

The Charter Schools Educational Trust Disciplinary Policy and Procedure

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1 Scope

This policy applies to all staff employed at The Charter Schools Educational Trust (the 'Trust') i.e. Teachers, Support Staff, Central Services Staff, including those on fixed-term, part-time, permanent or temporary contracts. It does not apply to agency workers, consultants, self-employed contractors, volunteers or interns.

2 Rationale

As a values-driven organisation we expect all of our staff to maintain high standards of performance and conduct and act as role models to the children in our schools, and therefore our behaviour and actions should be exemplary at all times. This applies to all roles across the Trust and its schools.

In line with the Trust Staff Code of Conduct, we expect that all our staff will always conduct themselves with integrity and honesty and uphold the values and reputation of their individual school/department and those of the Trust as a whole. Staff should ensure that they always act in the best interests of the pupils in our schools. If a member of staff's conduct fails to meet Trust standards and the particulars outlined in the Staff Code of Conduct, they may be subject to disciplinary action under this policy. The Code of Conduct is available on Your Charter.

In addition to our own expected professional standards of behaviour and conduct, teachers are reminded of the DfE Teachers' Standards, which set out the minimum requirement for teachers' practice and conduct. Any serious breach of these standards would likely lead to disciplinary action.

3 Aim

The purpose of this disciplinary policy and procedure is to handle breaches of discipline in a firm and decisive manner, whilst being fair and consistent in its application. The ACAS Code of Practice will be adhered to when managing staff.

All line managers will receive appropriate training and support in handling a disciplinary case from the Central HR team and staff are encouraged to seek advice from their union representative or official.

Whilst it will sometimes be necessary to issue formal disciplinary action, this will always be fair and proportionate to the allegation/s.

4 Equality Statement

The Trust is committed to ensuring that all disciplinary matters are handled fairly, consistently and without discrimination. All employees will be treated with dignity and

respect, regardless of age, disability, gender reassignment, marriage or civil partnership, pregnancy or maternity, race, religion or belief, sex, or sexual orientation. Decisions will be based solely on facts and evidence, in line with our commitment to equality, diversity and inclusion and in compliance with the Equality Act 2010.

5 Confidentiality

Our aim is to deal with disciplinary matters sensitively and with due respect for the privacy of any individuals involved. All employees must treat as confidential any information communicated to them in connection with an investigation or disciplinary matter.

Employees, and anyone accompanying them, (including witnesses) must not make electronic recordings of any meetings or hearings conducted under this procedure, whether these meetings or hearings are conducted in person, by telephone or using remote working platforms or technologies.

Employees will normally be told the names of any witnesses whose evidence is relevant to disciplinary proceedings against them, unless we believe that a witness's identity should remain confidential.

6 What constitutes disciplinary action?

Any breach of the Trust's employment policies, including those relating to professional conduct, may be treated as a disciplinary matter. This disciplinary policy also applies to actions not explicitly stated in our policies, but which could reasonably be considered to constitute misconduct or gross misconduct.

Any complaint made in writing by a parent/guardian/carer or student may also be regarded as a disciplinary matter, depending on the seriousness and substance of the complaint. Anonymous complaints will be not normally be investigated but all reasonable efforts should be taken to establish the root source of the complaint when it is a safeguarding concern or a potential criminal matter.

Any complaint made by a colleague, following investigation under the grievance, or bullying and harassment policies has the potential to be regarded as a disciplinary matter.

Poor attendance and timekeeping will also be dealt with under this policy, unless it is a health concern, which should be managed under the Trust Sickness Absence Management policy.

7 Informal meetings

This procedure does not preclude line managers having conversations with staff about general concerns in relation to their conduct and standards. This could be part of routine performance management conversations or to address lower-level concerns when they arise.

When these concerns become persistent and serious and no improvement has been observed or is likely to fall into the serious misconduct category, then formal action should be considered. This is in addition to any single instance of misconduct which the Headteacher deems to be sufficiently serious to warrant further investigation.

8 Criminal investigations, charges, and convictions

A criminal offence committed outside Trust employment will not automatically be treated as a reason for dismissal. The main consideration will be whether the offence is one that makes the employee unsuitable for their employment to continue, including whether their actions bring the Trust into disrepute.

In the event a charge is pending or because the employee is absent through having been remanded in custody, they will not be automatically dismissed however, the internal Trust disciplinary procedure may run concurrently. Headteachers/Executive leaders should take HR advice in such instances. The Trust will not usually wait for the outcome of any prosecution before deciding what action, if any, to take. Where an employee is unable or has been advised not to attend a disciplinary hearing or say anything about a pending criminal matter, the Trust may have to make a decision based on the available evidence.

