



The Athelstan Trust

Disciplinary Rules and Procedure

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1. Aims

This policy aims to:

- Help and encourage all employees to achieve and maintain satisfactory standards of conduct
- Set out the procedures for when an employee's conduct falls below the expected standard
- Ensure that all employees are treated fairly and consistently when a disciplinary issue is being dealt with

2. Legislation and guidance

We are required to set out our disciplinary procedures under general employment law.

These disciplinary procedures comply with the [Disciplinary and grievance code of practice from Acas](#).

These procedures also comply with our funding agreement and articles of association.

3. Definitions

- A **disciplinary issue** will arise when an employee has not behaved to the standard expected of them.
- Appendix 1 sets out a non-exhaustive list of examples of what we define as **misconduct and gross misconduct**. For the purpose of this policy, misconduct does not cover staff capability or poor performance issues. These are addressed in our capability of staff policy

4. Disciplinary procedures

This procedure applies to all employees once they have completed their probationary period, regardless of their length of service. The Trust will follow a fair procedure if disciplinary action is necessary, but this procedure does not have contractual effect. There may be occasions when the Trust considers it appropriate to change or omit parts of this procedure.



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Minor disciplinary issues will be dealt with informally at first, and will be escalated only where:

- There has been no resolution
- The issue is more serious
- There are repeated or multiple instances of misconduct
- There is suspected gross misconduct

When dealing with an issue informally, the employee's line manager will organise a brief meeting with the employee and set out the concerns. They will remind the employee of the expected standard of behaviour and consider what support is needed to help them improve. Notes will be taken and retained.

If the issue cannot be dealt with informally, formal procedures will begin. The employee will be notified of this in a face-to-face meeting with an appropriate manager to be held in person or over video conferencing if necessary. This will be followed up in writing.

4.1 Suspension

In some circumstances it will be appropriate to suspend an employee temporarily, for example, where there is suspected gross misconduct. This in itself does not amount to guilt or constitute disciplinary action.

Where this is necessary:

- The headteacher (or, for Central Team Staff, the CEO) must authorise the suspension. If it is the headteacher who is the subject of the disciplinary procedure, the CEO must authorise the suspension. If it is the CEO who is the subject of the disciplinary procedure, the Chair of Trustees must authorise the suspension.
- The employee will be informed of the suspension in a face-to-face meeting, held in person or over video conferencing if necessary, followed by a notification in writing within 5 working days.
- The employee will be suspended on full pay and the suspension will be for no longer than necessary to enable the allegations against the member of staff to be investigated. The employee should not visit any of the schools within the Trust while suspended or make contact with other members of staff or students unless they have been authorised to do so.

4.2 Confidentiality

Our aim is 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.

The employee, and anyone accompanying them (including witnesses), must not make electronic recordings of any meetings or hearings conducted under this procedure, whether these meetings or hearings are conducted in person, by telephone, or using remote working platforms or technologies.

The employee will normally be told the names of any witnesses whose evidence is relevant to disciplinary proceedings against them, unless we believe that a witness's identity should remain confidential.

4.3 Investigation

An independent investigating officer will be appointed.

Before a disciplinary hearing takes place, the investigating officer will gather the facts of the case and evidence. The investigating officer will, if necessary, hold investigatory meetings (in person or over video conferencing).



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The employee will be informed of the outcome of the investigation in writing.

If the investigating officer recommends that the matter should move forward to a formal disciplinary hearing this will be referred to the Headteacher to arrange a disciplinary hearing. If the allegation relates to the Headteacher, the disciplinary hearing will be conducted by the CEO of The Athelstan Trust.

4.4 Notification

If it is decided that there is a disciplinary case to answer, the employee will receive a written notification 5 working days before the hearing. The meeting could be sooner if it is agreed by both parties. The notification will include:

- Details of the alleged misconduct and its possible consequences
- Copies of any written evidence, including witness statements
- The time, date and location of the disciplinary hearing (including the details if the meeting is to be held over video conferencing, if relevant)
- A statement that the employee has the right to be accompanied by a colleague or a trade union representative
- Notification that the employer intends to call witnesses (if relevant)

If the employee intends to call a witness, they should notify the employer. Sufficient advance notice should be provided to allow the employee to arrange their attendance. The employee will be given the opportunity to respond to any information given by a witness. However, they will not normally be permitted to cross-examine witnesses unless, in exceptional circumstances, the person conducting the hearing determines that a fair hearing could not be held otherwise.

