



# **Dixons Allerton Academy**

## **Staff Disciplinary**

**Responsibility for Review: Senior Leadership Team**

## Statement of intent

It is not the prime objective of the disciplinary procedure to inflict punishment. The main purpose is to encourage an employee whose standard of work or conduct is unsatisfactory to improve. The procedure serves to ensure that this is done in a fair and consistent manner. Clear guidelines are set out in the Council's disciplinary rules and the GTC (England) Code of Conduct and Practice for Registered Teachers on what constitutes acceptable standards of performance and behaviour.

**Signed by :.....**  
**Date:.....**  
**(Principal)**

**Signed by :.....**  
**Date:.....**  
**(Chair of Governors)**

## 1. Preamble

Academies are strongly recommended to follow the guidance in the Managing Investigations document. The guidance includes detailed information on conducting investigations, suspending a member of staff and examples of what constitutes gross misconduct.

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

- 1.1 In minor cases of alleged misconduct the manager should initially seek to resolve the matter informally by discussion with the employee.
- 1.2 The disciplinary procedure is to be used where an employee's work or conduct is alleged to be unsatisfactory.  
All managers will check with the Academy's HR Adviser whether a concern should be dealt with under the disciplinary or capability procedures.
- 1.3 Each step and action under the procedure must be taken without unreasonable delay.
- 1.4 The timing and location of meetings must be reasonable.

## General Principals

- No disciplinary action will be taken against an employee until the case has been fully investigated
- During any management interview, an employee has the right to be accompanied by a trade union representative or a work colleague. The right to be accompanied will be confirmed in writing to the employee.
- Before any disciplinary decision is made regarding an employee 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 at least 10 working days (plus any documentary evidence) before the hearing.
- At any disciplinary hearing or appeal hearing the employee will have the right to:
  - produce written statements and bring witnesses (All written statements shall be circulated to all parties at least 3 days in advance of the hearing)
  - ask questions of any witnesses present
  - be represented by up to two trade union representatives or work colleagues
  - present his/her case (or be represented by up to two trade union representatives or work colleagues) prior to the decision being made whether or not to issue the warning or to dismiss.

See Appendix 3 for the procedure at the hearing

NB. In accordance with Section 10(4) of the Employment Relations Act 1999 an employee may seek a postponement of a hearing and propose an alternative time if their chosen trade union representative or work colleague is not available. The alternative time proposed by the employee must be reasonable and fall within 5 working days beginning the first day after the day proposed by the employer.

- No employee will be dismissed for a first breach of discipline except in the case of gross misconduct when the penalty may be dismissal without notice and without pay in lieu of notice.  
NB In all circumstances teachers are entitled to a minimum of 4 weeks pay – see Local Conditions of Service paragraph 4.6
- The decision and the reasons shall be communicated in writing (or verbally and in writing) to the employee.
- An employee will have the right to be informed (if a warning is given or if the employee is dismissed) at the time the decision is made; of the right of appeal and how to exercise that right (see Section 5).

### **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 full-time official. In the case of suspension this may not be practical and should not prevent Management taking action.

### **Suspension**

- In exceptional circumstances consideration may be given to removing the member of staff from their place of work (i.e. suspension) at the outset of the investigation or at any stage during the course of the investigation. Suspension should only happen in extreme cases and the procedure in Appendix 1 should be followed (for draft suspension letter see Appendix 1a). The Academy's Human Resources Adviser will be contacted if we are considering suspension.
- Every effort should be made to avoid lengthy periods of suspension.

The decision to suspend and the conditions of suspension will be reviewed initially after a period of 1 month and subsequently on a monthly basis. The suspended employee will be informed of the outcome of each review. Any representations received from the employee or the employee's trade union representative will be considered at each review.

- For entitlements to pay and sickness entitlement during suspension see Appendix 2

## **2. Levels of Disciplinary Action**

- 2.1 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.

2.2 No employee will be dismissed for a first breach of discipline except in the case of gross misconduct when the penalty 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** 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 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.

A final warning may also be given 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 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.

### **3. The Decision Letter**

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

3.2 Following the outcome of the hearing the decision letter will state:-

- i) The decision i.e that there is no case to answer or the appropriate level of disciplinary sanction
- ii) The reason for the decision.
- iii) The course of action to be followed by the employee.
- iv) Time scale in which improvement is required, if applicable.
- v) Where assistance is required, the assistance which will be made available to the employee e.g. training and guidance.
- vi) The date on which the warning will elapse (see section 4)

- vii) That further disciplinary action will be considered if there is further misconduct or insufficient improvement within the timescale of the warning
- viii) The right of appeal against the decision and how to exercise that right. (See Section 5).

