



**Unity Schools Trust**  
*'Excellence through collaboration'*

# Disciplinary Policy

Policy Reviewed:	August 2017
Next Review:	June 2020
Approved by Trust	June 2016

## **Introduction & Purpose of Procedure**

- 1.1 The purpose of this procedure is to provide a framework to manage allegations of misconduct, where the employee has failed to meet the standards of behaviour required by the Unity Schools Trust (“the Trust”).
- 1.2 It is the Trust’s principal aim to ensure that, where concerns about minor matters of misconduct arise, all the circumstances are appropriately investigated and the individual given support, relevant training and an opportunity to improve through the operation of informal performance management before any formal sanctions are applied under this policy.
- 1.3 The policy is applicable to all members of staff employed by the Trust with the exception of employees serving a probationary period. Newly Qualified Teachers serving a statutory induction period are provided with a support and feedback structure as part of their induction programme and will therefore be subject to disciplinary procedures only in cases of persistent or serious misconduct. Employees on temporary or fixed-term contracts will be subject to this procedure with adjustments made, where appropriate, to reflect the duration of the contract.
- 1.4 The Trust is mindful of its obligations under the Equality Act 2010 and, with the exception of the exclusions noted above, this procedure will be applied fairly and consistently to all staff employed by the Trust.

## **Policy Statement**

- 2.1 The Trust is committed to ensuring that high standards of behaviour are aspired to within the Trust and recognises that the majority of staff members meet or exceed the standards required of them. In pursuit of this commitment, the Trust expects managers to lead by example, demonstrating a high level of competence, integrity and sound judgement, promoting effective working practices and supporting and encouraging staff when difficulties arise. In return, the Trust expects all employees to strive for high personal standards of conduct.

## **Roles & Responsibilities**

- 3.1 The employee’s line manager is responsible for ensuring that minor issues relating to conduct are dealt with promptly and without recourse to this policy, as part of the usual process of line management.
- 3.2 Formal meetings held as part of this policy which could result in the issuing of a formal warning will be conducted by either the head of school or, where the head of school has chosen to delegate this responsibility, by another appropriate senior manager. The employee’s performance manager, if different, will continue to be central to ongoing monitoring and support.
- 3.3 Formal meetings which may result in a decision to dismiss will be heard by the Trust, as delegated to one or more of its members.

- 3.4 In cases where the head of school's conduct is under review, the role of the manager will be delegated to one or more governors, as determined by the Trust.
- 3.5 Consideration will be given to whether poor conduct may be related to a disability and, if so, whether there are reasonable adjustments that could be made to working arrangements, including changing duties or providing additional equipment or training. We may also consider making adjustments to this policy in appropriate cases.

### **Addressing Initial Concerns**

- 4.1 The Trust recognises that, in many cases involving minor or early-stage concerns about conduct, the matter is best addressed and resolved discreetly through discussion between the manager and the employee concerned. Such concerns might include, for example, minor inaccuracies in work undertaken, instances of poor timekeeping or an unexplained deterioration in standard of work. These initial discussions, aimed at understanding any underlying causes for the concerns about behaviour and what corrective action might resolve the issue, will take place within the context of performance management and are therefore outside the scope of this policy. Managers have both a right and a responsibility to bring such concerns to an employee's attention to allow them the opportunity to respond and to rectify the situation with the appropriate provision of guidance, support and any relevant training.

### **Investigation**

- 5.1 Where the concerns or allegations are considered too serious to be dealt with in the context of normal line management, this policy will be instigated, in the majority of cases commencing with an investigation. When an appropriate level of investigation has ascertained that there is a case to answer (see 'Disciplinary Investigations', section 8.2), the head of school or other senior manager, as nominated, will arrange a formal meeting, giving at least five working days' notice in writing to the employee (see 'Scheduling Formal Meetings', section 8.4). The employee has the right to be accompanied at this meeting, and any subsequent formal meetings, by a work colleague or trade union representative and should be provided with a copy of the policy in order to understand the context of the meeting.
- 5.2 At a formal meeting, the head of school or manager will be able to consider a range of possible outcomes short of dismissal. Dismissal is a last resort and is only likely to be an appropriate consideration at this early stage in cases where the alleged conduct is likely to constitute gross misconduct (see 'Gross Misconduct', section 8.1). In such cases, the head of school should seek HR advice before referring the matter to the Trust for consideration at a governors' hearing. Suspension of the employee must also be considered in such circumstances (see 'Suspension', section 8.3).
- 5.3 At a formal meeting, the head of school or manager will go through the allegations against the employee and the evidence that has been gathered. The employee will be able to respond and present any evidence of their own. Their companion may make representations and ask questions, but should not

answer questions on behalf of the employee. The employee may confer privately with their companion at any time during the hearing.

