



# The Athelstan Trust

## Disciplinary Rules and Procedure

### Disciplinary rules

- 1 **Introduction:** These rules should be read in accordance with the Trust's disciplinary and dismissal procedure. It is the contractual duty of every member of staff to observe the rules set out below.
- 2 **Safeguarding:** The welfare of children is placed at the centre of the Trust and its culture and the Trust's policies are designed to ensure that all those who work in the Trust and may have contact with children are clear on the rules of conduct and the expectations of the Trust. Children place trust in those connected to the Trust creating obligations which we must all meet to ensure the successful outcomes achieved by the children in our care.
- 3 **Rules of conduct:** Whilst employed by the Trust, you should always maintain professional and responsible standards of conduct. In particular, you should:
  - 3.1 observe the terms and conditions of your contract of employment;
  - 3.2 ensure that every pupil feels safe and protected from any form of abuse and actively commit to safeguarding and promoting the welfare of children and young people;
  - 3.3 ensure that you understand and follow the Trust's Code of Conduct for Staff enclosed within this Employment Manual;
  - 3.4 observe all other policies and procedures included in the Employment Manual or otherwise notified to you from time to time;
  - 3.5 comply with all reasonable advice given by staff who are senior to you;
  - 3.6 act at all times in good faith and in the best interests of the Trust, its Academies, their pupils, parents, guardians or carers and staff;
  - 3.7 uphold public trust in the profession and maintain high standards of ethics and behaviour;
  - 3.8 have an understanding of, and always act within, the statutory frameworks which set out your professional duties and responsibilities.
- 4 **Instances of misconduct:** The following is a non-exhaustive list of offences which amount to misconduct falling short of gross misconduct:
  - 4.1 unauthorised absence from work;
  - 4.2 lateness;
  - 4.3 inappropriate standard of dress;
  - 4.4 smoking on Trust or Academy premises;
  - 4.5 contravention of minor safety regulations;
  - 4.6 disruptive behaviour.
- 5 **Gross misconduct:** You must not commit any act of gross misconduct. Any such act may result in your dismissal without notice. Gross misconduct includes but is not limited to the examples set out below, offences of a similar nature and attempts to commit such offences.



# The Athelstan Trust

## Disciplinary Rules and Procedure

### Examples of gross misconduct (whether committed at or outside of work):

- 5.1 failure to comply with the Trust's child protection and safeguarding policy and procedures and a failure to commit to safeguarding and promoting the welfare of children and young people;;
- 5.2 failure to immediately notify the Trust of any child protection investigation of you or any member of your household;
- 5.3 failure to immediately notify the Trust of any investigation, arrest, charge or conviction of any criminal offence brought against you during your employment;
- 5.4 failure to immediately notify the Academy of any investigation for any allegation of a disciplinary nature at any other employer or organisation at which you are a volunteer;
- 5.5 failure to comply with any of the Trust's policies and procedures in the Employment Manual to include the Trust's Code of Conduct, the Trust's IT acceptable use policy or the Trust's social media policy;
- 5.6 accepting or giving bribes or other secret payments or other breach of the Trust's anti-bribery and corruption policy;
- 5.7 failure to immediately notify the Trust if you are or become the subject of a referral to or a sanction, restriction or prohibition issued by the Teaching Regulation Agency (previously known as the National College of Teaching and Leadership or any successor body or by a regulator of the teaching profession in any other country);
- 5.8 failure to immediately notify the Academy of any change in circumstances which has or will result in you being disqualified from providing childcare in connection with early or later years provision or from being directly involved in its management;
- 5.9 indecent, violent or offensive behaviour;
- 5.10 inappropriate conduct or communications with a pupil of any of the Trust's Academies, or a pupil of another school or academy;
- 5.11 misuse of or deliberate damage to Trust or Academy property;
- 5.12 fraud, theft or dishonesty to include giving false information or representations before or during your employment;
- 5.13 failure to obey a lawful order;
- 5.14 gross dereliction of duty;
- 5.15 gross negligence;
- 5.16 being on duty whilst under the influence of drugs and / or alcohol;
- 5.17 possession, use, supply or attempted supply of controlled substances or the sale of any drug or substance (prescribed or not);;
- 5.18 actions that could be interpreted as glorifying or supporting terrorism, extremism or organisations promoting terrorist or extremist views, or encouraging others to do so;



