



Cheshire Academies Trust
Collaboration and Creativity



EMPLOYEE DISCIPLINARY POLICY

Next review date: Spring 2022

Contents

1. Policy statement	2
2. Scope and purpose of policy	3
3. Confidentiality	3
4. Allegations	3
5. Investigations	4
6. Criminal charges	5
7. Suspension	5
8. Disciplinary hearing	5
9. Role of Companion at Meetings and Hearings	6
10. Procedure at disciplinary hearings	6
11. Disciplinary penalties	7
12. The effect of a warning	7
13. Appeals against disciplinary action	7
14. Referrals to external bodies	8
15. Review of policy	ERROR! BOOKMARK NOT
DEFINED.	
Appendix 1 - Disciplinary rules	ERROR! BOOKMARK NOT
DEFINED.	
Appendix 2 - Managing allegations of abuse against teachers and other staff	ERROR! BOOKMARK NOT
DEFINED.	

Policy statement

- 1.1 The aims of this Disciplinary Procedure and its associated Disciplinary Rules are to set out the standards of conduct expected of all staff and to provide a framework within which the CEO, Principals, Managers, Governors (members of an Academy Local Governing Body) and Trustees can work with employees to maintain satisfactory standards of conduct and to encourage improvement where necessary.
- 1.2 It is Cheshire Academies Trust policy to ensure that any disciplinary matter is dealt with fairly and that steps are taken to establish the facts and to give employees the opportunity to respond before taking any formal action.
- 1.3 This procedure does not form part of any employee's contract of employment and it may be amended at any time following consultation. In exceptional circumstances we may also vary application of this procedure, including any time scales for action, as appropriate. The policy has been implemented following consultation with staff. It has been formally adopted by the Trust Board.

2. Scope and purpose of policy

- 2.1 The procedure applies to all employees regardless of length of service excluding those in their probationary period where separate arrangements apply. It does not apply to agency workers or self-employed contractors.
- 2.2 This procedure is used to deal with misconduct. It does not apply to cases involving genuine sickness absence, proposed redundancies or poor performance. In those cases reference should be made to the appropriate policy or procedure.
- 2.3 Minor conduct issues can often be resolved informally between employees and their line manager. These discussions should be held in private and without undue delay whenever there is cause for concern. Where appropriate, a note of any such informal discussions may be placed on the employee's personnel file. In some cases an informal verbal warning or instruction may be given, which will not form part of the disciplinary records. Formal steps will be taken under this procedure if the matter is not resolved, or if informal discussion is not appropriate (for example, because of the seriousness of the allegation).
- 2.4 Employees will not normally be dismissed for a first act of misconduct, unless Cheshire Academies Trust decides that the conduct amounts to gross misconduct or the employee has not completed a probationary period.
- 2.5 As recognisable figures in the local community the behaviour and conduct of staff in Cheshire Academies Trust outside of work can impact on their employment. Therefore conduct outside work may be treated as a disciplinary matter if it is considered that it is relevant to the employee's employment (see disciplinary rules).

3. Confidentiality

- 3.1 It is the aim of Cheshire Academies Trust 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.
- 3.2 Employees, and anyone accompanying them (including witnesses), must not make electronic recordings of any meetings or hearings conducted under this procedure.
- 3.3 Employees will normally be told the names of any witnesses whose evidence is relevant to disciplinary proceedings against them, unless there is good reason that a witness's identity should remain confidential.

4. Allegations

- 4.1 Allegations may be brought to Cheshire Academies Trust attention in a number of ways and through a variety of sources. Appendix 1 sets out the disciplinary rules. As with disclosures made by children and young people, adults need to be aware that in making an allegation it is not always possible to keep the matter confidential. The Principal (for academy staff), CEO (for Principals and central Trust staff) or Trust Board in the case of the CEO, will need to decide upon the most appropriate course of action and may

choose to proceed with an investigation even if the person making the allegation does not want them to.