In all roles across the Trust, the Rehabilitation of Offenders Act 1974 does not apply so all criminal convictions and cautions must be disclosed. Failure to do so, or falsification of qualifications or employment history, will render you liable to summary dismissal.

Except for road traffic offences, other than those that can be punished by a sentence of imprisonment, employees must declare any Court or Police action taken whilst in the employment of the Trust. Such disclosure will not necessarily make an employee liable for dismissal under the terms above as the main consideration will be whether the offence makes the individual unsuitable for work in the Trust or unacceptable to other employees. Failure to disclose will make the employee liable to summary dismissal.

9 Disciplinary Action against Headteachers/other Trust executives

Where the allegation or complaint is against a Headteacher or an executive who reports to the CEO, then the matter will be dealt with by the CEO, who may appoint a member of the executive leadership team or the Trust Board to carry out the investigation. Any panel convened to consider disciplinary action will be chaired by the CEO alongside at least two other members of the Trust's executive team or Trustees (except for the person who carried out the investigation).

Any subsequent appeal against a warning or dismissal will be heard by the Chair of the Trust Board with at least two other Trustees on the panel. Their decision will be final.

In this situation, where the wording in this policy refers to the Headteacher/Executive leader it should be substituted by the CEO.

10 Support

Line managers handling disciplinary cases will receive training and ongoing advice and guidance from a member of the Central HR team.

Individuals who are the subject of disciplinary procedures will be encouraged to speak to their union representative or official and have the right to bring a union representative or a Trust work colleague to any formal meeting, as well as the investigation stage. Staff are also encouraged to use the 24-hour employee assistance service offered to all staff.

The Trust has a duty of care to all employees and where it is suspected that any individual's health and safety may be at risk, at any stage of this procedure, managers should seek urgent advice from the Trust HR team.

11 Investigation

The purpose of an investigation is for the Trust to establish a fair and balanced view of the facts relating to any disciplinary allegations against employees, before deciding whether to proceed with a disciplinary hearing. Regardless of how the matter has arisen, the Headteacher / Executive leader as Commissioning Officer must firstly appoint an experienced person, (usually from the Senior Leadership Team (SLT) in schools) to be the Investigating Officer, who will carry out an investigation, establish the facts and produce a written investigation report on their findings. This should be actioned as soon as possible, depending on the circumstances of the situation and in most cases, completed within 4 working weeks. Where this is not possible, the Investigating Officer must update the employee in writing and advise of extended timescales. The Investigating Officer should be entirely neutral and not involved in the case in any other capacity.

In some cases, it might be necessary to appoint an Investigating Officer from either another school, the Trust Central team or a suitable external person to ensure an unbiased approach, but in most cases, it should be possible to identify a suitable senior and experienced person from within the school.

The employee will be notified of the name of the Investigating Officer, and when invited for interview, will be informed in writing of the nature of the allegation. When interviewed, whilst not a statutory right, the individual will be able to be accompanied at meetings by a work colleague or trade union representative or official. When arranging a meeting date under this procedure, every effort will be made to find a mutually convenient date, including taking account of the availability of the chosen representative. If necessary, the meeting may be re-organised once to accommodate this however, it is expected that the representative should be available within 5 working days of the original proposed date.

Notes of the meeting will be taken either by the Investigating Officer or a note taker, and the employee will be asked to sign and date them as a record of what was said. It is not necessary for the notes to record word for word what was said. The aim is that they should provide a fair and accurate record of the relevant points. Employees must co-operate fully and promptly in any investigation.

As part of the investigation, it may well be necessary for the Investigating Officer to interview witnesses and take witness accounts. Witnesses will be supported through this process and whilst it is important they give an honest account of the situation as they see it or observed it, they must not be put under any undue pressure.

If they ask not to be involved or to provide an anonymous statement or not to attend any potential disciplinary hearing as a witness, then advice should be sought by the Central HR team, although it is highly likely that anonymous statements will be discounted at the hearing.

It is the role of the Investigating Officer to establish the facts of the matter and present a report to the Commissioning Officer. The Investigating Officer may make a recommendation as to whether:

- There is a case to answer or not
- Whether the matter should proceed to disciplinary hearing or be dealt with through the provision of informal advice/management guidance.

On completion of the investigation, the Commissioning Officer will decide on the most appropriate course of action, taking advice from the Central HR team, as necessary. They may decide to drop the case completely if there is no substance to the allegation/s, handle it informally where there is some cause for concern but not to the extent of disciplinary action or decide the matter should be dealt with under these procedures.

