



## King's Group Academies Disciplinary Policy and Procedure

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This Policy and procedure applies to all employees of the academy only. It does not form part of the terms and conditions of any employee's employment with the academy and is not intended to have contractual effect. However, it reflects the academy's current practices and employees are strongly encouraged to familiarise themselves with its content.

In any organisation, it is necessary to have a minimum number of rules in the interests of both the employer and the employee.

Rules set standards of performance and behaviour whilst the procedures are designed to help promote fairness and consistency in the treatment of individuals. It is the aim of the rules and procedures to emphasise and encourage improvement in the conduct of individuals where they are failing to meet the required standard. However, it is recognised that where improvement is not possible dismissal may result.

Every reasonable effort will be made to ensure that any action taken under this procedure will be fair and all employees will be given the opportunity to state his or her case and appeal against any decision he or she considers to be unjust.

Safeguarding allegations require a particular care and we are guided by the procedures of the Local Safeguarding Children Board (LSCB). Appendix 1 outlines the correct process for investigating a safeguarding allegation and should be followed at all times. Investigations of safeguarding allegations always have primacy.

The following principles will be adhered to when following the disciplinary process:

- All employees are made fully aware of the standards of performance, action and behaviour required of them;

- Disciplinary action, where necessary, will be taken without unreasonable delay and in a fair, uniform and consistent manner;
- An employee will only be subject to disciplinary action once there has been a reasonable investigation of the facts;
- The employee will have an opportunity to present his or her side of the case at a formal disciplinary hearing convened under this policy and procedure;
- All employees will have the right to be accompanied by a work colleague or an accredited trade union official at any disciplinary or appeal hearing. Please note that an investigatory interview prior to a disciplinary hearing is not a formal stage in the disciplinary process;
- During any disciplinary hearing, the employee will have a full and fair opportunity to state his or her case and answer any allegations that have been made;
- During any hearing, the employee will also be allowed to ask questions, present evidence, and be given an opportunity to raise points about any information provided by witnesses or relevant documentation;
- Requests to call witnesses or cross examine witnesses will be considered and accommodated where reasonable, practicable and proportionate in the circumstances of the case and where this does not conflict with any overriding duty the academy may owe to another employee;
- Normally, no employee will be dismissed for a first breach of discipline except for the case of gross misconduct;
- If an employee is subject to the disciplinary process, he or she will receive both an explanation of the penalty imposed and will be entitled to appeal against the penalty in accordance with the appeals process set out in this policy and procedure.

## **1. Disciplinary Procedure**

In all but a few straightforward cases the Academy will first investigate all the allegations of potential disciplinary offences to establish the facts before deciding whether to involve the formal Disciplinary Procedure.

It may be necessary for the Academy to suspend an employee whilst an investigation is taking place although the academy will explore every alternative to suspension. Any suspension will be no longer than is reasonably necessary and will be on full pay. Suspension does not in itself constitute disciplinary action or imply any decision or judgment as to guilt.

If the Academy decides to involve the formal disciplinary procedure it will adhere to the following procedure:

- a) The academy will write to the employee inviting them to attend a disciplinary hearing.
- b) In the invitation letter the academy will set out the issues or allegations that are to be considered, the basis for them, indicate how seriously these are being viewed, the potential consequences and detail any intention to call witnesses.
- c) The academy will attach any relevant documentation including any relevant witness statements to the invitation letter.
- d) The letter will also detail the employee's statutory right to be accompanied by either a work colleague or a trade union representative and confirm how this right can be exercised.

- e) The academy will give the employee reasonable notice of the requirement to attend the disciplinary hearing in order to allow them a reasonable period of time to prepare their case.
- f) Disciplinary hearings where dismissal is not contemplated as a potential disciplinary sanction should the allegation(s) be proved will usually be conducted and determined by a member of the Senior Leadership Group or the Principal, or in the case of disciplinary proceedings involving the Principal, the Chair of Governors or other Appointed Person. Disciplinary hearings where dismissal may be contemplated as a potential disciplinary sanction should the allegation(s) be proved will usually be conducted and determined by the Principal or a panel of three governors.