The Headteacher will conduct the hearing unless the disciplinary procedure relates to the Headteacher, in which case the CEO of The Athelstan Trust will conduct the hearing. For Central Team staff, the CEO will conduct the hearing. For the CEO, the Chair of Trustees will conduct the hearing.

4.5 Disciplinary hearing

Before the hearing, the employee will receive a copy of all evidence that will be relied upon during the procedure.

At the hearing, the person conducting the hearing will explain the case against the employee and go through the evidence that has been gathered. The investigating officer may be asked to present the management's case.

The employee will be allowed to set out their case and answer any allegations that have been made. The employee will also be given a reasonable opportunity to ask questions, present evidence and call relevant witnesses. They will also be given an opportunity to raise points about any information provided by witnesses.

Employees have a statutory right to be accompanied by a colleague or trade union representative at a meeting that may result in a formal warning being issued, disciplinary action being taken, or the confirmation of either of these. Employees must make the request in advance of the meeting, to allow the school to prepare and to ensure the employer knows who the companion will be.

If an employee's chosen companion will not be available to meet at the proposed time, the hearing will be postponed to a time proposed by the employee, if the alternative time is reasonable and not more than 5 working days after the original date.

The companion can address the hearing to put and sum up the employee's case, respond on behalf of the employee to any views expressed at the hearing and confer with the employee during the hearing. The



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companion does not, however, have the right to answer questions on the employee's behalf, address the hearing if the employee does not wish it or prevent the employer from explaining their case.

4.6 Taking appropriate action

After the hearing a decision about whether further disciplinary action is necessary will be taken. The employee will be informed of the decision in writing within 5 working days.

Actions taken may be:

- **A verbal or informal warning** where it is decided that the action was not serious enough to warrant a formal written warning. This may be accompanied by a notification that arrangements will be put in place to improve the employee's behaviour, such as a training course or occupational health support.
- **A first written warning** for a first instance of misconduct. A further instance may result in a final written warning. A first written warning will remain on the employee's personnel file for 12 months. The written warning will explain that a further instance of misconduct or no change in behaviour within a given timeframe will result in a final warning
- **A final written warning** where the employee has already received a first warning, or where the employee's misconduct was sufficiently serious. A further instance may result in demotion or dismissal. A final written warning will remain on the employee's personnel file for 24 months.
- **Dismissal** where there has been gross misconduct or a final written warning has already been given

We will refer a case of teacher gross misconduct to the Teaching Regulation Agency (TRA) if we believe the case is so severe that the TRA should consider whether the teacher should be prevented from teaching. We will also refer cases to other relevant authorities where appropriate.

The Trust will not wait for the outcome of any prosecution when making its decision after either the disciplinary hearing, or Appeals hearing.

4.7 Dismissal

The power to decide that members of staff should no longer work at the school has been delegated to:

- the Headteacher in relation to the dismissal of school staff
- The CEO, after consultation with the Chair of Trustees, in relation to the dismissal of Headteachers or Central Team staff.
- The Chair of Trustees, after consultation with the Vice Chair and Chair of the Staffing Committee, in relation to the CEO, CFO and COO.

Once the decision to dismiss has been taken, the headteacher, CEO or Chair of Trustees will either dismiss the employee with or without notice (and dismissal without notice would normally be imposed where there has been gross misconduct).

4.8 Appeals process

The employee has the right to appeal any sanction. Appeals must be made in writing within 10 working days of the decision, setting out at the same time the grounds for appeal.

A disciplinary appeals panel will be appointed. The appeal panel shall not include the person who conducted the disciplinary hearing or the Investigating Officer and may comprise one or more persons.

Appeals will be heard without unreasonable delay and at an agreed time and place (in person, or over video conferencing if relevant). Employees' statutory right to be accompanied by a companion will apply as with formal disciplinary hearings. Notes will be taken and a copy sent to the employee.



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The appeal will be dealt with impartially and by senior leaders, governors, or Trustees who have not previously been involved in the case.

The employee will be informed in writing of the results of the appeal hearing within 10 working days.

