



Interaction & Communication

— Academy Trust —

Disciplinary Policy and Procedure

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Due to the Interaction and Communication Trust Academies being re-brokered. This policy has been extended.

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Introduction

The main purpose of the disciplinary procedure is to address issues with an employee whose personal behaviour, attitude and conduct is alleged to be unsatisfactory with an aim to improve this, wherever possible. The procedure serves to ensure that this is done in a fair and consistent manner. ICAT is committed to ensuring consistency of treatment and fairness and will abide by all relevant equality legislation.

This document over-rides any former LA/Trust/School policies. The disciplinary procedure is not contractual and may be varied by the Trust.

The Trust expressly reserves the right to depart from the terms of the disciplinary procedure in circumstances where the employee does not have two year's qualifying service and will only do so following the consultation of HR and legal, to ensure the dismissal is not unfair or discriminatory.

The disciplinary procedure is strictly confidential and all aspects including all documentation and records shall be treated as such.

In minor cases of alleged misconduct, the manager should initially seek to resolve the matter informally by discussion with the employee.

The disciplinary procedure is to be used where an employee's conduct is alleged to be unsatisfactory.

Each step and action under the procedure must be taken without unreasonable delay by either the Trust or the employee.

The timing and location of meetings must be reasonable.

Since it is impossible to cover all circumstances that may arise, the examples specified in this policy are purely illustrative. The examples are included to clarify the forms of behaviour which are likely to give rise to formal disciplinary action. There are also examples of gross misconduct which will lead to dismissal unless there are mitigating circumstances accepted by the Designated Officer. In dealing with breaches in standards of conduct including gross misconduct consideration will be given to the specific circumstances of individual cases.

Purpose

We want people to enjoy working for our Trust, so we're committed to working practices and policies that reward loyalty, increase employee engagement and support our purpose of Interaction & Communication Academy Trust (ICAT).

Our aim is to deal with disciplinary matters sensitively and with due respect for the privacy of any individuals involved.

This policy outlines how we will address issues relating to allegations of unsatisfactory standards of conduct in order to bring about improvements where possible. This policy also sets out the processes that will be followed to ensure that any disciplinary matter is dealt with fairly.

Responsibilities

You are responsible for ensuring that:

- Any information communicated to you in connection with an investigation, disciplinary matter or if you are a witness is treated as confidential; and
- You attend and participate fully in investigation or disciplinary meetings as required

Your manager and the managers operating within this policy are responsible for ensuring that:

- The informal stage is used wherever possible prior to any formal action being taken
- They are consistent – applying the same rules and considerations to each case
- They ensure that the case has been appropriately investigated before a sanction is imposed
- Where practicable, they keep to the timescales within this policy to ensure that meetings are held, and outcomes are given without unnecessary delay.

Powers

The Trust has delegated the following powers to the following levels (or above) of staff:

Sanction	Disciplinary Chair	Appeal Chair
Level 1 - first warning – recorded verbal	Nominated Manager/Leadership	Deputy Principal
Level 2 - written warning	Nominated Manager/Leadership	Deputy Principal
Level 3 - final written warning	Deputy Principal / Principal	Principal/CEO
Level 4 - Dismissal	Principal/CEO/ICAT Directors	CEO/ICAT Directors

The Disciplinary Process

Before any disciplinary decision is made, the employee will be advised of the allegations against him/her and will be given the opportunity to state his/her case. The employee will be notified in writing of the allegations to be answered (plus any documentary evidence) before the disciplinary hearing.

The employee must make every effort to attend an investigative interview or disciplinary hearing and failure to attend, without good reason may be treated as misconduct in itself. If the employee fails to attend without good reason, or if he/she is persistently unable to do so (for example for health reasons), the Trust may have to take a decision based on the available evidence. If the employees trade union or work colleague cannot attend the suggested hearing date, then an alternative date will be offered within 5 working days of the original date.

The Trust will give a minimum of 10 working days' notice of a disciplinary hearing. Supporting documents (the investigation report and witness statements) will be provided at this stage.

