

Staff Disciplinary Policy

1. INTRODUCTION

1.1 Marsh Academy expects employees to achieve and maintain high standards of conduct, attendance and job performance and it is the responsibility of all staff to ensure that their conduct is conducive to this. Appropriate staff discipline is essential for the conduct of the Academy's affairs and the safety and well being of all employees and students. The disciplinary procedure is designed to help and encourage this, ensuring consistency and fair treatment to all. The emphasis of this procedure will at all times be on capability and corrective action and not disciplinary penalty.

1.2 The disciplinary procedure applies to all employees of the Academy

1.3 The Disciplinary Procedure does not apply to employees serving probationary periods (employees on a probationary period should note section 13 "SPECIAL RULES FOR PROBATIONARY EMPLOYEES");

1.4 The procedure does not form part of the contract of employment.

2. GENERAL POINTS

2.1 No disciplinary action will be taken against an employee without the necessary investigation, a fair hearing and the opportunity to prepare and present evidence.

2.2 All disciplinary matters will be dealt with fairly and quickly.

2.3 At every stage in the procedure the employee will be advised of the nature of the complaint against them and will have the opportunity to state their case before any action is taken.

2.4 Employees will have the right to be accompanied by a Trade Union Official or fellow employee at all stages of the formal disciplinary procedure. The companion will have the right to address the meeting but not to answer questions on behalf of the employee.

2.5 An employee has the right to appeal against any disciplinary penalty imposed.

2.6 Employees will not be dismissed for a first breach of the disciplinary rules except for gross misconduct when the penalty may be summary dismissal.

2.7 In circumstances where an employee is not able to attend a disciplinary interview advice should be sought from the Principal.

2.8 Duration of Warnings

- Oral/Verbal Warning: Invalidated after twelve months.
- Written Warning: Invalidated after two years.
- Final Written Warning: Invalidated after three years, although final written warnings shall remain on file indefinitely

* In certain circumstances, for example particularly serious cases, final written warnings shall remain on file indefinitely.

3. INFORMAL COUNSELLING

3.1 In the first instance, where there are minor disciplinary breaches the relevant line manager will seek to correct this through informal counselling. Informal warnings/cautions given at this stage are for the purpose of improving conduct. Therefore they should be regarded positively as 'nudges into line' not as stages on the way to dismissal.

3.2 Employees will be given a full explanation of the reasons for the discussion and the improvement that is required. They will be advised that if a further breach of the rules occurs, or if sustained improvement of performance does not occur, formal disciplinary action may be taken.

3.3 Although counselling is informal, the line manager should keep a note (diary record) of the date of the meeting and the key point of the discussion. Should such warnings need to be repeated, a record will have been established, forming the basis of any subsequent disciplinary action.

4. OFFENCES

4.1 The following shows examples of the type of conduct that can amount to disciplinary offences and the penalties likely to be faced as shown in point six. The lists are neither exclusive nor exhaustive.

- **MISCONDUCT**
 - Persistent and unacceptable absence levels
 - Regular or persistent bad time keeping.
 - Persistent failure to meet job requirements.
 - Negligence or poor work performance.
 - Absenteeism, including unauthorised absence from work during the working day.
 - Insolence and Insubordination.
 - Violation of safety rules.
 - Non-observance of the Academy behaviour code, instructions, policies and procedures.
 - Failures to follow reasonable line management instruction.
 - Foul/abusive language.



▪ **GROSS MISCONDUCT**

What constitutes gross misconduct will depend on the act itself. The following are only examples of the type of conduct which constitute gross misconduct. Thus an employee should not rely on a defence that they should not have been dismissed because their exact offence was not set out in this list, so long as similarly serious conduct is exemplified.

- Dishonesty, theft, fraud, misappropriation of the Academy funds and acceptance of bribes.
- Deliberate damage or misuse of the Academy property.
- Fighting, assault, abuse, threatening or offensive behaviour.
- Possessing offensive/harmful weapons.
- Deliberate falsification of records including stated qualification requirements.
- Disclosure of confidential information.
- Serious omission, negligence or dereliction of duty which causes unacceptable loss, damage or injury.
- Breach of the Academy's Equal Opportunities and Harassment and Bullying policies.
- Consumption of alcohol or misuse of illegal substances which causes serious incapability of the employee's duties and/or jeopardises the health and safety of members of the public or other employees.
- Serious cases, persistent or non-compliance of health and safety procedures.
- Sexual misconduct at work.
- *Conviction of a criminal offence.

