

# Manor Hall Academy Trust



## DISCIPLINE POLICY & PROCEDURE

Responsibility for monitoring and reviewing this policy lies with the Central Trust Team and Directors. A review of this policy and recommendations for change should be presented to the Directors of the trust for verifications and consulted on with unions.

The Directors of the trust, in line with the Scheme of Delegation and Articles of Association have overall responsibility for the effective operation of MAT policies, but has delegated day to day responsibility to the Headteacher and LAB.

Directors will take account of recommendations from individual schools in review of this policy and seek HR advice as to such revisions.

Consulted with the JCNC	Nov 2022
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Date	Version	Reason For Change	Overview of Changes Made	Source
11/12/2020	1	Scheduled Review	5.1 inform CEO	KS
Spring 21	1	Review cycle change	Change of review date	Directors
Autumn/ Winter 2022	2	Review Cycle	Consultation with the JCNC unions and bring into one policy. Bring in line with formal meetings procedures and also consideration to central team scenarios.	kstaples

## MANOR HALL ACADEMY TRUST

# DISCIPLINE POLICY & PROCEDURE

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The purpose of this policy and procedure is to set out the standards of conduct expected of our employees and to ensure that all disciplinary matters are dealt with fairly and consistently. This procedure does not deal with performance or sickness absence issues. These are dealt with in our Performance Improvement and Managing Attendance at Work policies.

Any reference to 'the employer' refers to Manor Hall Academy Trust. The 'appropriate level of authority' should be determined according to the scheme of delegation. This policy applies to employees of the organisation. The Scheme of Delegation can be requested by emailing [ceo@manorhall.academy](mailto:ceo@manorhall.academy).

The policy and procedure applies to all employees, regardless of length of service, but does not form part of the contract of employment and can be varied from time to time and in consultation with the recognised trade unions.

The procedure does not apply once an employee has left employment.

### **1. General Principles**

- 1.1 All managers have a duty to ensure that they and all the employees they are responsible for are aware of, and comply with, the employer's policies and procedures. Managers are also responsible for making sure that employees know when they are not achieving or maintaining the expected standards of conduct or behaviour.
- 1.2 All employees have a responsibility to be aware of and conduct themselves in line with the employer's policies, the law and maintain acceptable standards of conduct and behaviour. Where relevant, employees must adhere to codes of practice or standards associated with their profession or trade must also be adhered to. Employees must also cooperate with disciplinary investigations as required.
- 1.3 The aim of the procedure is to set out and maintain the required standards of conduct and encourage improvement.
- 1.4 We are committed to equality and diversity and will make reasonable adjustments to the application of this policy and procedure in line with our equal opportunities commitment.

### **2. Acceptable Behaviour and Conduct**

- 2.1 The relevant code of conduct provides employees with an effective ethical framework within which to work and it provides the public with confidence that employees are working on their behalf in an appropriate manner.
- 2.2 The employer expects all employees to meet high standards of behaviour and conduct, including the relevant code of conduct. Examples of the types of [expected standards of behaviour](#) are detailed in this policy.

### **3. Minor Conduct Issues and an Informal Approach**

- 3.1 For minor conduct issues, an informal approach to help, guide or advise will be adopted. Wherever possible, issues will be dealt with informally. Minor disciplinary breaches will only be dealt with through the formal stages of the procedure if misconduct continues or the misconduct is too serious to be dealt with informally.
- 3.2 Cases of minor misconduct should be dealt with confidentially. A conversation about the concerns and resolutions is often all that is required to improve conduct. In some cases, additional training, coaching and advice may be what is needed.
- 3.3 Where a manager has a concern about an employees' conduct, they will organise an informal meeting to discuss the concern. The purpose of any informal meeting is to improve conduct, i.e. to identify and examine any areas of concern and to provide a reasonable opportunity for you to respond. For example, where it is appropriate to question the factual accuracy of any concern that has been identified. The employee should make clear what the expected standards of conduct are and what support is available to enable the employee to achieve this (if applicable). A note of the discussion and any follow-up correspondence may be retained by the line manager and held on personal file, there will be no note made on disciplinary records.
- 3.4 Where the behaviour causing concern may be related to an underlying relationship issue, it may be appropriate to consider an independent third party, such as a mediator, to help resolve the situation rather than disciplinary action.
- 3.5 If the matter cannot be resolved informally, or the matter is too serious for the informal approach to be applied, then the formal disciplinary process will follow. Although the stages of the disciplinary process will normally be followed sequentially the employer may enter the process at any stage depending on the seriousness of the matter.
- 3.6 No formal disciplinary action will be taken unless or until the allegations have been fully investigated.