At any disciplinary hearing or appeal hearing the employee and/or their representative will have the right to put forward his/her case. The Trust will only consider evidence presented by the employee and/or their representative, which is relevant to the allegations. Such evidence must be provided to the Trust at least three full working days before the disciplinary hearing or appeal.

All meetings will be minuted and may be digitally recorded where all parties are in agreement. Where consent is provided for the digital recording of meetings, all parties present, would be entitled to a full verbatim transcript of the recording. All digital recordings, once the script has been prepared and agreed will be destroyed by the Trust, in accordance with internal data protection procedures, only the official recording of the meeting on an official device will be permitted. Any other covert recordings taken will be in breach of this and other related data protection policies and may lead to disciplinary action.

The Trust shall be entitled to manage the time and resources allocated to a disciplinary matter including managing the time of a disciplinary hearing and allocating time within a disciplinary hearing. This may result in limiting the amount of time allocated to the parties to present their cases. This will be done on a case-by-case basis and in consultation with the union representative where the individual has one.

- The decision and the reasons shall be communicated in writing to the employee within 10 working days of the meeting.
- An employee will be advised of his/her right of appeal and how to exercise that right.

5.1 The right to be accompanied

The employee may bring a companion to any disciplinary or appeal hearing under this procedure. The companion may be either a trade union representative or a work colleague not involved in the matter. The employee must tell the disciplinary officer who his/her chosen companion is, up to and no later than 2 working days before the hearing.

A companion 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.

If the choice of companion is unreasonable due to the individual being involved or implicated and therefore potentially compromised, the Trust may ask for the employee to choose someone else. For example:

- if in the Trust's opinion the employee's companion may have a conflict of interest or may prejudice the hearing; or
- if the companion is unavailable at the time a hearing is scheduled and will not be available for more than five working days afterwards.

The Trust may, at its absolute discretion, allow the employee to bring a companion who is not a work colleague or union representative (for example a member of family) if this will help the employee overcome a disability.

At a hearing, the companion may make representations to the Trust and ask questions but should not answer questions on the employee's behalf. The employee may confer privately with his/her companion at any time during a hearing. There could be an instance when an individual has a disability and needs the companion to speak for them as a translator.

Trade Union Officials

Although normal disciplinary standards will apply to their conduct and performance as employees, no disciplinary action or suspension will be taken until the circumstances of the case have been discussed with an appropriate trade union official. In the case of suspension this may not be practical and should not prevent Management taking action.

Suspension

Suspension should only be used when there are no other alternatives to suspension, other alternatives should always be considered first. However, in certain circumstances consideration may be given to suspending the member of staff from their place of work at the outset of the investigation or at any stage during the course of the investigation.

The suspension will be for no longer than is necessary and the Trust will confirm the arrangements to the employee in writing.

The decision to suspend may only be taken by a Principal or CEO. In the unavailability of a Principal or CEO the decision may be delegated to a nominated Principal of another trust school who must make every effort to contact the Principal or CEO to discuss the case and be authorised to make the decision. Where the Principal is suspended the CEO or ICAT Directors only have the power to do so and must notify the full Trust Board. Where the CEO is suspended the Chair of the Trust only has the power to do so and must notify the full Trust Board.

While the employee is suspended, he/she should not visit the site or contact any of its pupils, parents, ICAT Directors, members or colleagues other than their 'Contact Officer' - This is a nominated senior leader/manager, appointed by the employees line manager, in cases involving suspension of an employee. It will normally be someone who is employed at the school site and is aware of the circumstances of the case. They will be responsible for ensuring the terms of the suspension are

adhered to by both sides, and to act as the contact point for the individual or if the employee has been authorised to do so by the Principal/CEO.

Suspension is a neutral act and does not imply that any decision has already been made about the allegations. The employee will continue to receive his/her salary during the period of suspension.

Every effort will be made to avoid lengthy periods of suspension. The decision to suspend and the conditions of suspension will be reviewed periodically, and the employee will be updated as and when necessary (normally monthly).

Investigations

The Local Authority Designated Officer (LADO) is responsible for managing all child protection allegations made against staff and volunteers who work with children and young people. Referrals to the LADO should be made by a designated senior manager, within one working day of being made aware of the allegation.