- 4.2 Allegations which involve issues of child protection and/or abuse of children by staff should be referred immediately to the Local Authority Designated Officer (LADO). See Appendix 2 for further guidance on the management of this type of allegation. No further action under this procedure will usually be taken until the LADO has been consulted.

5. Investigations

- 5.1 Upon receiving any allegations against employees it is likely that further information will be required to establish what the next course of action should be. The Principal/CEO (or their designated representative) should seek to establish the basic facts of the situation; this may involve looking at records, speaking to witnesses etc.

5.2 Preliminary Investigation meeting

A preliminary investigation meeting may be held with the employee to establish the basic facts of the circumstance and to enable the Principal/CEO to determine whether further investigation is required. Such a meeting can sometimes give a reasonable explanation in response to allegations which then enables the matter to be concluded. A preliminary meeting will not be required in all cases and it is for the Principal/CEO to decide if this is appropriate.

5.3 Investigating Officer

After a preliminary investigation where it is determined that there is a need for investigation, or if the concerns are serious enough to warrant a full investigation immediately, the Principal/CEO will usually appoint an Investigating Officer to carry out the investigation. This will be an appropriate person to the nature of the allegations and the role of the employee. In the case of allegations made against the CEO the Trust Board will be responsible for the management of the procedure and determining an appropriate investigating officer, either internally or externally.

5.4 Further investigation

The purpose of an investigation is to establish a fair and balanced view of the facts relating to any disciplinary allegations made against an employee, before deciding whether to proceed with a disciplinary hearing. The amount of investigation required will depend on the nature of the allegations and will vary from case to case. It may involve interviewing and taking statements from the employee and any witnesses, and/or reviewing relevant documents and other information.

5.5 Interviewing witnesses

It may be necessary to interview witnesses who may have information that is relevant to the allegations. A record of the meeting will be made and the witness will have the opportunity to review the record, make amendments for clarification purposes and sign and date the record. Cheshire Academies Trust recognises that some employees may find this difficult or worrying, however all employees are expected to fully participate in any such investigation.

5.6 Interviewing the employee

Investigation meetings are solely for the purpose of fact-finding and no decision on disciplinary action will be taken until after a disciplinary hearing has been held. Employees do not normally have the right to bring a companion to an investigation meeting. However, employees are allowed to bring a trade union representative or work colleague to the investigation meeting if they are available. No rearrangements will be made to the time and date of the investigation meeting to enable a companion to attend. A record of the meeting will be made and the employee will have the opportunity to review the record, make amendments for clarification purposes and sign and date the record.

- 5.7 Employees must co-operate fully and promptly in any investigation. This will include providing the names of any relevant witnesses, disclosing any relevant documents or information and attending investigative interviews if required. As each investigation will vary in length and complexity it will be completed in as short a time frame as possible.

6. Criminal charges

- 6.1 Where conduct is the subject of a criminal investigation, charge or conviction the facts will be investigated before deciding whether to take formal disciplinary action. Disciplinary action will not be automatic and will depend upon the circumstances. Employees should inform their Principal/CEO immediately if they are involved in a criminal investigation, or are subject to a charge or conviction.
- 6.2 Cheshire Academies Trust will not usually wait for the outcome of any prosecution before deciding what action, if any, to take. Where employees are unable or have been advised not to attend an investigation meeting or disciplinary hearing or say anything about a pending criminal matter, a decision may have to be made based on the available evidence.
- 6.3 A criminal investigation, charge or conviction relating to conduct outside work may be treated as a disciplinary matter if it is considered that it is relevant to the employee's employment.
- 6.4 Where a criminal investigation relates to allegations of abuse of children or young people Cheshire Academies Trust will co-operate and share information about the employee with other relevant agencies as appropriate.