***CRIMINAL OFFENCES**

- A criminal conviction may lead to disciplinary action.
- In deciding what action is appropriate the person exercising disciplinary action must take into account whether the offence:
 - impairs the business or reputation of the Academy or;
 - makes the individual unsuitable for the type of work for which they are employed or;
 - makes the individual unacceptable to other employees, students, parents or governors.

5. INVESTIGATION OF ALLEGATION

5.1 Disciplinary action should not take place before there has been an investigation into the circumstances. This should normally be immediately but there are circumstances where suspension of the employee is appropriate and this is outline in detail at section 11.



5.2 Additionally there are circumstances where others need to be informed before or during investigations:

- Allegations relating to Child Protection issues
- Allegations relating to vulnerable adults
- Allegations of financial irregularities
- Allegations relating illegal substances

6. NOTIFICATION OF DISCIPLINARY ACTION

6.1 Where it is felt that a disciplinary offence has been committed and formal disciplinary action may be necessary, the following notification procedure will be followed.

- The line manager will inform the Principal who will convene a meeting and commission a senior leader to investigate the alleged offence;
- The employee will be given at least five working days notice of the meeting;
- The employee will be advised in writing of:
 - The date, time and venue of the meeting.
 - The purpose of the meeting and its possible consequences i.e. what the allegation constitutes.
 - The right to be accompanied at the meeting.
 - The right to call relevant witnesses and produce documents in support of their case.
 - Reasonable details of allegations together with any supporting documents, if appropriate.
 - Details of possible penalties.

The senior leader, having investigated the facts of the alleged offence, will state the facts of the case, giving the employee the opportunity to hear and respond to the allegations made against them.

Where a warning or other action is taken as a consequence of the meeting the employee will be advised clearly in writing, within ten working days (wherever practicable) of the following:

- The date of the meeting, who was present and the allegation/list of allegations that was heard.
- The outcome of finding/findings e.g. whether it was substantiated or not.
- The decision of the meeting and the outcome of the meeting.
- If appropriate, what is required in the future with regard to improvement, over what period and how it will be assessed.
- Information about the length of any warning that may have been given, how long it will last and that further misconduct or a lack of improvement could lead to the disciplinary procedure being invoked again which could result in further disciplinary action with the possibility of dismissal.



- The right of appeal, who the appeal should be made to and time limit for doing so.

6.2 The Principal may take into account any mitigation offered by the employee when applying the appropriate disciplinary action.

6.3 In cases where the disciplinary action is dismissal the following procedural steps will be followed.

- The grounds for the action taken;
- The effective date of dismissal in accordance with the employee's contract of employment;
- The employee's right to appeal against the disciplinary action, who the appeal should be made to and the time limit for doing so.

6.4 Unless an employee is being dismissed for reasons of gross misconduct, the appropriate period of notice or payment in lieu of notice will be given.

7. FORMAL DISCIPLINARY ACTION

7.1 When an employee's conduct or omission are such as to warrant formal disciplinary action, or where there is an accumulation of minor offences, the Principal will give a formal disciplinary warning. A further similar act, or a subsequent but different offence, may result in another warning, which may be a final warning according to the circumstances. The Academy retains the right to enter the procedural stages of penalties at any level, even if previous stages have not been carried out, in order to suit the appropriate circumstances of any particular case. Any disciplinary action taken by the Academy will be appropriate to the offence and will only be administered after the disciplinary procedure has been followed. The normal range of disciplinary action which will apply is:

□ STAGE 1 – ORAL/VERBAL WARNING

In cases where behaviour, conduct, attendance or timekeeping does not meet acceptable standards following counselling or there has been a breach of discipline sufficiently warranting a formal warning.

□ STAGE 2 – FIRST WRITTEN WARNING

In cases where a second breach of discipline rules or procedure, or a first instance of misconduct has been committed.