**If the warning is a final 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.

#### **4. Time Limit for Keeping Records**

First warning, the time limit shall be 6 months (excluding the Summer Break) from the date of the decision.

Written warning the time limit shall be 9 months (excluding the Summer Break) from the date of the decision.

Final warning the time limit shall be 12 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 as long as the employee's employment with the Council exists.

Breaches of discipline will be disregarded after the specified period of satisfactory conduct (with the possible exception of the final warning --see above)

#### **5. Right of Appeal**

All Employees have the right of Appeal.

Appeals must be lodged in writing to the Clerk of the Governing Body within 28 days (excluding the Summer Break) of the date of the letter.

There is no further internal appeal against the decision of the Appeals Committee.

#### **Appeal Process**

An appeal is a rehearing and an employee has the same rights as s/he had at the first hearing.

## Appendix 1

### SUSPENSION

Considering whether Suspension is Appropriate

1.1 The provisions for any suspension of Academy-based staff are set out in Schedules 16 and 17 of the Academy Standards and Framework Act 1998. Decisions on suspensions are taken by Principal or the governing body (action by the Chair in relation to the Principal must be notified to the full governing body).

1.2 Staff against whom an allegation is made should not automatically be Suspended (See Section 1.4).

Where the allegation is that a criminal offence may have been committed or a child is at risk of significant harm, immediate suspension is more likely to be appropriate. In the case where immediate referral to the Education Bradford Lead Officer (The Principal Education Social Worker) is accompanied by consideration of disciplinary procedures, suspension may or may not be appropriate. The Principal or Chair of Governors should consult with the Education Bradford Lead Officer and consider any recommendation which may be made by the child protection agency/police or strategy meeting before a decision to suspend is taken.

1.3 Suspension may be considered at any stage of an investigation. Suspension is a neutral act, not a disciplinary sanction and the employee will receive normal pay. Paid leave of absence, mutual agreement to refrain from work, alternative duties/ locations or removal from contact with pupil may also be used as an alternative to suspension.

1.4 Suspension should not be undertaken without good reason. In the same way, an over-hasty or ill-judged decision immediately to suspend a member of staff when an allegation of abuse is made can have a substantial, detrimental effect upon the person's career. There may be other options to suspension (see paragraph 1.3). Suspension is not only a traumatic experience for the individual involved, but also for their family, for other children at the Academy, their parents and for other staff. All concerned will wish to be reassured that the responsible agencies will act in a careful, measured way when allegations of abuse are brought to their attention. Circumstances in which suspension properly occurs include:

- (i) where a child or children is/are at risk;
- (ii) where the allegations are so serious that dismissal for gross misconduct is possible;
- (iii) where a suspension is necessary to allow the conduct of the investigation to proceed unimpeded.

1.5 In all cases where suspension is being considered, the Principal or Chair of Governors should advise the individual to seek assistance from his or her trade union.

2. An Interview to Consider Suspension of a Member of Staff

- 2.1 Where suspension is being considered, an interview should be arranged. Normally, the interview should be undertaken outside pupil contact time.<sup>1</sup> The Principal (or, in cases where the allegation is against the Principal, the Chair of Governors) should consult with and seek advice from the Education Bradford Lead Officer.
- 2.2 Where the Police are involved in a criminal investigation, any interview arranged where suspension is considered, should not be conducted without prior consultation with the officer in charge of the case. Where there is no Police involvement, an interview should be arranged in accordance with the following procedures.
- 2.3 When called to an interview where suspension is a possible outcome the member of staff should be advised to seek the advice of his/her trade union. A person who is not a member of a trade union may be accompanied by a work colleague. He/she, where accompanied, should be offered the opportunity of a brief meeting with the representative or work colleague before the interview.
- 2.4 The member of staff should be informed at the outset of the interview that an allegation has been made and that, at the conclusion of the interview, suspension might occur. It should be made clear, however, that the interview is not a formal disciplinary hearing but is for the purpose of raising a serious matter which may lead to suspension and further investigation.
- 2.5 The member of staff should be given as much information, including reasons for any proposed suspension, as is consistent with not interfering with an investigation into the allegation. This meeting is not concerned with examination of the evidence but is an opportunity for the member of staff to make representations concerning any possible suspension. The member of staff should be given an opportunity to make such representations after the information has been given. A brief adjournment should be offered to the member of staff prior to response.
- 2.6 If, as a result of the interview, it is considered by the Principal/Chair of Governors that suspension is necessary along with a full investigation of the allegation, the individual should be advised that he or she is suspended from duty. Written confirmation of the suspension should be dispatched within one working day; giving reasons for the suspension (see Appendix 1a).
- 2.7 The decision to suspend should be kept under review, and the suspension may be lifted prior to the completion of the investigation if appropriate.