7. Suspension

- 7.1 In some circumstances it may be necessary to suspend the employee from work. The suspension will be for no longer than is necessary to investigate the allegations and conclude the disciplinary process. The arrangements will be confirmed to the employee in writing as soon as possible.
- 7.2 Suspension of this kind is not a disciplinary penalty and does not imply that any decision has already been made about the allegations. Employees will continue to receive full salary and benefits during the period of suspension.
- 7.3 Alternatives to suspension, for example re-organisation of duties, work location, temporary redeployment to another role etc will be explored where relevant before a decision to suspend is made. The nature and severity of the allegations will need to be considered as will the employee's role within Cheshire Academies Trust.
- 7.4 Where allegations are made that involve the protection of children suspension will not be considered to be automatic. A reasoned decision will be made based on all available information. Additional information on the management of these allegations is available in Appendix 2.
- 7.5 The suspension will be kept under review as the investigation progresses. As information is gathered it may become appropriate to lift the suspension during the course of the investigation or prior to any disciplinary hearing.
- 7.6 The decision to suspend an employee can be made by the Principal/CEO, the Local Governing Body or the Trust Board.

8. Disciplinary hearing

- 8.1 Following any investigation, if there are grounds for disciplinary action, the employee will be required to attend a disciplinary hearing. The employee will be informed in writing of the allegations against them, the basis for those allegations, and what the likely range of consequences will be if it is decided at the hearing that the allegations are true. The following will also be included where appropriate:
- (a) a summary of relevant information gathered during the investigation;
 - (b) a copy of any relevant documents which will be used at the disciplinary hearing; and
 - (c) a copy of any relevant witness statements, except where a witness's identity is to be kept confidential, in which case as much information as possible will be provided while maintaining confidentiality.
- 8.2 Five working days written notice of the date, time and place of the disciplinary hearing will be given to provide the employee with a reasonable amount of time to prepare their case based on the information that they have been provided with. The hearing will be arranged as soon as is practicably possible.
- 8.3 The Principal/CEO will be responsible for ensuring that all of the arrangements for the hearing are made and that the employee receives the appropriate paperwork and notice of the hearing.

9. Role of Companion at Meetings and Hearings

- 9.1 An employee may bring a companion to all meetings where a warning or dismissal may be a potential outcome. The companion may be either a trade union representative or a work colleague. The employee must inform the Principal/CEO conducting the meetings who their chosen companion is, in good time before the hearing.
- 9.2 Should the employee choose to bring a companion to the hearing they will be responsible for making these arrangements and for providing their companion with any paperwork that they require for the hearing.
- 9.3 Acting as a companion is voluntary and your colleagues are under no obligation to do so. If they agree to do so they will be allowed reasonable time off from duties without loss of pay to act as a companion.
- 9.4 If the choice of companion is not available at the time a meeting is scheduled, the employee may propose an alternative time for the meeting to take place and so long as the alternative time is reasonable and within five working days after the original scheduled date, we will postpone the meeting. If the employee's chosen companion will not be available for more than five working days afterwards, we may ask the employee to choose someone else.
- 9.5 A companion may make representations, ask questions, and sum up the employee's position, but will not be allowed to answer questions on the employee's behalf. The employee may confer privately with their companion at any time during a meeting.
- 9.6 We may, at our discretion, allow the employee to bring a companion who is not a colleague or union representative (for example, a member of family) as a reasonable adjustment if the employee has a disability, or if they difficulty understanding English.