The purpose of an investigation is for the Trust to establish a fair and balanced view of the facts relating to any disciplinary allegations against an employee, 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 a documented account from the employee and any relevant witnesses, and/or reviewing relevant documents. Should statements from pupils/students/children be deemed necessary, these will be taken as soon as possible after the incident and in such a way as to avoid the risk of collusion between pupils. Safeguarding procedures must be followed at all times, and if appropriate another member of staff may need to be present when conducting these interviews.

Investigative interviews 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.

The Trust would allow an employee to bring a work colleague (if they are not implicated in the investigation) or trade union representative to attend. However, please note an employee does not have the right to bring a companion to an investigative interview and meetings will not be delayed due to the unavailability of a Trade Union Representative.

The employee must co-operate fully and promptly in any investigation. This will include informing the Trust of the names of any relevant witnesses, disclosing any relevant documents to the Trust and attending investigative interviews if required. A failure to comply may lead to disciplinary action.

Criminal Charges

Where the employee's conduct is the subject of a criminal investigation, charge or conviction the Trust will investigate the facts before deciding whether to take formal disciplinary action.

The Trust will not usually wait for the outcome of any prosecution before deciding what action, if any, to take. Where the employee is unable or has been advised not

to attend a disciplinary hearing or say anything about a pending criminal matter, the Trust may have to take a decision based on the available evidence.

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

6. Procedure at Disciplinary Hearings

At the beginning of the hearing, the disciplinary chair will introduce those present and the purpose of the meeting. The employee will be reminded of his/her right to be accompanied (if the employee has not chosen to be accompanied by a trade union representative or a work colleague).

The officer presenting the case on behalf of management will go through the allegations against the employee and the evidence that has been gathered. The employee will be able to respond, present any relevant evidence and ask any questions.

Management and the employee may ask relevant witnesses to appear at the hearing. Cross-examination of witnesses by all parties must be conducted in a professional and courteous manner. The Chair of the meeting will ensure that this takes place and will intervene should he/she be concerned that this requirement is not being followed by any questioner and will advise on how future questioning will take place.

Should the employee wish to question the evidence provided by another witness in the investigation then this should be raised by the employee during the investigation or upon receipt of the investigation documents.

The employee will be given a full opportunity to ask questions and put forward any mitigating factors which he/she believes are relevant to the allegations.

Once the employee has been afforded an opportunity to explain their position, the disciplinary chair will adjourn the hearing to consider the decision and will either:

- On reconvening the hearing, they will give the decision and explain the reasons for the decision, and confirm as soon as possible in writing; or
- Inform the employee that the decision will be given in writing as soon as possible.

The disciplinary chair may adjourn the disciplinary hearing if the Trust needs to carry out any further investigations in light of any new points the employee has raised at the hearing. The employee will be given a reasonable opportunity to consider and comment on any new information obtained before a decision is given.

7. Levels of Disciplinary Action

There are four stages, each of which is designed to cover the varying seriousness of the cases. The stages give a proper sequence for persistent cases. Where the case is of sufficient importance or seriousness to use the procedure, disciplinary action will be taken at whatever stage appears appropriate to the circumstances.

No employee will be dismissed for a first breach of discipline except in the case of gross misconduct when the sanction may be dismissal without notice and without pay in lieu of notice.

The following decisions will be confirmed in writing:

The decision to issue no warning

Level 1 - A first warning, this will be a verbal warning but will be recorded, this may be given where the case is of sufficient importance or seriousness to bring to the attention of the employee formally.

Level 2 - A written warning may be given where the case has already involved a first warning and insufficient improvement has been made, where further misconduct has occurred, or where the case is of sufficient importance or seriousness.

Level 3 - A final written warning may be given where the case has already involved a written warning and insufficient improvement has been made, where further misconduct has occurred or where the case is of sufficient importance or seriousness. Also, where gross misconduct may not warrant dismissal, for example due to mitigating circumstances.