Any disciplinary hearing will be conducted in a manner to ensure that:

- a) The employee will be given a full and fair opportunity to answer any allegations against them and to present his or her case and any relevant evidence he or she wishes to be considered and on which he or she would like to rely.
- b) The hearing will be minuted by a note taker and the employee will be supplied with a copy of the minutes as soon as is reasonably practicable after the hearing.
- c) No decisions will be reached during the hearing itself. The academy will need to consider all the evidence together with the representations the employee has made, and in some cases may need to carry out further investigations before a decision can be reached.
- d) Once a decision has been reached, the academy will write to the employee to confirm the outcome of the hearing.
- e) Where the decision has been to take formal disciplinary against an employee, he or she will be informed of the nature of the disciplinary sanction, the reasons behind the decision and any other conditions that he or she may be required to satisfy as a result of the disciplinary process.
- f) Where a disciplinary sanction has been imposed, he or she will also be informed of his or her right to appeal and the process to be followed should the employee wish to exercise this right in relation to the disciplinary decision reached.

## **2. Severity of Disciplinary Action**

The severity of disciplinary action (if any) will be determined by the severity of the offence and any prior "live" disciplinary sanctions in the employee's history. Due consideration will be given to any bona fide mitigating circumstances raised during the disciplinary process. The following is provided as guidance only.

### **3. First Written Warning**

This will generally be applied as the first step of formal corrective action following unsatisfactory conduct.

A first written warning imposed as an outcome to the disciplinary process will be placed on the employee's personnel file for 6 months although this may vary according to circumstances which will be notified to the employee in the disciplinary outcome letter.

### **4. Final Written Warnings and Dismissals**

For more serious first offences, such as serious misconduct, the academy may impose a final written warning.

Alternatively, where an employee persists with an offence in relation to which they have a current and active first written warning or where an employee fails to achieve the required improvements within the review period specified in a previous disciplinary outcome, the academy may impose a final written warning having followed the disciplinary procedure in respect of any persisting or additional offences.

Continued failure to improve or repeat offences during an active period of a current final written warning may result in dismissal with notice or payment in lieu of notice.

Where an allegation of gross misconduct is upheld, the academy will normally dismiss summarily i.e. without notice or payment in lieu of notice. Employees should refer to the non-exhaustive list of examples of conduct that the academy would normally regard as constituting gross misconduct.

## **5. Alternative Disciplinary Sanctions**

The Academy may also consider and impose, having followed the Disciplinary Procedure in each case, additional or alternative sanctions including, but not limited to, demotion, disciplinary transfer, loss of seniority/pay as an alternative to dismissal.

## **6. Gross Misconduct**

An employee may be liable to summary dismissal without notice or pay in lieu of notice if he or she is found guilty of gross misconduct.

The following are examples of issues which might constitute gross misconduct. These are illustrative only and do not constitute an exhaustive list.

- A fundamental and/or wilful breach of the academy rules, regulations and policies;
- Gross negligence or dangerous behaviour, which causes or might cause unacceptable loss, damage or injury;
- Grossly indecent or immoral behaviour;
- Threatening or violent behaviour, fighting or physical assault;
- Deliberate falsification of any records (e.g. Sickness Self-Certification Form and time-sheets) in respect of the employee or any fellow employee;
- Undertaking private work on the premises and/or during working hours and wilful disregard of duties or of instructions;
- Deliberate and serious breach of confidence relating to the academy's or its students' affairs;
- Theft or misappropriation of money or property whether belonging to the academy, another employee or a third party;
- Unauthorised consumption of alcohol on the premises, or reporting for work under the influence of alcohol or controlled drugs;
- Any taking or possession of controlled drugs or stimulants, which have not been prescribed by a registered medical practitioner;
- Destruction/sabotage of academy property or any other property on the premises;
- Serious health and safety breaches;
- Gross insubordination and/or refusal to obey legitimate instructions given by any members of the Senior Leadership Group;

- Any breach of a legal statute, which has a direct effect on the employee's ability to undertake stated duties and/or on the desired characteristics of his or her position;
- Allowing or assisting any unauthorised person to gain entry to the premises;
- Repeated absences from duty without authorisation;
- Any fundamental and/or substantial breach of trust or unauthorised disclosure of information relating to the academy's affairs to third parties.
- A substantial failure to meet expected standards of work and/or behaviour amounting to serious neglect of duty;
- Deliberately driving on academy business without an appropriate licence and/or the appropriate insurance;
- Discrimination or harassment or other breach of the academy's Equal Opportunities and Diversity Policy;
- Failure to inform the Senior Leadership Group of any criminal charges/convictions or police cautions that are relevant to the employee's employment;
- Serious breaches of the academy's Safeguarding and Child Protection Policies and Procedure;
- Serious breaches of the academy's Electronic Communications Policy;
- In respect of teaching staff, serious breach of the standards of professional conduct as set out in the KGA Trust Teachers' Standards.