# The Athelstan Trust

## Disciplinary Rules and Procedure

- 5.19 bullying or harassment;
- 5.20 conduct which is likely to damage the reputation of the Trust or its Academies or bring them into disrepute;
- 5.21 discrimination (including harassment or victimisation) and the use of discriminatory language on grounds of sex, sexual orientation, marriage and civil partnership status, gender reassignment, race, religion or belief pregnancy and maternity, , disability or age;;
- 5.22 disregarding health and safety rules / requirements (including the Trust's Health and Safety at Work Rules) and endangering yourself or others;
- 5.23 giving false information as to qualifications or entitlement to work (including immigration status);
- 5.24 wilful neglect or refusal of duty;
- 5.25 misuse of information including breach of confidence, misuse of private or confidential information or breach of data protection law. This includes information that is confidential to the Trust (such as financial information) as well as information about individuals. Such misuse may include accessing or attempting to access information, or sharing or attempting to share it;
- 5.26 misuse of confidential information;
- 5.27 viewing, retrieving or downloading of pornographic material, or any other material which the Trust or Academy reasonably believes is unsuitable at any time when on Trust premises or otherwise in the course of your employment;;
- 5.28 causing loss, damage or injury through serious negligence;
- 5.29 making a disclosure of false or misleading information under the Trust's whistleblowing policy maliciously, for personal gain, or which is not in the public interest; or
- 5.30 making untrue allegations in bad faith against a colleague.



# The Athelstan Trust

## Disciplinary Rules and Procedure

### Disciplinary procedure

#### Introduction

- 1 **Flexibility:** The disciplinary procedure is applicable to you once you have completed your probationary period. The Academy will follow a fair procedure in the event that disciplinary action is necessary but this procedure does not have contractual effect. There may be occasions when the Academy considers it appropriate to change or omit parts of this procedure.
- 2 **Amendments:** The Trust may revise this procedure from time to time and will advise you of any amendments.
- 3 **Capability:** This procedure does not apply to incompetence, incapability or other poor performance unless this is attributable to misconduct.
- 4 **Record of proceedings:** The Academy may, in its sole discretion, appoint someone to take notes or make a recording of any interview or hearing under this procedure. No other recordings shall be made without the express approval of all those present at the interview or hearing.

#### The procedure

- 5 **Investigation:** As a first step any disciplinary issue will be investigated. If, after investigating the matter, it appears that there are no reasonable grounds for concern, you will be informed of this in writing and, if relevant, allowed to return to work as normal.
- 6 **Suspension:** If the matter to be investigated is thought at any stage of the investigation to involve gross misconduct or it is in the interests of the Trust, its Academies, a pupil, an employee or you, the Headteacher may immediately suspend you from work on full pay and benefits whilst the investigation proceeds. Where necessary, the Headteacher will consult with the Chief Executive Officer.
- 7 **Support and guidance:** The Academy will notify you of a person to contact during any period of suspension or investigation. You may also wish to seek the advice of your union representative where available.
- 8 **Separation of roles:** The Academy will appoint a senior member of staff to carry out the investigation (**Investigating Officer**).
- 9 **Interview:** As part of the investigation the Investigating Officer may (if considered appropriate) undertake an interview with you.
- 10 **Next stage:** If on completion of the investigation the Investigating Officer considers that it is necessary, a disciplinary hearing will be arranged and you will be invited to attend. You must take all reasonable steps to attend the disciplinary hearing.
- 11 **Information:** You will be given advance reasonable notice of the timing and the location of the hearing. You will be informed in writing of the purpose of the hearing and the allegations against you. You will be provided with a copy of any documents which may be referred to at the Disciplinary Hearing and invited to submit any relevant documents. You will be given a reasonable opportunity to consider your response to this information. If your dismissal is a possible outcome of the hearing, you will be informed of this possibility in advance.



# The Athelstan Trust

## Disciplinary Rules and Procedure

- 12 **Right to be accompanied:** You may be accompanied to the disciplinary hearing by a colleague or trade union official.
- 13 **Witnesses:** You may ask relevant witnesses to attend the disciplinary hearing, provided it is reasonable to do so and you give the Academy sufficient advance notice to arrange their attendance. You will be given the opportunity to respond to any information given by a witness. However, you will not normally be permitted to cross-examine witnesses unless, in exceptional circumstances, the Disciplinary Panel decides a fair hearing could not be held otherwise.
- 14 **Witness statements:** If statements have been obtained from witnesses during the course of the investigation you will be given a copy of them. In certain circumstances it may be necessary to preserve the anonymity of a witness.
- 15 **Disciplinary panel:** The Academy will appoint a Disciplinary Panel to hear the matter. In appropriate circumstances, the Head or another person may hear the matter on his / her own. The Investigating Officer shall not be a member of the Disciplinary Panel.
- 16 **The disciplinary hearing:** The hearing will be conducted by the Disciplinary Panel. The Investigating Officer will be asked to report on his / her investigation. Both you, or the person accompanying you, and the Disciplinary Panel may question the Investigating Officer and any witnesses. You will be entitled to give your explanation and may be questioned by the Investigating Officer as well as by the Disciplinary Panel. You or the person accompanying you and the Investigating Officer will be given the opportunity to address the Disciplinary Panel. The person accompanying you will not be permitted to respond to questions which are addressed to you.
- 17 **Adjournment:** The Disciplinary Panel may adjourn the proceedings at any stage if this appears necessary or desirable. You may request an adjournment if you need to consult the person accompanying you. If adjourning for the purpose of enabling further information to be obtained, the Disciplinary Panel will specify the nature of that information. Any adjournment will normally be for a specified period of time.
- 18 **Decision making:** On completion of the hearing, the Disciplinary Panel will retire to consider the decision. Neither you, the person accompanying you nor the Investigating Officer will be allowed to take part in nor be present during the Disciplinary Panel's deliberations.
- 19 **Communication of decision:** The decision of the Disciplinary Panel will be communicated to you in writing as soon as reasonably practicable. If the complaint is upheld you will be informed of the action to be taken and your right of appeal.

