;
- g) Excessive use of the Trust's telephones, email or internet usage for personal reasons;
- h) Inappropriate or other offensive behaviour, including using offensive or obscene language or victimisation of other members of staff or students;
- i) Negligence in the performance of duties;
- j) Smoking or vaping in no-smoking areas, which applies to anything that can be smoked and includes, but is not limited to, cigarettes, electronic cigarettes, pipes (including water pipes such as shisha and hookah pipes), cigars and herbal cigarettes; or
- k) Poor attendance.

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

### Gross misconduct

Gross misconduct is a serious breach of contract and includes misconduct which, in the opinion of the Trust, is likely to prejudice its business or reputation or irreparably damage the working relationship and trust between the Trust and the employee. Gross misconduct will be dealt with under the Disciplinary Policy and Procedure and may lead to dismissal without notice or pay in lieu of notice (summary dismissal).

The following are examples of matters that are normally regarded as gross misconduct;

- a) Theft, or unauthorised removal of property or the property of a colleague, contractor, student or member of the public;
- b) Fraud, forgery or other dishonesty, including fabrication of expense claims and time sheets, pupil's work, examinations or assessments;
- c) Actual or threatened violence, or behaviour which provokes violence;
- d) Deliberate damage to the buildings, fittings, property or equipment of the Trust, or the property of a colleague, contractor, student or member of the public;

- e) Inappropriate conduct with children or young people, including failing to maintain appropriate professional boundaries;
- f) Serious failure to follow the Trust's child protection or safeguarding procedures;
- g) Making a false declaration or failing to disclose information in relation to the disqualification from childcare requirements, or becoming disqualified from providing childcare;
- h) Serious misuse of the Trust's property or name;
- i) Deliberately accessing internet sites at work or at home, using Trust equipment, which contain pornographic, offensive or obscene material;
- j) Repeated or serious failure to obey instructions, or any other serious act of insubordination;
- k) Bringing the Trust into serious disrepute;
- l) Being under the influence of alcohol (or smelling of alcohol), illegal drugs or other substances during working hours or not being capable of fulfilling your duties because of the effects of alcohol or illegal drugs or other substances.
- m) Causing loss, damage or injury through serious negligence;
- n) Serious or repeated breach of health and safety rules or serious misuse of safety equipment;
- o) Unauthorised use or disclosure of confidential information or failure to ensure that confidential information in your possession is kept secure;
- p) Acceptance of bribes or other secret payments;
- q) Conviction or caution for a criminal offence that in the opinion of the Trust may affect our reputation or our relationships with our staff, students, parents or the public, or otherwise affects your suitability to continue to work for us;
- r) Possession, use, supply or attempted supply of illegal drugs;
- s) Serious neglect of duties, or a serious or deliberate breach of your contract or operating procedures;
- t) Unauthorised use, processing or disclosure of personal data contrary to our Data Protection Policy;
- u) Harassment of, or discrimination against, employees, students, parents or members of the public, related to any of the protected characteristics;

- v) Refusal to disclose any of the information required by your employment or any other information that may have a bearing on the performance of your duties;
- w) Giving false information regarding qualifications, entitlement to work (including immigration status) and all other statutory checks;
- x) Making a disclosure of false or misleading information under our Whistleblowing Policy maliciously, for personal gain, or otherwise in bad faith;
- y) Making untrue concerns in bad faith against a colleague;
- z) Serious misuse of our information technology systems (including misuse of developed or licensed software, use of unauthorised software and misuse of email and the internet);
- aa) Undertaking unauthorised paid or unpaid employment during your working hours. This

list is intended as a guide and is not exhaustive.

Issues which would normally be treated as misconduct may, in certain circumstances, be considered so serious that they constitute gross misconduct.



## Log of Changes to Document

<b>Date</b>	<b>Page</b>	<b>Change</b>	<b>Who:</b>
March 17	Whole document	Original document	VB
June 17	Cover page	Updated status to final. Updated date to June 17	VB
June 12 2020	Definitions and Suspensions	Updated Job Titles	HR
Oct 20	Whole Document	Updated Job Titles	HJR
Oct 20	Investigations	Updated to ensure investigation is informal	HJR
Nov 20	Whole Document	Re-approved	MET BOARD
Sept 2022	Whole Document	<p>Number formatting updated</p> <p>Job Titles and reporting lines updated.</p> <p>Updated section regarding recording of meetings to reflect best practise and state that we would record and provide a copy.</p> <p>Consistency of use of Manager and Line Manager</p> <p>5 working days notice for disciplinary meetings reduced to 'a minimum of 2 days'.</p> <p>Section regarding witnesses amended.</p> <p>Confusing wording regarding GM and warnings removed.</p> <p>Removed mention of a MET app.</p> <p>Removed harassment as an example of misconduct as we would deem this to be GM.</p> <p>Change of title from Disciplinary Meeting to Disciplinary Hearing and all contents within have been amended</p> <p>No automatic right to representation added into preliminary investigation section</p> <p>Removed reference to HR &amp; Ops Director</p>	COO

		Disciplinary Penalties changed to Disciplinary Sanctions	
Jan 23	P7 P16  Whole document	Rewording the expectations around suspension. Removal of Managing Allegations procedures as already available in the Child protection Policy. Using consistent language for a concern as a non safeguarding allegation against a staff member.	