Level 4 - Dismissal. An employee is likely to be dismissed where the case has already involved the final written warning and insufficient improvement has been made or where further misconduct has occurred or where the case is so serious as to constitute gross misconduct or where there is some other substantial reason.

8. Alternatives to dismissal

In some cases, the Trust may at its discretion consider alternatives to dismissal. These will usually be accompanied by a final written warning. Examples include:

- Demotion
- Transfer to another department or job
- Loss of seniority

9. The Decision Letter

A letter detailing the decision will be given to the employee and a copy placed on their personnel file, if a warning is issued.

- Following the outcome of the hearing the decision letter will state:
- The decision (i.e. that there is no case to answer or the findings and the appropriate level of disciplinary sanction).
- The reason for the decision.
- The course of action to be followed by the employee.
- Time scale in which improvement is required, if applicable.
- Where assistance is required, the assistance which will be made available to the employee (e.g. training and guidance).
- The date on which the sanction will elapse.
- That further disciplinary action will be considered if there is further misconduct or insufficient improvement within the timescale of the warning.
- The right of appeal against the decision and how to exercise that right.

- **If the warning is a final written warning** it will also state that if the employee's conduct continues to be unsatisfactory or if there is further misconduct it may lead to dismissal.

10. Time Limit for Warnings

First warning the time limit shall be six months (excluding the summer break) from the date of the decision.

Written warning the time limit shall be nine months (excluding the summer break) from the date of the decision.

Final written warning the time limit shall be eighteen months (excluding the summer break) from the date of the decision. However, in exceptional circumstances misconduct may be so serious that if repeated at any time in the future the likely consequence is dismissal. The person/s making the decision may impose a final written warning and specify that such a warning will remain in force for a longer period of time.

Breaches of discipline will be disregarded after the specified period of satisfactory conduct but will remain permanently on the employee's personnel file.

11. Right of Appeal

All employees have the right of appeal.

Appeals must be lodged in writing to the Principal/CEO or Board of Directors within five working days of the decision being communicated to the employee (i.e. usually within five days of the date of the outcome letter).

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 the employee will be reinstated with no loss of continuity of service and pay.

If the employee raises any new matters in his/her appeal, the appeal officer may need to carry out further investigation. If any new information comes to light the appeal officer will provide 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 hearing.

The Trust/School will give the employee written notice of the date, time and place of the appeal hearing.

The appeal hearing may be a complete re-hearing of the matter or it may be a review of the fairness of the original decision in the light of the procedure that was followed and any new information that may have come to light. This will be at the Trust/School's discretion depending on the circumstances of the case. In any event the appeal will be dealt with as impartially as possible.

Where possible, the appeal hearing will be chaired impartially by a senior manager who has not been previously involved in the case. The employee can bring a companion to the appeal hearing, the companion may be either a trade union representative or a work colleague not involved in the matter. If Directors are required at any stage of the process, they reserve the right to convene a panel of one or more Directors.

The appeal officer may adjourn the appeal hearing if the Trust/School need to carry out any further investigations in the light of any new points the employee has raised at the hearing. The employee will be given a reasonable opportunity to consider any new information obtained before a decision is given.

The appeal officer will take advice from the school/Trust HR advisor when determining the outcome of the appeal meeting.

The appeal officer will inform the employee in writing of the final decision as soon as possible.

There will be no further right of appeal.

11.1. Appeal Officer

The appeal officer may adjourn the appeal hearing if the Trust need to carry out any further investigations in the light of any new points the employee has raised at the hearing. The employee will be given a reasonable opportunity to consider any new information obtained before a decision is given.

The appeal officer will take advice from the school/Trust HR advisor when determining the outcome of the appeal meeting.

The appeal officer will inform the employee in writing of the final decision as soon as possible. There will be no further right of appeal.

12. Investigation/Disciplinary processes after an employee has left the Trust

The Trust will comply with the relevant Keeping Children Safe in Education document and reserves the right to exhaust any investigation/disciplinary process where practicably possible for concerns relating to safeguarding where an employee leaves the Trust (through resignation). Advice will be sought from ICAT Central Team and the Designated Officer where applicable.