- 5.4 The meeting will be adjourned if new facts come to light which the head of school or manager decide to refer for further investigation.
- 5.5 After the meeting, the head of school or manager will review the evidence and discussion which took place and decide, on the balance of probability, whether the concerns or allegations are founded and what appropriate course of action to take from the following options:
- No formal action: this may be applicable where allegations are determined to be unfounded or unsubstantiated or where informal management action is deemed to be a more appropriate response to the concerns about conduct.
  - First written warning: this will be issued where the allegations of misconduct are determined to be justified and informal management action alone is deemed to be an insufficient response.
  - Final written warning: this will be appropriate in cases of very serious concern about conduct where the employee's actions have had, or are liable to have by their continuation, a harmful impact on the Trust, such as on the education of pupils or the safety or welfare of others.

5.6 The employee will be notified of the decision as soon as possible following the meeting and, in any event, in writing within five working days. The letter to the employee will also confirm the period during which any written warning issued will remain live (see also 'Warnings', section 8.6) and the employee's right to appeal the decision in writing within five working days of receipt. The appeal may be heard by the head of school, if they were not involved in the initial decision, otherwise it will be directed to the Clerk to the Governing Body who will convene a governors' hearing for the purpose (see also 'Appeals', section 7).

5.7 A next stage formal hearing will not be instigated unless and until a formal warning has been issued and therefore more than one formal meeting may be held if appropriate to the circumstances.

## **Formal Hearing**

- 6.1 If, following a previous formal meeting and during a period when a written warning remains live:
- a) the required standard of conduct has still not been reached,
  - b) the standard of conduct has deteriorated further,
  - c) there are further allegations of misconduct, or
  - d) if at any time there are allegations of gross misconduct

or where the matter has been referred for consideration by the Trust, the Clerk will convene a governors' hearing, providing at least ten working days' notice in writing to the employee (see 'Scheduling Formal Meetings', section 8.4). Consideration should be given at this stage as to whether suspension of the employee is appropriate (see 'Suspension', section 8.3).

- 6.2 The meeting may be adjourned if, in the view of the chairperson of the hearing, the meeting cannot continue until either new evidence is investigated or a witness who is absent is called.
- 6.3 As with all formal meetings held in accordance with the policy, the employee will be entitled to be accompanied by a trade union representative or workplace colleague and will have the opportunity to challenge evidence, question relevant witnesses and state their case.
- 6.4 After the meeting, the governor(s) will consider all the evidence presented to them and reach a decision. As part of the decision-making process the governor(s) will determine whether, on the balance of probabilities, the concerns about the individual's conduct are justified and, if so, what outcome is most appropriate in all the circumstances of the case.
- 6.5 The employee will be notified of the decision as soon as possible and, in any event, in writing within five working days. The letter will include confirmation of whether the governor(s) found there to be a case to answer and, what, if any, formal action is being taken.
- 6.6 Where the outcome is not dismissal but where there are still concerns, the letter will outline what actions and improvements are needed to obviate the need for a further formal meeting. The letter to the employee will also confirm the period during which any written warning issued will remain live (see also 'Warnings', section 8.6) and the employee's right to appeal the decision in writing within five working days of receipt. An appeal against a decision made by governors will be referred to the Clerk to the Trust who will convene a hearing by different governors, uninvolved in the previous decision (see also 'Appeals', section 7).
- 6.7 Following any decision to dismiss the Trust will issue notice of termination in accordance with the employee's contractual or statutory notice period (whichever is greater). As a general rule, the employee will not be expected to attend work during the notice period. In cases of gross misconduct, the employee may be summarily dismissed (without notice).