### **4. Link with Other Policies and Procedures**

- 4.1 **Grievance Policy** – Where an employee submits a complaint during disciplinary proceedings, this will not normally stop the proceedings from progressing. Where employees raise a grievance during disciplinary proceedings:
  - The disciplinary proceedings may be temporarily suspended in order to deal with the grievance or
  - The grievance and disciplinary may be run concurrently where they are related.
- 4.1.1 Where an employee asserts that disciplinary proceedings being undertaken are unlawfully discriminatory or are motivated by reasons other than misconduct, they can raise a grievance.
- 4.2 **Managing Attendance at Work Policy**  
Where an employee is absent due to sickness whilst a disciplinary matter is pending, the Managing Attendance at Work procedure will apply as normal. However, those responsible for keeping in touch would not normally be the same people involved in the handling of the disciplinary case. Under these arrangements due regard will be had for what is said by Occupational Health and any information the employee may

wish to provide from their treating medical practitioners. We will arrange for the absent employee to see Occupational Health as soon as possible for them to assess health generally and whether the employee is fit to participate in these procedures. Being absent from work due to sickness will not automatically stop the disciplinary procedure progressing.

## **5. Formal Disciplinary Process**

5.1 When an allegation or concern is received, an appropriate manager will carry out an initial (brief) investigation to ascertain whether a prima facie case exists.

Prior to any formal disciplinary decision being made, the following steps will be taken:

- An investigation will be carried out in accordance with the Investigation Procedure. If allegations have been made regarding an employee, they will be notified of the nature of the allegations that are to be investigated, in writing, prior to the investigation meeting. This notification will set out the process which will be followed and will reference whether the allegation potentially amounts to gross misconduct. The amount of investigation involved will vary depending on the allegations in question and the circumstances of the case. Investigations will be dealt with as confidentially as is reasonably practicable and sensitively, in line with the Investigations Procedure.
- If following investigation, it is reasonably believed that there are grounds for disciplinary action, the employee will be required to attend a disciplinary hearing.
- The employee will be invited to the hearing in writing in accordance with the Formal Meeting/Hearing Procedure.
- The employee will be provided with written details of the allegations regarding them to be presented at the hearing, in writing at least **10 working days** before the meeting/hearing.
- The employee must provide copies of any relevant evidence they intend to refer to, at least **3 working days** before the hearing.
- At the hearing the case against the employee will be explained and they will have the opportunity to respond to the allegations.
- The CEO of Manor Hall Academy Trust will be informed at this stage by the headteacher.

## **6. Right to be Accompanied**

6.1 Employees have the right to be accompanied by a companion at any meeting as part of the investigatory or formal disciplinary procedure. The companion may be a fellow employee, a trade union representative or an official employed by a trade union.

6.2 The companion is allowed to address the hearing, to put and sum up the employee's case, respond on their behalf to any views expressed at the meeting and confer with the employee during the hearing. They may also request an adjournment and ask questions of anyone present. The companion does not, however, have the right to answer questions on the employees behalf, address the hearing on behalf of the employee if they do not agree or prevent the employer from explaining their case. Other than confirming that all parties have the same documentation it would not normally be necessary to read out the content of the documentation.

6.3 Under this procedure, the employee does not have the right to be accompanied by anyone else (such as a spouse, partner, other family member or legal representative), unless as a supporter or interpreter, in line with point 6.5.

6.4 It would not normally be reasonable for an employee to insist on being accompanied by a companion whose presence would prejudice the hearing nor would it be

reasonable for an employee to ask to be accompanied by a companion from another geographical location if someone suitable and willing was available on site / locally.

- 6.5 Where appropriate, eligible employees, for example those with disabilities or language difficulties, may have the attendance of a supporter or interpreter.

## **7. Suspension**

- 7.1 Depending on the circumstances, employees may be suspended from work on full pay during the investigation. Suspension on full pay is not a disciplinary penalty or a presumption of guilt. Suspensions will be carried out in accordance with the Suspension Procedure.

## **8. Action against Trade Union Representatives**

- 8.1 Disciplinary action against a TU representative can lead to a serious dispute if it is seen as an attack on their functions. Whilst normal disciplinary standards apply to a TU representative's conduct as an employee, the relevant full-time official should be notified of any action (including suspension) that the employer proposes to take. All reasonable efforts must be taken to ensure that disciplinary action is not taken against a TU representative until the relevant full-time official has had an opportunity to be present at any stage of the formal procedure.

## **9. Criminal Offences**

- 9.1 Certain criminal offences may affect an employee's suitability to continue in their role with the employer or damage their reputation. If an employee is charged with a relevant criminal offence, they must inform their manager as soon as possible. We will not treat notification about criminal proceedings, or a conviction, as an automatic reason for dismissal or for any other form of disciplinary action being taken. We will decide what action to take, if any, after we have reviewed the matter. The main consideration should be whether the conviction is one that makes an employee unsuitable for their job or affects the employer's reputation.

