



King's Group Academies

Disciplinary Policy and Procedure

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1. Introduction

This disciplinary policy and procedure follows the ACAS Code of Practice on Disciplinary Procedures to ensure that employees are treated fairly and with respect and dignity and that the Academy meets all its legal requirements.

If an employee is still in their probation period, this policy will not apply as they can be dismissed by terminating their probation, without the need to go through the disciplinary process.

No employee will be treated less favourably on the grounds of their gender or gender reassignment, disability, age, race, religion or belief, sexual orientation, marriage or civil partnership and pregnancy and maternity (the Protected Characteristics covered by the Equality Act).

2. General Principles:

Fairness - This procedure sets out to treat all employees fairly, consistently, impartially, promptly, reasonably and applied without discrimination. If an employee faces difficulties with any stage of this process due to a disability or other substantial reason i.e. pregnancy, long term health condition etc, it is their responsibility to discuss it with HR as soon as possible.

Representation - The statutory entitlement is for a union representative or suitable work colleague to accompany the employee at the formal stages of the disciplinary process. If an employee is related to any other member of staff they will not be deemed as a suitable work colleague.

Confidentiality - No documentation or information relating to the disciplinary will be distributed or communicated to any party or parties not involved in the process. Any

information related to the case will be kept in accordance with the Data Protection Act 2018 and any breaches of confidence in this matter will be treated as its own case of disciplinary for misconduct.

Natural Justice - At all stages of this process the employee will be given a full explanation of the allegations in writing and will be given the opportunity to state their case before a decision is taken. If a warning is given as part of the process, the employee will be given full support to improve their conduct.

Right to appeal - At all formal stages of this policy the employee has the right to appeal. Any appeals will be heard in an appeal meeting, by an impartial person who had no prior involvement in the case.

Recordings - Audio and visual recordings of the proceedings by the employee or their companion are not permitted at any stage of this process. The use of surveillance or recorded evidence (i.e. CCTV footage) submitted by the Academy will comply with the Academy's IT (or other relevant) policy.

Behaviour outside of working hours - The Academy / Trust demands that employees act with the highest integrity and expects all employees to maintain high standards outside of working hours - including but not limited to, whilst on any school trips, sports events, conferences, external training sessions or activities conducted as an ambassador of the Trust where the employee is known to be, or can be identified as, a member of staff.

Any outside activities, which could reasonably be regarded as detrimental to the reputation of the Academy / Trust, may lead to disciplinary action. As a condition of employment, employees are required to notify HR immediately of any criminal charges, cautions or convictions.

Criminal Offences, other than safeguarding matters - If the Academy / Trust becomes aware that an employee is subject to a criminal investigation, it will contact the Lead Investigation Officer within the Police Authority, at the earliest opportunity to ensure that an internal investigation will not hamper any criminal investigation.

If the employee is sentenced after being found guilty of a criminal offence, they can be dismissed without following the disciplinary process, due to frustration of contract, where the contract is unable to be carried out during their sentence.

Where an employee is found guilty of a criminal offence but not sentenced, they will not automatically be dismissed. The Trust will consider:

- 1) If the offence is one that is unacceptable to the Leadership team/ Colleagues / Parents / Students etc
- 2) If the offence is one that makes the employee unsuitable for the type of work they have been employed to perform
- 3) Whether there are any other suitable roles available that the employee could be deployed into.

This Policy and procedure applies to employees of the Academy only. It does not apply to agency workers, contractors and consultants. It does not form part of the terms and conditions of any employee's employment 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, actions and behaviour required of them;
- Disciplinary action, where necessary, will be taken without unreasonable delay and in a fair 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 and as such there is no statutory right to be accompanied;
- 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. Where a witness refuses to attend the disciplinary hearing, the employee may provide their questions 3 working days in advance of the hearing and the witness may be asked to provide a written response instead
- 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 sanction imposed and will be entitled to appeal against the sanction in accordance with the appeals process set out in this policy and procedure.

3. Suspension

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. No disciplinary action will be carried out before a thorough investigation has been conducted.

Suspension is a neutral act and does not imply any decision or judgement as to guilt. Since it is a precautionary measure and does not in itself constitute disciplinary action or sanction, an employee has no right of appeal against the decision to suspend. Suspension will be no longer than is reasonably necessary and will be on full pay. During the suspension a designated contact will be assigned to keep in touch with the employee and establish whether any additional support is required for the employee during this process.

The employee should remain available for meetings at the Investigation Officer's convenience and should not be undertaking any other work during their suspension, nor should they be taking any holidays unless this has already been approved in advance of the suspension. If the employee is sick during their suspension, they will still need to report their sickness in the usual way and provide medical documentation such as a statement of fitness to work, as set out in the Sickness Absence policy and request any other leave as required under the leave of absence policy.

4. Investigation Process

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.

An investigation is a fact finding exercise to collect all the relevant information on a matter. No disciplinary action or sanction will be applied until the allegations have been investigated. Unless otherwise impractical, different individuals will carry out the investigation and disciplinary meetings.

In circumstances where initial witness statements have been obtained and the employee has already admitted to the misconduct (so there is no dispute that the misconduct has occurred), then the Academy reserves the right not to conduct an extended investigation and proceed directly to a formal disciplinary meeting with the evidence that has already been gathered.