## **7. Behaviour Outside Working Hours**

The academy demands employees of the highest integrity and expects all employees to maintain high standards outside working hours. Any outside activities, which could reasonably be regarded as detrimental to the reputation of the academy, may lead to dismissal.

As a condition of employment, employees are required to notify the academy immediately of any criminal charges, cautions or conviction, plea of guilty or not guilty in respect of a criminal offence.

## **8. Disciplinary Appeal Procedure**

The Disciplinary Rules and Procedures, incorporate an employee's right to lodge an appeal in respect of any disciplinary action taken against them.

If an employee wishes to exercise this right of appeal, he or she should write in the first instance to the Principal who will liaise with the Board of Governors to convene an appeal hearing with three nominated Governors, within 10 working days of the decision he or she is complaining against, setting out the grounds and basis for the appeal.

Disciplinary appeals will usually be conducted and determined by a panel of three members of the Governing Body.

The employee has the right to be accompanied by a work colleague or an accredited trade union official at any disciplinary appeal meeting and will be given a full opportunity to state his or her case and put forward his or her version of events.

- The appeal hearing will be minuted by a note taker and the employee will be supplied with a copy of the minutes as soon as is reasonably practicable after the hearing.

No decisions will be reached during the hearing itself. The academy will need to consider all the evidence together with the representations the employee has made, and, in some cases, may need to carry out further investigations before a decision can be reached.

The employee will be notified of the result of the appeal in writing without unreasonable delay. The appeal decision is the final stage of the academy's disciplinary appeal procedure. Notice is deemed to have been given when:

- a) if delivered by hand, **at the time of delivery.**
- b) if sent by registered post, **three business days after posting.**

### **9. Management of policy**

The King's Group Academies Trustees has overall responsibility for the maintenance and operation of this policy. They will maintain a record of concerns raised and the outcomes. King's Group Academies policies will be reviewed regularly and will include an evaluation for impact on workload and working hours.

## **Appendix 1 - Managing Safeguarding Allegations against staff, carers and volunteers.**

Local Authority Designated Officers (LADO) provide advice and guidance to employers and other individuals or organisations who have concerns relating to an adult who works with children and young people. This includes volunteers, agency staff, foster carers, religious leaders, school governors etc.

### **What should be referred to the LADO?**

There is a duty on all agencies to make arrangements to safeguard and promote the welfare of children. All organisations that provide services for children or provide staff or volunteers to care for or work with children should operate a procedure for handling allegations. The procedure should be consistent with the guidance in [Working Together to Safeguard Children 2015](#) and the school's local Authority Child Protection Procedures.

The process for managing allegations should be used in all cases when it is alleged that a member of staff or volunteer has:

- behaved in a way that has harmed or may have harmed a child
- possibly committed a criminal offence against or related to a child
- behaved towards a child, or behaved in other ways that suggests they may be unsuitable to work with children
- for education staff, behaved towards a child or children in a way that indicates he or she would pose a risk of harm if they work regularly or closely with children

Any concern that meets the criteria above should be referred. Initially it may be unclear how serious the allegation is. If there is any doubt, the LADO or the lead person for safeguarding in the agency should be contacted for advice.

### **What does the LADO do?**

The first step will be to offer an initial discussion about the concern. This may consist of advice and guidance about the most appropriate way of managing the allegation. Following that the LADO may:

- establish what the next steps should be in terms of investigating the matter further
- liaise with the police and other agencies
- arrange meetings if required
- monitor and maintain an overview of cases to ensure they are dealt with as quickly as possible in a thorough and fair way
- In cases where the adult is unaware of the concern or allegation it may not be appropriate to tell them immediately and may prejudice a potential police investigation.

### **Outcomes**

The outcome of a referral is determined following a police investigation and/or children's services investigation. This investigation may be carried out separately or jointly with the police, or internal investigation by an employer, including consideration of disciplinary procedures.

On conclusion of the case, the LADO will advise on whether there is a need for the employer to refer to the Disclosure and Barring Service (DBS), or the appropriate professional body.

**DISCIPLINARY PROCEDURE**