If the Headteacher/Executive leader decides that the matter should be dealt with under the disciplinary procedure the employee will be informed of this in writing within two working weeks, subject to availability of appropriate panel members. The letter will set out the allegation/s determined by the Headteacher/Executive leader and the planned date of the hearing, giving appropriate notice (see section 12). Documentary evidence will be provided at that point. The employee is entitled to be accompanied at the hearing by a work colleague or trade union representative or official.

No disciplinary action will be taken against an accredited trade union representative until their local or regional union officer/official has been informed.

12 Suspension

It may be appropriate to suspend an employee in the event of a disciplinary investigation and process. Suspension will be considered on a case-by-case basis and kept under review. It is not a sanction and does not indicate a pre-determined outcome or any pre-judgement. In considering the appropriateness of a suspension, the Headteacher/Executive leader will:

- Consider whether there are alternatives to suspension
- Ensure that suspension is imposed only where strictly necessary
- Ensure that suspension is as brief as possible
- Review the need for suspension at least every 4 weeks.

An employee who has been suspended will be entitled to receive their normal pay during the period of suspension. If, during a period of suspension an employee becomes unwell, they are required to self-certify or provide a medical certificate as would be required under the Sickness Absence Management policy.

Suspension may result from any suspicion or allegation of gross misconduct (see non exhaustive list in section 17) or for another urgent and substantial reason to do so and will be on full pay.

Wherever possible, suspension meetings should take place in person. While this is not a statutory right, every effort will be made to facilitate the opportunity to be accompanied

by a union representative/official or a workplace colleague. However, in circumstances where urgency or safeguarding considerations apply, the meeting may proceed without representation to ensure prompt action and protection of all parties. Suspension in such cases will always be a neutral act and will be on full pay.

A written record confirming the suspension, and the reasons why will be provided to the employee within three working days of the suspension.

Unless it is decided that there is no need for further action after the suspension meeting with the individual, the Headteacher/Executive leader will then commission an appropriate Investigating Officer to investigate the allegations.

During the investigation, the Headteacher may also decide to bring the employee back to work whilst the investigation continues. In any case, whether suspended or not, the employee must cooperate with the ongoing investigation and be available for work at any time.

Unless specific written permission is given from the Headteacher/Executive leader, the employee should not attend any part of the school site for the duration of the suspension. They should also refrain from contacting colleagues or students during this time. A designated school liaison will be appointed to address any questions or concerns the individual may have while suspended.

All suspensions will be reviewed regularly and written confirmation of the outcome of each review will be provided to you.

During the suspension, the Headteacher/Executive leader will appoint a designated school/department liaison to be the point of contact for welfare reasons, although they will not be able to engage with the individual in relation to the allegations. Depending on the nature of the allegations, access to ICT systems may be switched off, but this decision will be taken on a case-by-case basis. If the employee needs anything from their computer or from school, the designated contact should be able to provide assistance.

13 Formal hearings and appeals

Such meetings will generally only take place during term time. Exceptions may take place where the individual is a full year (52 week) employee and it is possible for an appropriate panel to be convened.

Hearing panels

Disciplinary Stage	Panel for School or Central team member	Panel for Headteacher or Trust Executive team member
Investigation	1 x SLT or Trust Executive	Trust Executive
Disciplinary hearing/ possible outcome of warning or final warning	1 x Headteacher or Trust Executive	CEO
Disciplinary hearing/ Possible outcome of dismissal	3 x Headteacher or Trust Executive	CEO + 1 or more Trust Executive or Trustee
Appeal	3 x Headteacher, Trust Executive or Trustee	Chair of Trustees + 1 or more Trustees

A disciplinary panel can only be made up of an individual Headteacher (or equivalent) where the potential outcome is short of dismissal. Where dismissal is being considered, to ensure impartiality, a panel of three will be convened. This will normally be chaired by the Headteacher of another school or other senior leader from the Central Trust, supported by two other appropriate leaders. The individual's line manager may present the case, but this could be another line manager, the Investigating Officer or Headteacher.

Any disciplinary action i.e. written warning or dismissal will only be taken after a hearing and in accordance with the following procedure:

An employee will be given:

- Not less than **five working days' notice** in writing of any disciplinary hearing which has the potential to lead to a sanction short of dismissal. Where dismissal is a possible outcome, **ten working days' notice** will be provided. They will be informed in writing of the complaints made against them and given copies of all relevant documents and any supporting evidence. A model agenda for the hearing will be included. This will include the investigation report, witness statements and any documents that the panel are required to consider. In addition, both the employee and the school should provide the other with details of any witnesses that it is intended to call or witness statements, at least **two working days** before the hearing.
- Not less than **five working days' notice** in writing of the hearing of an appeal against a warning;

- Not less than **ten working days' notice** in writing of the hearing of an appeal against dismissal.