In cases where an investigation is required an Investigation Officer will be appointed. This will generally be a member of SLT or a line manager who has seniority over the employee but who does not have direct line management responsibilities for them, although this will depend on the seniority of the employee involved in the alleged misconduct and the seriousness and complexity of the issue.

4.1. The role of the Investigation Officer (IO)

The role of the IO is to be fair and objective so that they can establish the essential facts of the case and reach a conclusion on what did or did not happen, looking for evidence that supports the allegation(s) and evidence that contradicts them.

The IO will be required to be as thorough as is reasonable to ascertain what evidence is available, remembering this is an internal workplace process.

They will need to review any documentary evidence available, interview witnesses directly involved in the matter and record their witness statements. These statements should be signed and dated by the witness and they should retain a copy of the statement in case they are required to support their statements at a subsequent disciplinary hearing (which they must be informed of at the time of giving the statement).

4.2. Investigation hearing

An investigation hearing is only part of the investigation process and separate from the formal disciplinary hearing process and as such there is no statutory right to be accompanied at investigation hearings. Although the Academy may extend the offer to be accompanied if the employee is vulnerable, unable to understand the process or represent themselves appropriately.

The investigation (including interviewing additional witnesses) and preparing the investigation report should not take longer than 10 working days, but if this process needs to be extended the employee will be notified in writing, and provided with a reasonable timeframe by when they can expect an outcome.

4.3. Potential investigation outcomes

It is not an Investigation Officer's role to prove the guilt of the employee but to investigate whether there is a case to answer to, present their findings and make a recommendation on whether it is necessary to proceed to a disciplinary hearing or not.

In most situations the IO will either recommend:

- 1) No further action - If the allegation is without foundation, and there is no case to answer to, the matter will be concluded and the employee will be informed of this in writing.
- 2) Informal action - although an IO may find that the matter does not warrant a disciplinary hearing, they could find that there are points for learning and reflection, so could therefore recommend the employee receives additional training or development / coaching or another form of support.
- 3) Formal action - If the IO recommends that proceeding to the formal disciplinary process is required, they will not be responsible for suggesting possible sanctions or prejudging what the outcome to the disciplinary hearing should be, and they will not be part of the decision making process for any further disciplinary or appeals hearings.

5. Disciplinary process

Once a thorough investigation has concluded and having established the facts, if the IO has ascertained that there are reasonable grounds to believe that the employee should proceed to a disciplinary, a panel will be appointed to hear the disciplinary and will adhere to the following procedure:

- a) The Academy will write to the employee inviting them to attend a disciplinary hearing. If either the employee or representative is unable to attend on the scheduled date, then the meeting may be rescheduled once and within five working days of the day of the original meeting.
If, for some substantial reason, the employee remains unable to attend after the meeting is rescheduled, they will be entitled to send a representative to the disciplinary meeting on their behalf.
- b) In the invitation letter the Academy will set out the allegations that are to be considered, the basis for them, indicate how seriously these are being viewed (i.e whether they are regarded as misconduct or gross misconduct), 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. At the disciplinary hearing the companion is entitled to address the meeting, read any prepared statements on the employee's behalf, ask any questions to clarify their understanding and confer privately with the employee. However, they do not have the right to answer any questions on the employee's behalf, nor do they have the right to prevent the employer from explaining or hearing the case, and any obstructive companion may be asked to leave.
- 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. This will usually be no less than 3 working days notice of the meeting.
- 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. These minutes do not need to be verbatim, but will capture the hearing as accurately as possible. The Chairperson at the hearing will approve the minutes before distribution to the employee to ensure they reflect the hearing. The employee will be asked to sign the minutes to confirm they accept the content. The employee will have the opportunity to challenge the content of the minutes within five working days of receiving them. The minutes will not be altered due to employee feedback, but any comments relating to the minutes will be appended to the end of the document.
- 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 and therefore once the hearing has finished the Chairperson will adjourn for the panel to deliberate .

- 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.

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;
- A failure to comply with the law, whilst carrying out Academy activities
- 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;
- Breaching a final written warning;
- 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, bullying 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. Misconduct

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

- Exploitation of the Sickness absence or leave of absence policies, including but not limited to 1) dishonesty about appointments such as hospital or doctors appointments or ingenuine requests for leave in order to have more time off work 2) calling in sick when a leave of absence request has previously been declined 3) taking any absences without requesting leave through the appropriate procedures.
- Minor misuse of the Academy's equipment and resources such as PCs and phone
- Persistent lateness
- Persistent time wasting
- Creating or contributing to unsanitary conditions at work
- Failure to disclose any potential conflicts of interest
- Minor breaches of the Academy's written policies for example smoking in any areas other than designated smoking areas outside of the School premises
- Minor disruptive behaviour
- First offences in failing to follow reasonable management instructions

8. 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 Academy may apply, at its discretion, either a first written warning or a final written warning. If an employee has been found to have committed a further act of misconduct whilst a live final written warning is on file, then the panel may determine that dismissal will apply. The following is provided as guidance only.

8.1 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 normally 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. **8.2 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.

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

Where an allegation of gross misconduct is upheld, the Academy will normally dismiss summarily, without notice or pay in lieu of notice. Employees should refer to the non-exhaustive list of examples, above, that the Academy considers constitutes gross misconduct.

8.4. 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 into another role or department, or monetary payments by way of restitution for culpable loss or damage caused by the employee as an alternative to dismissal.

9. 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.**

Management of policy

The King's Group Academies Board of 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