In all non-safeguarding disciplinary matters, the Trust reserves the right to exhaust any investigation/disciplinary process where practicably possible.

If a witness in a disciplinary case ceases to work for the Trust during an ongoing disciplinary/appeal process, the Trust may make contact to provide information or for an investigation or to attend a hearing, where practicable.

13. Referrals to Disclosure Barring Service (DBS) & Teacher Referral Agency

If the allegation is substantiated and the person is dismissed (or the employer ceases to use the person's services, or the person resigns or otherwise ceases to provide his or her services), the designated officer(s) should discuss with the case manager and their HR contact whether the Trust will decide to make a referral to the DBS for

consideration of whether inclusion on the barred lists is required and, in the case of a member of teaching staff at a school, whether to refer the matter to the TRA to consider prohibiting the individual from teaching.

14 Monitoring the Impact of the Policy

The Trust will monitor the outcomes and impact of this policy on an annual basis, including trends in progression across specific groups to assess its effect and the Trust's continued compliance with equalities legislation.

Appendix 1

Examples of Misconduct (not exhaustive)

- Persistent poor timekeeping
- Unauthorised absence from work
- Failure to comply with a reasonable management instruction
- Failure to comply with sickness absence procedures
- Acting in an aggressive or threatening manner or using foul or abusive language towards stakeholders, colleagues or managers
- Misuse or unauthorised use of school facilities, equipment or resources
- Inappropriate use of school time, e.g. excessive use of time for personal conversations, correspondence, telephone calls, emails/internet use etc.
- Knowingly being an accessory to, condoning or failing to report a serious disciplinary offence
- Dishonesty, deliberate misinterpretation of information or falsification of records
- Unauthorised use or disclosure of confidential information gained through employment with the school or failure to protect such information
- Being unfit for duty through use of illegal substances or alcohol
- Failure to observe health and safety rules by act or omission, or negligence that threatens health and safety
- General conduct in the workplace that has a negative impact on the work of the section, on colleagues, or on service delivery
- Failure to declare any other work undertaken while being employed by the school
- Damage to property
- Failure to comply with the Trust's policies and procedures
- Deliberate failure to reach required standards of performance
- Deliberate failure to carry out duties and responsibilities
- Inappropriate behaviour/conduct towards management or colleagues

Appendix 2

Examples of Gross Misconduct (not exhaustive)

- Dishonest acts and deliberate falsification of records which result in or could result in serious consequences
- Falsification of qualification which are a stated requirement of employment or which resulted in financial gain
- Serious insubordination
- Conduct that is a serious abuse of position
- Bringing the school/Trust into serious disrepute or causing a serious loss of confidence in the school/Trust
- Theft or fraud
- Undertaking other paid employment whilst receiving sick pay or other benefits from the school during a period of sickness or unauthorised absence without prior management agreement
- Deliberate disregard of the Trust's financial procedures and rules
- Physical or verbal assault or violence
- Deliberate and serious damage to school property
- Unauthorised removal of school property
- Serious breach of health and safety rules and/or regulations
- Breach of Equal Opportunities Policy
- Offensive or abusive behaviour towards others, including harassment, bullying or victimisation
- Making defamatory statements in the course of employment (e.g., making statements that are or could be slanderous or libellous). (A defamatory statement is a statement that will injure the reputation of another in the estimation of members of society generally)
- Being unfit for duty through use of illegal substances or alcohol in circumstances where it could constitute a health and safety hazard or where it would be in breach of a position of responsibility and trust
- Loss of confidential or sensitive data through negligence, loss of important or expensive equipment through negligence
- Deliberately accessing (via the internet or dark web) or circulating illegal, pornographic, offensive or obscene material
- Criminal offences committed at work
- Criminal offences and other conduct outside employment which would prevent an employee from continuing to do their job or which affects their suitability to perform their work or is liable to damage the school/Trust
- Serious negligence which causes or might cause unacceptable loss, damage or injury
- Serious breach of confidence (subject to the Public Interest (Disclosure) Act
- Serious breach of Safeguarding or Child Protection Policy & Procedures