- 9.2 If an employee is subject to a criminal investigation, the employer will determine to what extent it needs to conduct its own investigation before deciding whether to proceed to formal disciplinary action. The employer will not usually wait for the outcome of any prosecution before deciding what action to take (unless specifically advised otherwise by the police). No decision to impose a disciplinary sanction or dismiss will be taken prior to giving the employee the opportunity to make representations.

- 9.3 If we have reasonable grounds to suspect that the potential misconduct involves fraud, systems abuse, theft, or any financial irregularity, we will notify the internal auditors and/or the police as soon as possible.

## **10. The Disciplinary Hearing**

- 10.1 Formal hearings will be conducted in line with the Formal Meeting/Hearing Procedure. Employees must make all reasonable efforts to attend a disciplinary hearing. If an employee or their companion is unable to attend a hearing, they may propose a new date of no more than **5 working days** from the date of the original date.
- 10.2 The manager will respond sensitively when a delay is required, for example, it may arise for a reason related to a disability or emergency involving dependants. We may arrange another hearing date if you fail to attend through circumstances outside of your control.
- 10.3 If you do not attend the hearing without good reason, it should be re-arranged but if you do not attend the rearranged meeting/hearing, a decision may be made in your absence. You may submit a written statement to be taken into consideration.
- 10.4 Where you are persistently unable or unwilling to attend the hearing without good cause the manager should make a decision on the evidence available.

- 10.5 The disciplinary hearing will be conducted by the Deciding Manager<sup>1</sup> who will be an appropriate level of management or authority. A representative from the Trust's HR provider may also be present and will always be present at hearings that may result in dismissal or an alternative to dismissal.
- 10.5 The Deciding Manager will explain the allegations against you and the evidence in support of those allegations. You will have the opportunity to respond to the allegations, which will include the presentation of your own evidence if you wish. You may request that a witness(s) attend the hearing, except that where you rely on character witnesses we would ask that written witness statements be provided. However, witnesses whose evidence is not challenged will not be called. Where a witness is required to attend the Deciding Manager will invite them in writing.
- 10.6 Notes of formal meetings will be given to you for your information and copies of notes, letters and action plans should be retained by the line manager.

## 11. Disciplinary Penalties

### 11.1 Stage 1 – First written warning

A first written warning may be issued by the Deciding Manager and will usually be appropriate for a first act of misconduct where there are no previous warnings and where any agreed adjustments and other support has been made or provided. The warning will remain active for 6 months and it should be disregarded for disciplinary purposes after this period.

### 11.2 Stage 2 – Final written warning

A final written warning may be issued by the Deciding Manager in the following circumstances:

- where there has been a further act of misconduct while an existing warning is in effect, or
- the seriousness of the misconduct is sufficient to warrant such a warning, even though no previous warning may have been issued.

11.2.1 The warning will remain active for 12 months and it should be disregarded for disciplinary purposes after this period.

### 11.3 Stage 3 – Dismissal

Only an appropriate level of authority in line with the employer's decision-making structure can take a decision to dismiss and where any agreed adjustments and other support has been made or provided. You may be dismissed in the following circumstances:

- where, within the duration of the final written warning, the necessary improvement in behaviour has not been achieved and any agreed adjustment and other support has been made or provided. This would be with notice or payment in lieu of notice; or
- where there has been a further act of misconduct while an existing warning is in effect
- where it is reasonably believed that you have committed an act of gross misconduct. Gross misconduct will usually result in summary dismissal without notice and without pay in lieu of notice. Examples of gross misconduct are detailed (paragraph 16).

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<sup>1</sup> At Manor Hall Academy Trust the appeal hearing should be conducted by a Panel of LAB members if the grievance is from an employee/ employees based within an Academy. Refer to the Scheme of Delegation for other scenarios.

11.3.1 The Deciding Manager may at their discretion consider alternatives to dismissal. Examples of such alternatives include demotion, loss of seniority, reduction in pay, compulsory training. Alternatives to dismissal may be mutually agreed and may also be accompanied by a final written warning.

## 12. Warnings

12.1 Where a warning is issued, this will be confirmed to in writing within **5 working days** of the hearing. The warning will state the misconduct that led to the warning, the action or improvement required, the duration of the warning and the likely consequences of the action of improvement not being taken and/or any further misconduct. The employee will also be advised of the right of appeal and the person(s) to whom an appeal should be made.