Where it is envisaged that the potential outcome of a hearing may lead to a final warning or to a dismissal, the employee will be informed of that possibility in writing when called to the hearing.

Unless otherwise agreed by the employee, any hearing or appeal will take place during a working day. For the purposes of this clause, working days are those days when the employee is required to be available to perform their duties in accordance with the terms of their contract of employment.

The hearing will normally convene at the employee's place of work or at an alternative Trust location. In exceptional circumstances, the hearing may take place at an independent venue.

At any disciplinary hearing or appeal, the person presenting the management case will explain the complaint against the employee and the employee will be given an opportunity to ask questions of the manager and any previously notified witnesses in attendance. The employee or their representative will present their case and call any previously notified relevant witnesses, or present witness statements, before any decisions are reached.

Representatives

At any disciplinary hearing or appeal the employee has the right to be accompanied by a work colleague or trade union representative. The chosen companion may;

- address the hearing to present/sum up the case
- respond on the employee's behalf to any views expressed
- request an adjournment on the employee's behalf
- confer with the employee

However, they may not answer questions directed to the employee.

Witnesses

An employee may wish for witness(es) to attend the hearing. It is the responsibility of the employee to request their attendance directly to the individuals concerned and to notify the panel in good time of their attendance.

Making a record of the meeting

Summary notes will be taken at all meetings and a copy provided to the employee and trade union representative (if the employee has chosen to be so represented) within **five working days**.

Electronic recordings may not be made without the express permission of all parties present.

An HR representative may be present at a disciplinary or appeal hearing and consulted before any disciplinary action is taken. This may be a member of the Central HR team or an external HR adviser.

The Chair of the panel may require specialist advice from a specific professional expert, for example a child protection practitioner. This will be obtained by the Chair of the panel, before any decision is taken. Details of any such advice that has been considered when reaching a decision will be documented within the written communication of the outcome of the hearing.

In fixing a date for a meeting under this procedure, every effort will be made to find a mutually convenient date including taking account of the availability of the chosen representative. If necessary, the meeting will be re-organised on at least one occasion to accommodate this. However, where an employee is persistently unable or unwilling to attend a disciplinary meeting without good cause the School/Trust may, depending on the circumstances, convene the hearing in the employee's absence and make a decision based on the available evidence.

Whilst decisions will not normally be communicated immediately at the end of the hearing, the employee will be informed in writing of the decision of any disciplinary hearing or appeal as quickly as possible and **within five working days**. The letter will clearly set out the rationale behind the decision taken and the right of appeal.

An appeal hearing will take place on a working day as soon as is reasonable and practicable after the original warning or decision to dismiss, bearing in mind the circumstances of the case and the availability of panel members.

14 Warnings

No sanctions should be imposed without a disciplinary hearing taking place.

If the alleged misconduct cannot be resolved informally, a first written warning may be issued which will remain active on an employee's personnel record for 6 months before being disregarded

If there is further misconduct, this may result in a final written warning after a disciplinary hearing which will remain active on an employee's personnel record for 12 months before being disregarded, although in exceptional circumstances, a panel may decide on a longer period of up to 24 months.

A final written warning may be issued where the misconduct is sufficiently serious, even though there may be no other active written warnings on the employee's disciplinary record. A final written warning will indicate that dismissal may occur if there is no, or insufficient improvement.

A written warning will set out the nature of the misconduct, the required standard of behaviour, the potential consequences of further misconduct and of the right of appeal. Reasonable and appropriate support will be provided to assist the employee in avoiding any recurrence.

Records of warnings will be kept on the individual's personnel file and will normally remain active for one year from the date of issue. However, in the instance of a final written warning, that period may be extended up to 24 months.

15 Dismissal

In the event of gross misconduct, the panel may terminate the individual's employment summarily i.e. without notice. The decision to terminate employment may only be made after a disciplinary hearing. The Chair of the panel will inform the CEO.

In appropriate cases, as an alternative to dismissal, consideration may be given (where the circumstances may otherwise warrant dismissal), to redeploying the individual with their agreement, to another position as a temporary or permanent measure. In this case, salary and benefits will be adjusted to reflect any reduction to the individual's responsibilities.

16 Appeal against Warnings and against Dismissal

Employees have the right to appeal against all written warnings or dismissal by sending written notice to the Trust Director of People by email to HRAppeals@tcset.org.uk **within ten working days** of notification of the decision, setting out the specific grounds for the appeal. The Trust Director of People will arrange for an appropriate panel to hear the appeal, as identified in section 13. The Chair of the panel making the original decision will attend to present their reasons for the decision.

