



POLICY FOR DISCIPLINARY PROCEDURES RELATING TO MISCONDUCT

ALL EMPLOYEES OTHER THAN THE HEADTEACHER

**Presented to
Trustees
4 April 2017**

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Date reviewed: ²	10 November 2015 Personnel Committee
Date of next review: ³	November 2017

¹ This is the date the policy was approved by the meeting

² This is the date the policy was reviewed prior to its approval above

³ This is the date as set by the policy review clause or the date approved plus two years

Footnote:

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MODEL DISCIPLINARY PROCEDURES RELATING TO MISCONDUCT

ALL EMPLOYEES OTHER THAN THE HEADTEACHER

This procedure should be used where a Headteacher of a school has the delegated power of dismissal. The Headteacher is strongly recommended to seek professional personnel advice before taking action under this procedure.

1.0 DEFINITIONS

- 1.1 The term “Headteacher” also refers to any other title used to identify the Headteacher where appropriate.
- 1.2 The term “employee” refers to any member of the staff, whether teaching or not (with the exception of the Headteacher), employed to work solely at any school within the 4Cs Multi Academy Trust (MAT).
- 1.3 The term “Senior Manager” refers to any member of the Senior Management Team, delegated by the Headteacher to deal with disciplinary matters under these procedures. A Senior Manager may only make a decision to issue a warning up to and including a final written warning.
- 1.4 If the Headteacher, following consultation with the Chair of Trust Board, considers that there is no Senior Manager to whom s/he can reasonably delegate a specific disciplinary matter then the Headteacher will take the role of the Senior Manager for that specific case and the role of the “Headteacher” under this procedure will be performed by a “Staff Dismissal Committee” of the Trust Board consisting of not less than 3 Trustees, none of whom will have had previous involvement in the case.
- 1.5 “Misconduct” is defined in the Disciplinary Rules which accompany the Misconduct Procedure.

2.0 ORAL WARNING

- 2.1 The following procedure does not relate to informal oral warnings, which might be given to the employee by a member of the senior management team. However, repeated misconduct after an oral warning would normally lead to more serious disciplinary action in accordance with the procedure.
- 2.2 There is no appeal against an oral warning. The oral warning will be confirmed in a written memorandum. The employee may make written comment on the memorandum if s/he has any objection to the issuing of an oral warning.

3.0 FIRST WRITTEN WARNING

- 3.1 If the Senior Manager, having carried out an appropriate investigation, considers on the facts that formal disciplinary action for misconduct is necessary, s/he will write to the employee to inform him/her, at least five working days in advance, setting out:
 - a) the date, time and place of the disciplinary hearing.
 - b) the nature of the complaint.
 - c) the employee’s right to be accompanied by a representative of his/her trade union or a workplace colleague.
 - d) the titles of enclosed copies of any documents to be used as evidence.
 - e) the names of any witnesses to be called by the Senior Manager.
 - f) his/her right to call witnesses on his/her behalf.
 - g) the name and office of any adviser who will accompany the Senior Manager at the hearing.

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(At the employee's request, an extra copy of this notice, together with any enclosures, should be provided for his/her representative).

- 3.2 If, following the investigations and professional advice, the Senior Manager considers that the facts of the case amount to a prima facie case of gross misconduct the matter will be referred to the Headteacher.
- 3.3 At the disciplinary hearing before the Senior Manager and his/her adviser, the employee (and his/her representative) will be given a reasonable opportunity to state his/her case and to question the Senior Manager and any witnesses. At the conclusion, following an adjournment for consideration of the facts, the Senior Manager will state his/her decision and his/her reasons and will soon afterwards confirm them in writing to the employee and his/her representative.
- 3.4 If the Senior Manager decides the complaint was justified, s/he may give the employee a first written warning which will include a statement that any further complaint of misconduct occurring within the next twelve months and found justified after a disciplinary hearing, will lead to a final warning, unless there are mitigating circumstances.
- 3.5 If the employee is given no further written warning of misconduct within twelve months of the date of the first written warning, then this warning is disregarded and the warning letter will make this clear.

4.0 FINAL WRITTEN WARNING

- 4.1 If a further complaint is made about the employee's conduct within twelve months of the date of the first written warning, the same procedure (as in 3 above) will be followed.
- 4.2 If the Senior Manager decides at the conclusion of the disciplinary hearing that this further complaint is justified, s/he may give the employee a final written warning, which will include a statement that any further complaint of misconduct occurring within the next twelve months and found justified after a disciplinary hearing, will lead to dismissal, unless there are mitigating circumstances.
- 4.3 Again, this final warning, together with any previous warning, will be disregarded if there is no further complaint about misconduct within twelve months of the date of the final warning, and the warning letter will make this clear.