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<sup>1</sup> In accordance with the relevant ACAS Code of Practice, where the person is a trade union or safety representative, the interview should not be arranged without prior discussion with the relevant branch secretary or a full-time official of the trade union concerned. From the outset it should be established that the action being taken is not an attack on the functions of a trade union.

3. After a Decision to Suspend Pending Investigation:
  - 3.1 Where a member of staff has been suspended, the Chair of Governors, Director of Education and if applicable the Managing Director of Education Bradford, should be informed of the suspension formally, in writing. In all cases a report should be made to the governing body that a member of Academy staff has been suspended pending investigation. It is inadvisable to provide more than the minimum information necessary to the governing body, as more than this would prejudice governors' impartiality in any subsequent hearing or appeal in disciplinary proceedings. Where the Principal has been suspended, the implications for the management of the Academy will need to be considered including the arrangements for an Acting Principal.
  - 3.2 Where a pupil or parent has made the allegation they should be confidentially informed of the suspension. Where the pupil is under 18, his or her parents should normally be informed, in confidence in so far as to do so is consistent with wider child protection considerations.
  - 3.3 Senior teachers in the Academy who need to know of the reason for the suspension should be informed as far as is necessary in the particular circumstances. The Principal/Acting Principal should take a decision on informing other staff colleagues in the Academy of the suspension.
  - 3.4 In appropriate cases the Principal/Acting Principal should discuss with the Chair of Governors the extent to which it is necessary to make a statement to parents of children in the Academy, having considered the need to avoid unwelcome publicity.
  - 3.5 In certain circumstances, e.g. child protection investigations, it may be necessary for the Principal (Acting Principal in consultation with the Chair of Governors) to provide immediate reassurance to parents and children in the Academy and there may be a need for information to continue to be provided during the course of an investigation to parents, children and other colleagues.
  - 3.6 In respect of paragraphs 3.3, 3.4 and 3.5 guidance should be sought from the Education Bradford Lead Officer or, where relevant and appropriate, from Social Services or the Police.
  - 3.7 The Principal/Acting Principal in consultation with the Chair of Governors should consider, and keep under review, decisions as to who is informed of the suspension and investigation and to what extent confidentiality can or should be maintained, according to the circumstances of a particular case. In a situation where a matter becomes common knowledge or the subject of general gossip, it may be desirable to provide an accurate statement for public information. Advice should be taken from the Education Bradford Lead Officer.

#### 4. Support for Staff during the Period of Suspension:

- 4.1 The suspended member of staff will be given the name of a member of staff as an information contact. The main role of the contact person is to provide information as to the progress of the investigation. Social contact with colleagues and friends at the Academy should not be precluded except where it is likely to be prejudicial to child protection enquiries, criminal investigations or disciplinary processes.
- 4.2 Although it is the aim that all investigations should be conducted as speedily as possible consistent with establishing the full facts, arrangements should be made (by negotiation) for the individual, or his or her representative, to be contacted regularly with information on progress and developments on the case. These arrangements should not preclude him/her, or his or her representative, contacting those conducting the investigation at any time.
- 4.3 According to the needs and wishes of the member of staff to be kept informed, a colleague contact should also be in a position to provide information about developments at the Academy in general.
- 4.4 In some cases, it may be appropriate to ask whether welfare counselling or the support of a medical adviser, whichever is appropriate, would be helpful, or to respond to a request for such further support.

5. Support for Others Concerned:

5.1 If a child or children have made the allegation/s they and their parents will need support. Consideration should be given to the form such support should take. Consideration should also be given to what support may be needed for others at the Academy, both staff and pupils, according to the circumstances of the alleged abuse. In some cases, therapeutic counselling from expert sources may be necessary. Advice on this can be obtained via the ACPC/Social Services.

6. Where no action is taken to suspend:

6.1 The Principal/Chair of Governors (in cases where the allegation is against the Principal) should explain to the member of staff the circumstances which led to consideration of suspension and further explain any follow up action which it is proposed to take. The member of staff may be accompanied by a trade union representative or work colleague. According to the circumstances of the case, appropriate assistance or advice may be offered. The Principal/Chair of Governors should seek to establish what support, if any, is required and where appropriate and acceptable to the member of staff should seek advice from the Education Bradford Lead Officer. According to circumstances, appropriate counselling services should be considered.

6.2 If a member of staff has not been suspended but there are child protection or serious concerns about aspects of his/her conduct, a full investigation should be undertaken before making a decision about further action under disciplinary procedures. The Academy's HR advisor will be contacted for further advice on undertaking an investigation.