A HR advisor may be present at appeal hearings to advise the hearing on matters of employment law and process.

If the dismissal is upheld the date of the dismissal shall be the original date of dismissal by the Chair/panel.

Appeal hearings will normally take the form of a review meeting, although it can be run as a full rehearing of the case against the employee, depending on the grounds of the appeal. The format of the meeting will be determined by the Appeal panel. Both the employee and the School/Trust can request that new relevant evidence be presented at the hearing, however this may result in the Trust needing to carry out further investigation.

The decision of the Appeal panel in this respect is final.

17 Gross Misconduct

Gross misconduct may lead to summary dismissal for a first-time offence.

The Trust consider that the following may constitute gross misconduct:

- Breaches of the Trust Child Protection and Safeguarding Policy, to the extent that children are placed at risk, or any other negligent or wrongful actions or omissions that place children at risk
- Serious deliberate or repeated refusal to obey a proper and reasonable instruction including in respect to the teaching and care of students in the school
- Deliberate serious or repeated neglect of duty.
- Fraud, falsifying records, stealing from the Trust, its' schools, its' employees, or from students and other offences of dishonesty. This includes falsifying overtime claims or expenses.
- Cheating or coercing others into cheating, or any other misconduct in the commission of public examinations or other statutory or regulated assessments.
- Bringing any individual school or the Trust into serious disrepute or acting in a manner deliberately to seriously undermine the Trust's mission and ethos. However, it is not intended that anything in the disciplinary procedure will be taken to permit disciplinary action based on a judgement about a member of staff's lifestyle.
- A serious breach of safety requirements likely to endanger other people or yourself, or to cause damage to Trust property.
- Unprofessional disclosure of confidential information and disclosure of information in breach of the Data Protection Act.

- Being unfit for work due to the influence of alcohol or prescribed drugs (consideration will be given as to whether the disciplinary procedure is applicable and what support for the individual may be appropriate in the given circumstances, please refer to the separate alcohol and drugs abuse policy).
- Unauthorised use of alcohol or prescribed drugs within Trust premises or during any extracurricular activities organised by the school or in the presence of parents of students during working time or at any time whilst in the company of students.
- False claims as to qualifications, experience, or previous employment.
- Intentional damage and unauthorised removal of Trust property and ICT systems.
- Serious abuse of Trust ICT systems and of the internet, and non-compliance with any policy issued by the Trust addressing these matters e.g. misuse of social networking sites or using such a site to contact or communicate with students.
- Sexual misconduct at work or involving students at the school whether in school or out of school.
- Breaches of the Trust's Equality, Diversity, and Inclusion Policy.
- Physical assault or fighting at work.
- Bullying, harassment, and intimidation and any unlawful act of discrimination.
- Legal disqualification.
- Failure to declare significant conflicts of interest.
- Misuse or unauthorised use of vehicles or equipment.
- Charge or conviction for a criminal offence (based on the balance of probabilities, regardless of whether the individual was either prosecuted or found guilty beyond reasonable doubt at trial).
- Committing any act which renders the individual ineligible to continue teaching and/or working for a school and/or school proprietor.
- Serious lack of care to your duties or to other people ('gross negligence').

These examples of gross misconduct are not exhaustive and there may be other offences of a similar gravity which would in the circumstances constitute gross misconduct.

*The term 'drugs' is used to describe both illegal drugs and other psychoactive substances which may or may not be illegal.

18 Monitoring and evaluation

All formal disciplinary hearings and outcomes should be recorded and retained on personnel records as defined in section 14.

It is good practice to record all formal disciplinary hearings and the outcomes for Equal Opportunities monitoring.

19 Related documents

This policy should be read in conjunction with the following Trust policies:

- Child Protection & Safeguarding
- Allegations of abuse
- Grievance
- Code of Conduct
- Sickness Absence Management
- Capability
- Equality, Diversity, and Inclusion

This policy should be read in conjunction with the following external regulations and guidance:

- Employment Act 2008
- ACAS Code of Practice – Disciplinary and Grievance procedures
- Keeping Children Safe in Education
- DfE Teachers' Standards
- Equality Act 2010

20 Case Referral

Where a teacher/Head Teacher is dismissed for serious misconduct or resigns prior to the completion of the disciplinary process, the Trust should consider making the appropriate referral to the Teaching Regulation Agency (TRA).

If the allegation against **any** member of staff is in any way connected to the safeguarding of children, a referral will be made to the Disclosure & Barring Service (DBS).