12.2 We will keep a copy of the written warning on the employee's record. It is usually disregarded for disciplinary purposes, following the expiry of the warning. In some cases, we may take an expired warning into account for further acts of misconduct or to exercise statutory responsibilities. For example, where we give a warning in relation to a safeguarding concern, it will remain on file indefinitely. It may be referred to if future safeguarding concerns arise or in references, if an allegation is substantiated.

## 13 Appeals

13.1 Where disciplinary action has been taken, if the employee is dissatisfied with that decision, they can appeal. The appeal must be in writing and set out the grounds of appeal in line with the list below and include all the information the employee wishes to rely on at the appeal hearing. The employee must send their appeal to the Appeal Deciding Manager within **5 working days** of the date they received the letter notifying them of the disciplinary decision. The action taken at the disciplinary hearing will remain in force pending the outcome of the appeal. The employee must be appealing against either:

- the finding that they were guilty of committing the alleged act (or acts) of misconduct where the evidence did not support this finding
- the severity of the disciplinary sanction imposed taking into account the nature of the misconduct and the mitigating circumstances
- the fact that the employee does not feel the correct procedure was followed
- the fact the new evidence that was not considered in the disciplinary hearing has come to light that would change the outcome
- the sanction is inconsistent with how others have been treated
- there was unlawful discrimination in the handling of the disciplinary.

13.2 The employee will be invited to the hearing in writing in accordance with the Formal Meeting/Hearing Procedure. They will be given at least 10 working days' notice of the appeal hearing. The employee has the right to be accompanied at the appeal hearing by their companion.

13.3 The employee must provide copies of any relevant evidence that they intend to refer to, at least **3 working days** before the hearing.

13.4 The outcome of the appeal may be to overturn or confirm the original decision or apply a different, but not more serious, sanction. The employee will be advised of the appeal outcome, which will be confirmed in writing within **5 working days** of the appeal hearing. There is no further right of appeal.

13.5 Employees are not entitled to raise a further complaint under the Grievance Policy (or any of the employer's complaints procedures) in relation to the same grounds of appeal.

## **14. Examples of Standards of Behaviour**

14.1 The following are examples of the behaviour expected the employer of all its employees, although the list is not exhaustive:

- Employees should attend work punctually and regularly, in line with operational requirements
- Employees should carry out reasonable requests/instructions from their managers promptly and efficiently, and to the required standard
- Time off must be approved in advance by the appropriate level of authority, usually by line manager(s) and be in line with the relevant contract of employment
- Employees must follow the procedures outlined in the Managing Attendance at Work policy when notifying the employer of sickness absence
- Employees must comply with all of the employer's policies and procedures, including but not limited to, the Anti-Bullying and Harassment Policy, the relevant Code of Conduct, the ICT Acceptable Use Policy or the Health and Safety Policy
- Employees must adhere to professional body and statutory guidelines, as appropriate, and act professionally at all times
- Employees should bring serious breaches of the employer's policies or procedures to the attention of management.

## **15. Examples of Gross Misconduct**

15.1 The following are examples of gross misconduct but this list is not exhaustive:

- Theft or unauthorised removal of property, fraud, falsification of the employer's records or any other dishonesty
- Actual or threatened violence or bullying behaviour
- Deliberate or serious damage to the employer's property or that of an employee, customer, contractor or authorised visitor
- Serious negligence which does or could result in loss, damage or injury
- Deliberately accessing, copying or distributing pornographic, offensive, obscene or inappropriate material on the internet or paper media
- Being under the influence of alcohol, drugs or other similar substances at work which may give reasonable grounds to suspect an employees ability to undertake their duties or being in possession of illegal or intoxicating drugs on site
- Refusal to obey reasonable instructions or any other act of serious insubordination
- Any action or behaviour which brings the employer into serious disrepute
- Serious breach of health and safety rules
- Serious breach of Safeguarding policies
- Serious breach of professional standards
- Unauthorised disclosure of confidential information
- Acceptance of bribes or other secret payments
- Harassment or any act of discrimination towards anyone employees come into contact with because of their work.
- Convictions relating to activities outside work but which have a significant and direct bearing on employment and duties with the employer and its reputation.
- Misrepresenting at any time, including at appointment, any previous positions employees have held, their qualifications, date of birth, declaration of health, or a failure to disclose a criminal offence or pending criminal action subject to the provisions of the Rehabilitation of Offenders Act 1974.

## **16. Referrals to LADO, DBS and TRA**

Where disciplinary matters arise involving safeguarding/ child protection matters, the Local Authority Designated Officer (LADO) will be notified, in line with our Safeguarding Policies. Allegations, if substantiated, may be referred to in references and, if referral criteria are met,



the school/ Trust will exercise its statutory responsibilities to refer the matter to the Disclosure and Barring Service (DBS) and Teacher Regulation Agency (TRA).