**SAMPLE SUSPENSION LETTER**

Mrs Jones  
48 Lovelace Drive  
Heaton  
Bradford  
BD15 4JB

15 August 2000

Dear Mrs Jones

I am writing to confirm the decision conveyed to you today, that with immediate effect and until further notice, you are suspended from duty.

**Reason for suspension**

An allegation regarding your conduct, in that you -----  
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In view of the gravity of the allegation and the need for a thorough and objective investigation to be conducted, I have resolved that you be suspended for the duration of the investigation.

You should note that suspension is not a punishment or disciplinary sanction, nor does it pre-empt any conclusions of the investigation.

At a suitable time during the investigation, you will be interviewed and have the right to be accompanied by your trade union representative or a work colleague not involved in the allegations. On completion of the investigation, you will be advised of the outcome and, in the event of disciplinary action being recommended, the disciplinary procedures as adopted by the Governors will be followed.

**Terms of suspension**

1. It is a condition that you must not visit the Academy or have any contact with governors, staff (see 2 below), parents or pupils. This is intended to protect you from any potential allegations of harassment/intimidation of witnesses or collusion and is therefore in your own best

interests. Failure to follow this condition could, in itself, lead to formal disciplinary action being taken.

2. Any contact with staff must only be through normal social arrangements. There must be no discussion about the case or matters relating to it.
3. If for any reason you should need to visit the Academy, you must seek prior permission, in writing, from me.
4. During the period of suspension you will receive normal pay.

During your period of suspension, the Deputy Principal, Mr Smith, will act as an intermediary between you and the Academy and can be contacted by telephone or in writing at the Academy. Mr Smith will also keep you informed of any developments in Academy.

If you wish to consult a Human Resources Adviser regarding procedural matters concerning your suspension and the pending investigation, please contact Peter Brown by telephoning 932786.

Yours sincerely

Mrs M Thropp  
**Principal**

## Appendix 2

### PAY DURING SUSPENSION

- A. The employee is entitled to normal pay during a period of suspension. Normal pay means the pay which the employee would have been paid in the particular week of the suspension. The appropriate regular payments listed below shall also be included, providing that they would have been paid to the employee in that particular week but for the suspension.

The payments to be included, **if regular**, are for:-

- Shift work
- Night work
- Split duty
- Weekends
- Unsocial hours
- Scheduled standby duty
- Contractual overtime.

In addition, where appropriate, employees shall continue to receive the following allowances providing they would have received them but for the suspension:-

- Essential car user lump sum allowance
- Housing Department van allowance.

For any bonus earner, normal pay shall also include a sum equal to his/her average bonus earnings. This shall be determined by reference to the average bonus earned per hour over the preceding 3 months prior to the suspension, or any other period as agreed locally. Once such a bonus sum is calculated as described, then it will remain fixed at that amount for the duration of the suspension. However, if new bonus rates are agreed for the particular bonus scheme during the period of suspension, or if the bonus rates are amended due to any general pay increase, then the sum will be appropriately revised. If the employee becomes no longer contractually eligible to receive such bonus payments during the period of suspension then, from that date, the bonus will cease to be paid.

- B. If the employee takes annual leave or is sick at any time during the suspension, then pay for such leave or sickness will be calculated in accordance with the normal provision of the Council's annual leave or sickness scheme. Any other payments, e.g. the allowances detailed above, will be paid in accordance with that scheme's rules for any leave or sickness absence.

When any period of sickness as described above comes to an end, then the employee – if still suspended – again becomes entitled to normal pay during suspension as defined in paragraph (A) above.

## **APPENDIX 3**

### **PROCEDURE AT THE HEARING/APPEAL**

**At the beginning of the hearing/appeal, the Chair/Human Resources Representative shall explain the procedure to the parties.**

#### **Disciplinary Hearings/Appeals**

1. The management representative will put the management case and may call witnesses.
2. The employee or his/her trade union representative/s or work colleague/s will have the opportunity to ask questions of the management representative and any witnesses s/he has called.
3. The employee or his/her representative will put her/his case and may call witnesses.
4. The management representative will have the opportunity to ask questions of the employee and any witnesses s/he has called.
5. The Chair (and through him/her the other governors) may ask questions of any party. If new evidence is brought out, both parties will be given an opportunity to comment and, if necessary, to adjourn.
6. The management's representative will have the opportunity to sum up her/his case.
7. The employee or her/his representative will have the opportunity to sum up her/his case.
8. The Chair shall ask both parties to leave while the decision is made; only recalling the two parties to clear points of uncertainty on evidence already given. If this is necessary both parties will return even if only one is concerned with the point giving rise to the doubt.
9. The Chair shall recall the two sides to :
  - 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 made known to him/her later both verbally and in writing as soon as possible or
  - inform the employee that the decision will be given in writing as soon as possible