## **Appeals**

- 7.1 There shall be a right of appeal against any decision to impose a written warning or other formal sanction as a result of action taken by the employee's manager, the head of school or by governors. In exercising this right, the employee must confirm the grounds on which they are making the appeal.
- 7.2 Appeals against warnings issued will usually be heard by the head of school or one or more governors, in accordance with the scheme of delegation and bearing in mind the need to secure impartiality at every stage of the process. No person will hear an appeal against their own decision. Appeals against dismissal, or against formal warnings or sanctions determined by governors, will always be heard by one or more governors with delegated powers. References to the appeals panel hereafter may therefore be interpreted accordingly, although the 'panel' could in some cases consist of one person.

- 7.3 The appeal hearing will be arranged to take place as soon as is reasonably practicable, allowing the employee at least five working days' notice of the date (or ten working days where the appeal is against a dismissal decision).
- 7.4 The purpose of the meeting is for the appeals panel to consider the grounds for appeal and to review the fairness of the outcome of the original meeting. New evidence may be considered at the appeals stage but no additional grounds for action against the employee may be introduced.
- 7.5 Within five working days of the appeal hearing taking place, the employee will be notified in writing of the outcome and any actions which have been determined. There is no further right of appeal.
- 7.6 If a dismissed employee is reinstated on appeal, their salary will be back-paid to the date of the original termination, minus any monies already paid in respect of notice.

## **Procedural Points & Specific Circumstances**

### **8.1 Gross Misconduct**

Gross misconduct is deemed to be misconduct which is serious enough to overturn the contract between the employer and the employee, thus justifying summary dismissal (dismissal without notice). For the purposes of this procedure, examples of gross misconduct include:

- Theft or fraud;
- Physical violence or bullying;
- Deliberate and serious damage to property;
- Serious misuse of position, the Trust's property or name;
- Deliberately accessing internet sites containing pornographic, offensive or obscene material;
- Serious insubordination;
- Sexual misconduct, at or away from work, which affects the employee's suitability to work with children;
- Falsification of qualifications or provision of deliberately misleading information used as the basis for employment decisions;
- Unlawful discrimination or harassment;
- Bringing the Trust into serious disrepute;
- Serious incapability at work brought on by alcohol or illegal drugs;
- Causing or risking loss, damage or injury through serious negligence;
- A serious breach of health and safety rules;
- A serious breach of trust and/or confidence;
- Behaviour that is seriously inappropriate and incompatible with the employee's role and position.

This list is illustrative and is not intended to be exhaustive.

## 8.2 Disciplinary Investigations

The nature and extent of any investigation into alleged misconduct will depend on the seriousness and complexity of the matter under consideration. The individual's line manager (or the head of school or a senior manager, as appropriate) will carry out preliminary enquiries to establish whether or not there appears to be a case to answer. Based on the outcome, either no further action will be taken or a disciplinary investigation will be initiated. Some allegations will require referral to one or more outside agencies for advice before an internal investigation can be authorised: for example, those involving child protection, financial irregularities or other potential criminal activities. The guidance of the Local Authority Designated Officer (LADO) will be sought at the earliest opportunity in any case involving allegations of a child protection nature against a member of staff, and the local authority's procedure for investigating and managing such allegations will be followed.

Except where the police or LADO have advised otherwise, the employee will be informed of the nature of the allegations against them and provided with full details of these as well as confirmation that an investigation is underway and by whom.

An investigatory interview with the employee will be held, giving reasonable advance notice. Whilst there is no entitlement to be accompanied at such a meeting, a reasonable request to be accompanied by a trade union representative or workplace colleague will be given due consideration, provided that a lack of availability on the part of the companion does not hinder the progress of the investigation.

Where possible, investigations will be completed within four working weeks. In more complex cases, however, particularly where outside agencies are involved, this cannot always be achieved. In such circumstances, the employee will be kept informed about the progress of the investigation and the outcome will be communicated at the earliest opportunity.

## 8.3 Suspension

There may be instances where suspension on full pay is necessary while investigations into concerns or allegations about conduct are carried out. Suspension is not an assumption of wrongdoing and is not considered to be a formal sanction. It is most likely to be deemed appropriate when:

- The allegation relates to a matter of gross misconduct;
- Where the alleged incompetence or misconduct has, or is liable to, put other parties or property at risk;
- Where there are reasonable grounds for a belief that the investigation may be compromised by the individual's ongoing presence (e.g. through tampering with evidence or influencing witnesses);
- Where relationships have severely broken down.

A decision to suspend will not be made until alternative courses of action have been considered, such as transfer to an alternative post or temporary allocation of other duties.