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 letter confirming the decision to dismiss the employee. If dismissal without notice has been imposed, the employee will not be entitled to be paid for the period between the original decision and the decision of the Appeal hearing, unless the employee is reinstated on appeal. If an employee is reinstated on appeal, their continuity of employment will be unaffected.

4.9 Special cases

If the employee involved in a disciplinary procedure is also the trade union representative, we will notify the union and discuss the matter with an official employed by the union before action is taken, after obtaining the employee's agreement. The procedure will continue as normal.

If the employee who is subject to disciplinary procedures raises a grievance about the disciplinary allegations or the procedure itself, the grievance procedure will run concurrently.

If the employee who is subject to disciplinary procedures raises a grievance about something unrelated to the disciplinary, consideration will be given to pausing the disciplinary while the grievance is addressed.

Reasonable adjustments may be made to any aspect of this policy where appropriate to facilitate a fair process for any employees with disabilities or other needs.

5. Record keeping

Minutes will be kept of all interviews and meetings. Where possible, these will be confirmed as an accurate reflection of what was discussed during the meeting.

Records of all materials relating to the disciplinary process will be kept securely, only for as long as necessary and in line with data protection law, our privacy notices and Data Retention Policy.

If disciplinary action is taken, a record of this will be added to the employee's personnel file.

We will disclose any proven disciplinary offences by an employee if a reference is requested by a future employer.

6. Monitoring arrangements

This policy will be reviewed every 3 years but can be revised as needed (for example, upon a change in legislation). This policy will be approved by the Staffing Committee.

7. Links with other policies

This policy links with our policies on:

- Code of conduct
- Capability procedure



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- Grievance procedure
- Equal opportunities policy
- Child Protection and Safeguarding Policy
- IT acceptable use Policy
- Privacy notice for the school workforce



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Appendix 1: instances and behaviours classed as misconduct and gross misconduct

The following lists are not exhaustive.

Instances of misconduct include:

1. Unauthorised absence or persistent lateness from work
2. Using bad language in front of pupils
3. Failure to follow the policies, practices and requirements of the school
4. Unsatisfactory standards of work (not related to capability)
5. Inappropriate use of school facilities
6. Failure to comply with reasonable instructions from senior staff
7. Inappropriate standard of dress
8. Smoking on Trust or Academy premises
9. Contravention of minor safety regulations
10. Disruptive behaviour

Instances of gross misconduct include:

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;
2. failure to immediately notify the Trust of any child protection investigation of you or any member of your household;
3. failure to immediately notify the Trust of any investigation, arrest, charge or conviction of any criminal offence brought against you during your employment;
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. 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;
6. accepting or giving bribes or other secret payments or other breach of the Trust's anti-bribery and corruption policy;
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);
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;
9. indecent, violent or offensive behaviour;



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10. inappropriate conduct or communications with a pupil of any of the Trust's Academies, or a pupil of another school or academy;
11. misuse of or deliberate damage to Trust or Academy property;
12. fraud, theft or dishonesty to include giving false information or representations before or during your employment;
13. failure to obey a lawful order;
14. gross dereliction of duty;
15. gross negligence;
16. being on duty whilst under the influence of drugs and / or alcohol;
17. possession, use, supply or attempted supply of controlled substances or the sale of any drug or substance (prescribed or not);
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;
19. bullying or harassment;
20. conduct which is likely to damage the reputation of the Trust or its Academies or bring them into disrepute;
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;
22. disregarding health and safety rules / requirements (including the Trust's Health and Safety at Work Rules) and endangering yourself or others;
23. giving false information as to qualifications or entitlement to work (including immigration status);
24. wilful neglect or refusal of duty;
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;
26. misuse of confidential information;
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;
28. causing loss, damage or injury through serious negligence;



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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
30. making untrue allegations in bad faith against a colleague.

[Teacher misconduct guidance](#) from the TRA explains that, among other things, the following offences will be serious enough to warrant prohibition of teaching:

- Serious departure from the personal and professional conduct elements of the Teachers' Standards
- Misconduct seriously affecting the education and/or wellbeing of pupils, and particularly where there is a continuing risk
- Actions or behaviours that undermine fundamental British values
- Abuse of position or trust (particularly involving vulnerable pupils) or violation of the rights of pupils
- Sustained or serious bullying, or other deliberate behaviour that undermines pupils, the profession, the school or colleagues