□ STAGE 3 – FINAL WRITTEN WARNING

In cases where persistent breaches of discipline rules or procedure are committed or a Written Warning has previously been issued and is still in effect. This sanction may be issued for a repeat of the same breach of rules or when another general misconduct has been committed.

□ STAGE 4 – DISMISSAL



An employee may be dismissed if they are found to have committed any of the following:

- Persistent unsatisfactory conduct or job performance despite warnings or cautions;
- Further disciplinary offences whilst a final written warning is still in effect;
- Gross misconduct.

8. AUTHORITY TO DISCIPLINE

- Formal disciplinary action will always be taken by the Principal, who may delegate only to a Vice Principal.

9. DISMISSAL WITHOUT NOTICE – “SUMMARY DISMISSAL”

9.1 An employee may be dismissed without the contractual period of notice or pay in lieu of notice if, following investigation, they are found to have committed gross misconduct. Gross misconduct is regarded as misconduct of such a nature that it fundamentally breaches the contractual relationship between the employee and employer and justifies the Academy no longer accepting the continued presence of the employee in the Academy’s environment.

9.2 If you are accused of an act of gross misconduct, you will be suspended from work on full pay which will enable the Academy to undertake a proper investigation of the alleged offence. Suspension is a neutral action and does not constitute a disciplinary penalty (see Section 11 “Suspension”). If on completion of the investigation and a formal disciplinary meeting the Academy is satisfied, on the balance of probabilities that gross misconduct occurred, you will normally be dismissed summarily without notice or payment in lieu of notice. The employee will be notified of this action at the time of the formal meeting, or as soon as practical following this.

10. ALTERNATIVES TO DISMISSAL

10.1 In cases which may merit dismissal but the Principal wishes to take any mitigation or exceptional circumstances into consideration, the following alternative penalties may be considered:

- Demotion.
- Instruction to take appropriate professional support.

10.2 Where one or other of the above penalties are imposed, it should be accompanied by a Final Written Warning.

10.3 The appropriateness of alternatives to dismissal should be considered carefully. The nature of the offence, the nature of the mitigating circumstances and the avoidance of inconsistency in the treatment of individuals must be taken into account.

11. SUSPENSION

11.1 The Academy may suspend an employee from duty on full pay when an act of gross or serious misconduct is alleged. The circumstances in which this may apply are:

- When the employee deliberately and consistently refuses to follow the Academy or line management rules, instructions and procedures despite cautions.
- To prevent any possibility of an obstruction whilst a preliminary investigation is undertaken by senior leaders.
- To remove an alleged harasser from the work environment until working practices can be adjusted to minimise contact between the parties.
- When the continuance of the employee's presence at work may pose a risk to a student/s.

11.2 The employee will be informed of the nature of the allegation, the reason for the suspension and they will be asked to leave the premises until such time as a disciplinary interview is convened. Confirmation of the suspension including the reasons why will be given in writing.

11.3 The suspension will be lifted immediately where during the preliminary investigation it is believed that there was in fact no misconduct, or the misconduct was not of a serious nature as first believed.

12. APPEALS PROCEDURE

12.1 An employee who wishes to appeal against a disciplinary decision must do so in writing within 10 working days. The employee should outline clearly why they are appealing against the disciplinary action. Appeals must be addressed to the Principal, who will then pass it on to the Chair of Governors.

12.2 The Chair of Governors will convene a meeting of the Governor's Staff Disciplinary Sub-Committee to hear the appeal.

12.3 Appeals will normally be heard within 10 working days of the appeal being lodged although this period may be extended to allow for further investigation.

12.4 The Committee hearing the appeal may uphold, revoke or reduce the disciplinary action taken. Their decision is final.

13. SPECIAL RULES FOR PROBATIONARY EMPLOYEES

13.1 During the probationary period special rules relating to discipline and performance will apply, as detailed below:

- In the course of monitoring probationary employees, line managers should hold regular review meetings with the employee.



- Where employees fail to meet acceptable standards of work performance or conduct, line managers will discuss this with them and state the level of improvement that is required and over what period of time. Employees will be advised that if there is little or no improvement this could result in the termination of their employment.
- Cases of gross misconduct will normally result in the employee being summarily dismissed.

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