In accordance with current school staffing regulations, either the head of school or Trust may impose a suspension but only the Trust may lift it. The Trust may delegate its functions in this regard to the chair of governors.

A decision to suspend will be communicated at the earliest opportunity to the employee, in person where circumstances permit and, in any event, confirmed in writing within two working days.

Where suspension lasts longer than four weeks it will be reviewed thereafter at regular intervals and the employee kept informed about progress. Where an investigation can find no case to answer, the suspension will be lifted and the employee supported to reintegrate into work as soon as possible.

#### **8.4 Scheduling Formal Meetings**

Meetings should be held during the employee's usual working day. Other arrangements can be made by mutual agreement. School closure periods will generally result in a temporary suspension of the procedure.

The employee is expected to make every effort to attend meetings at the required time. The Trust will, where reasonably practicable, seek to liaise with the employee regarding the availability of their chosen work colleague or trade union representative to ensure that postponements are not necessary. If the employee's work colleague or trade union representative is unable to attend, an alternative date may be suggested by the employee. This will not be unreasonably declined provided it can be accommodated by those conducting the hearing and does not result in an unacceptable delay. As a general rule, a delay of up to five working days will be acceptable but the Trust will consider each request on its own merits. Any subsequent postponements, or a failure of the employee to turn up to a scheduled meeting without good reason, is likely to result in the formal meeting proceeding as planned and being decided on the basis of other available evidence.

#### **8.5 Formal Action Against Trade Union Representatives**

Where a formal investigation or formal meeting is being arranged in accordance with this procedure in relation to a trade union representative employed by the Trust, the case must first be discussed with a full-time official from the appropriate union after obtaining the employee's agreement.

#### **8.6 Warnings**

The period during which a warning will remain 'live' for the purposes of this policy is not definitive and may be varied according to the circumstances of the case. As a general rule, written warnings will remain live for a period of twelve months after which point they will be disregarded. A longer warning period may be appropriate in certain cases, for example where there has been a repetition of similar matters of misconduct or where a longer warning period was determined as an alternative to dismissal. The head of school may exercise discretion to disregard the warning prior to its documented expiry date in circumstances where the employee has reached and maintained an acceptable standard, confirming this in writing to the employee. Where governors have

issued a warning as a result of a formal meeting the Trust will usually delegate the discretion to review the warning to the head of school.

### **8.7 Ill-Health Absence**

The ill-health absence of an employee during the procedure will not result in any delay to convening meetings or hearings beyond what is reasonable in the circumstances. One attempt to reschedule a meeting will be made where ill-health absence intervenes and it should be explained to the employee that if they are still unable to attend on the rescheduled date the meeting will proceed in their absence. The employee will be offered the alternative options of making a written submission and/or asking their companion to attend the rescheduled meeting to make oral submissions and to question witnesses on their behalf before a final decision is reached.

Absence which appears to have been triggered by the instigation of the procedure or which occurs during an assessment and monitoring period will usually be referred immediately to the Trust's occupational health provider to obtain advice. If the absence becomes long term then this will be dealt with in accordance with the Trust's Absence Management Policy.

### **8.8 Grievances**

Grievances which relate directly to the instigation or operation of this policy will be addressed in accordance with the existing rights under this policy to state a case and to appeal against any formal action taken. Grievances which are not directly related to disciplinary proceedings will be dealt with separately, without delay to the progress of this policy.

### **8.9 Overlapping Conduct & Capability Issues**

On occasion, an employee may not be meeting the required standards of work either in terms of their performance or conduct. In such cases, issues of conduct may be considered alongside performance issues in a joint formal meeting to avoid the complexity of instigating parallel procedures with similar stages and potential outcomes.

### **8.10 Confidentiality**

The head of school, governors and any other manager involved with the operation of this procedure will ensure that any information relating to concerns about an employee's conduct are disclosed only to those who have a direct involvement in dealing with, or advising on, those concerns, emphasising the need for strict confidentiality.

### **8.11 Referrals to Professional Bodies & Other Agencies**

The Trust adheres to all procedures in relation to the requirement to make referrals to the relevant regulatory bodies in respect of matters of concern regarding the safeguarding of children and, in respect of teaching staff, other matters of misconduct which resulted in, or would have been likely to have resulted in, dismissal.