5.0 DISMISSAL

- 5.1 If a further complaint is received within twelve months from the date of the final warning, the complaint will be referred to a hearing before the Headteacher, following a similar procedure to that in section 3 above. The Headteacher shall be accompanied by an HR adviser.
- 5.2 If the Headteacher decides the complaint is justified, s/he may decide to dismiss the employee. The Headteacher will state his/her decision and his/her reasons and inform the employee of his/her right to appeal to the Appeals Committee of the Trust Board. S/he will soon afterwards confirm the decision and right of appeal in writing to the employee (and his/her representative). The Headteacher will record the outcome of his/her considerations and the names of persons present at the hearing.

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- 5.3 The School will give notice in writing to the employee that s/he is dismissed, whether the decision was with or without notice, or with pay in lieu of notice and the effective date of dismissal.

6.0 GROSS MISCONDUCT

- 6.1 If the complaint is considered so serious that it may amount to gross misconduct, justifying dismissal without previous warning and without notice (see the Disciplinary Rules), the employee will be informed by the Headteacher that s/he is suspended on full pay pending further investigation of the complaint before the Headteacher, who, if s/he considers the complaint constitutes gross misconduct, may decide to dismiss the employee. The procedure to be followed will be as in paragraph 5 above.
- 6.2 Where a suspension has taken place that suspension may only be lifted by the Chair of Trust Board acting on behalf of the Trust Board, or by the Appeals Committee referred to in 7.3, or the Staff Dismissal Committee in the circumstances identified in 1.4 of these procedures.

7.0 RIGHT OF APPEAL

- 7.1 The employee has a right of appeal against a written warning issued by a Senior Manager (see paragraphs 3 and 4). The appeal will be heard by the Disciplinary Panel of Trustees. The number of Trustees on the Disciplinary Panel of Trustees will not be less than two. The panel shall be advised by a person engaged for the purpose by the Trust Board. The panel can either confirm the warning, reduce a final warning to a warning or cancel the warning.
- 7.2 Appeals against formal warnings by the Senior Manager should be made in writing to the Clerk to the Trustees within 5 working days of the receipt of the written decision.
- 7.3 The employee has a right of appeal against a decision to issue a warning or to dismiss by Headteacher (see paragraph 5). An appeal against a warning by the Headteacher will be to the Disciplinary Panel of Trustees referred to in paragraph 7.1 above.
- 7.4 An appeal against dismissal will be to the Appeal Committee of the Trustees, which shall have a membership of not less than 3 Trustees, none of whom shall have any previous involvement in the case. The Appeal Committee shall be accompanied by an HR adviser.
- 7.5 Appeals against decisions by the Headteacher should be made in writing to the Clerk to the Trustees within 5 working days of the receipt of the written decision.
- 7.6 All appeal hearings will be held as soon as possible after receipt of the appeal.

8.0 VARIATION IN PENALTIES

- 8.1 The Senior Manager or the Disciplinary Panel of Trustees may decide to give an oral warning instead of a written warning, or a written warning instead of a final written warning.
- 8.2 The Senior Manager may decide that the misconduct is so serious that it justifies a first and final written warning.

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- 8.3 The Senior Manager may decide to issue a further final warning rather than refer the complaint to the Headteacher.
- 8.4 The Headteacher may decide to issue a warning or final warning rather than dismiss.
- 8.5 The Appeal Committee may decide to issue a warning or a final warning rather than dismiss, and that any warning may last for a specified period longer than the original twelve months of any previous final warning, if appropriate. There is no right of appeal against such a decision of the Appeal Committee of the Trustees.
- 8.6 In the event that the Appeal Committee decides not to uphold the Headteacher's decision to dismiss, the notice of dismissal shall be immediately withdrawn.

9.0 TRADE UNION OFFICIALS

- 9.1 Although normal disciplinary standards must apply to the conduct of a trade union official as an employee, no disciplinary action beyond an oral warning should be taken until the circumstances of the case have been discussed with the relevant full time trade union officer.

10.0 CONFIDENTIALITY

- 10.1 The proceedings of this disciplinary procedure shall remain confidential to the parties concerned. Only the decision of a disciplinary hearing may be reported.

11.0 REVIEW

- 11.1 The Trust Board (or responsible committee) will review this policy in line with the procedure for policy review.
- 11.2 Date for Review
If no other reason for review (see policy review procedure) this policy will be reviewed in November 2017.

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