### Disciplinary action

- 20 **Sanctions:** Depending upon the nature of any misconduct found to have been committed, any explanation given by you and any mitigating circumstances, the Disciplinary Panel may impose any of the following sanctions:
- 20.1 a written warning;
  - 20.2 a final written warning;
  - 20.3 suspension without pay for a defined period;
  - 20.4 demotion; or



# The Athelstan Trust

## Disciplinary Rules and Procedure

20.5 dismissal with or without notice.

- 21 **Currency of warnings:** A written warning will be recorded on your file but will be considered spent for disciplinary purposes after a period of 12 months from the date the warning is given. A final written warning will be recorded on your file but will be considered spent for disciplinary purposes after a period of 24 months from the date the warning is given.
- 22 **Gross misconduct:** Where there has been gross misconduct the Disciplinary Panel may impose dismissal without notice. Examples of what the Trust considers to be gross misconduct are set out in the Disciplinary Rules section of this Employment Manual.

### Appeal

- 23 **Right of appeal:** You have the right to appeal to an Appeal Panel against any decision made by the Disciplinary Panel if you are dissatisfied with it. Such a right of appeal must be exercised in writing and sent to the Headteacher within five working days of your being notified of the decision giving full details of why you wish to appeal. The Appeal Panel will arrange a review hearing or a re-hearing to take place as soon as reasonably practicable. You will be informed in advance of its timing and location.
- 24 **Appeal panel:** The Appeal Panel shall not include any member of the Disciplinary Panel nor the Investigatory Officer and may comprise one or more persons. As far as reasonably practicable the person chairing the Appeal Panel will be someone holding a more senior position than the person chairing the Disciplinary Panel.
- 25 **Appeal procedure:** The procedure at the appeal hearing shall be the same as that for the disciplinary hearing save that there will be no right of appeal from the decision of the Appeal Panel. You must take all reasonable steps to attend the appeal hearing. The Appeal Panel will be entitled to reach a different conclusion and impose a different sanction (although not greater) than that imposed by the Disciplinary Panel. You will be informed of the Appeal Panel's decision in writing as soon as reasonably practicable.
- 26 **Right to be accompanied:** You may be accompanied to the appeal hearing by a colleague or trade union official.
- 27 **Employment status:** If an appeal is made against a dismissal decision, that dismissal decision will have immediate effect so that, if the dismissal is by notice, the period of notice will have begun at the date given in the dismissal decision. If summary dismissal without notice has been imposed, you will not be entitled to be paid for the period between that decision and the decision of your appeal unless you have been reinstated on appeal. If having been dismissed you are reinstated on appeal, your continuity of employment will be unaffected.

### Termination of employment

- 28 **Exit interviews:** All staff are trained so that they understand they are expected and encouraged to raise concerns they have, whether related to the safeguarding and welfare of pupils, the conduct of staff or other matters, during the course of their employment in accordance with the Trust's policies (including the whistleblowing policy, the child protection and safeguarding policy and procedures and the Staff Code of Conduct). Safeguarding children is at the centre of the Trust's culture and is accordingly considered formally during staff performance development reviews and appraisal and finally at exit interviews which are held with all leavers.



# The Athelstan Trust

## Disciplinary Rules and Procedure

- 29 **Termination of employment:** If the Trust ceases to use your services because you are unsuitable to work with children, a settlement agreement (formerly known as a compromise agreement) will not be used and a referral to the Disclosure and Barring Service will be made promptly if the criteria for a referral are met. Any such incidents will be followed by a review of the safeguarding procedures within the Trust, with a report being presented to the Governors without delay. The Trust may also need to consider a referral to the Disclosure and Barring Service if a member of Staff is suspended, or deployed to another area of work that is not regulated activity.
- 30 **Resignation:** If you tender your resignation, or cease to provide your services to the Trust at a time when child protection concerns exist in relation to you, those concerns will still be investigated in full by the Trust and a referral to the Disclosure and Barring Service will be made promptly if the criteria for a referral are met.
- 31 **Teaching Regulation Agency (TRA):** Separate consideration will also be given to making a referral to the TRA where a teacher has been dismissed (or would have been dismissed had he or she not resigned) because of unacceptable professional conduct, conduct that may bring the profession into disrepute, or a conviction at any time for a relevant offence. An interim referral to the TRA may also be considered and made if appropriate.