10. Procedure at disciplinary hearings

- 10.1 If the employee and/or their companion cannot attend the hearing they should inform the Principal/CEO immediately and consideration will be given to arranging an alternative time. Employees must make every effort to attend the hearing and failure to attend without good reason may be treated as misconduct in itself. Failure to attend without good reason, or persistent inability to do so (for example for health reasons), may lead to a decision being taken based on the available evidence.
- 10.2 If the employee chooses not to attend the hearing they may choose to send a written statement for consideration at the hearing.
- 10.3 The hearing will be chaired by the Principal/CEO. The Investigating Officer and a member of the Human Resources provision (internally or externally) will also be present. Governors/Trustees of other Cheshire Academies Trust Academies may be asked to sit on the panel at the discretion of the Chair.
- 10.4 At the disciplinary hearing the Investigating Officer 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. The companion may make representations to the Principal/CEO and ask questions, but should not answer questions on the employee's behalf. The employee may confer privately with the companion at any time during the hearing.
- 10.5 Relevant witnesses may be asked by the Investigating Officer or the employee to appear at the hearing. The employee must give sufficient advance notice if they wish to call witnesses to ensure that there is time to arrange their attendance. The employee will be given the opportunity to respond to any information given by a witness. However, the employee will not normally be permitted to cross-examine witnesses unless, in exceptional circumstances, the Chair decides that a fair hearing could not be held otherwise.
- 10.6 The Chair may adjourn the disciplinary hearing if there is a need to carry out any further investigations such as re-interviewing witnesses in the light of any new points that have been raised at the hearing. The employee will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.
- 10.7 The employee will be informed in writing of the decision and the reasons for it, usually within 5 working days of the disciplinary hearing. Where possible this information will also be explained to the employee in person.

11. Disciplinary penalties

- 11.1 The Principal/CEO may find that there is no case to answer and may refer the case back to an informal process. Alternatively the Principal/CEO may give the employee a disciplinary warning or dismiss them.
- 11.2 The usual penalties for misconduct are set out below. No penalty should be imposed without a hearing. Cheshire Academies Trust aims to treat all employees fairly and consistently, and a penalty imposed on another employee for similar misconduct will usually be taken into account but should not be treated as a precedent. Each case will be assessed on its own merits.
- 11.3 First written warning. A first written warning may be authorised by the Principal/CEO. It will usually be appropriate for a first act of misconduct where there are no other active written warnings on the employee's disciplinary record.
- 11.4 Final written warning. A final written warning may be authorised by the Principal/CEO. It will usually be appropriate for:
- (a) misconduct where there is already an active written warning on the employee's record; or
 - (b) misconduct that is considered sufficiently serious to warrant a final written warning even though there are no other active warnings on the record.
- 11.5 Dismissal. Dismissal may be authorised by a panel of Local Governing Body members (academy staff) or the Trust Board (Principals and central Trust staff). It will usually only be appropriate for:
- (a) any misconduct during the probationary period;
 - (b) further misconduct where there is an active final written warning on the record; or
 - (c) any gross misconduct regardless of whether there are active warnings on the record. Gross misconduct will usually result in immediate dismissal without notice or payment in lieu of notice (summary dismissal).
- 11.6 Alternatives to dismissal. In some cases the panel may, at its discretion consider alternatives to dismissal. These may be authorised by the Local Governing Body or the Trust Board and will usually be accompanied by a final written warning. Examples include:
- (a) Demotion;
 - (b) Transfer to another academy or job;
 - (c) Loss of seniority; and/or
 - (d) Reduction in pay.

12. The effect of a warning

- 12.1 Written warnings will set out the nature of the misconduct, the change in behaviour required, the period for which the warning will remain active, and the likely consequences of further misconduct in that active period.
- 12.2 A first written warning will usually remain active for twelve months and a final written warning will usually remain active for 24 months. In exceptional cases verging on gross misconduct or specific misconduct which may warrant indefinite warnings such as dangerous breaches of health and safety, a final written warning may state that it will remain active indefinitely. The conduct will be reviewed at the end of a warning's active period and if it has not improved sufficiently the active period may be extended.
- 12.3 After the active period, the warning will remain permanently on the employee's personnel file but will be disregarded in deciding the outcome of future disciplinary proceedings.

13. Appeals against disciplinary action

- 13.1 The employee has the right to appeal against the disciplinary action taken against them. This must be in writing, stating the full grounds of appeal and sent to the Principal/CEO within 5 working days of the date on which the employee was informed of the decision. If the CEO is appealing a decision taken against them they must write to the Chair of the Trust Board.

- 13.2 If the employee is appealing against dismissal, the date on which dismissal takes effect will not be delayed pending the outcome of the appeal. However, if the appeal is successful they will be reinstated with no loss of continuity or pay.
- 13.3 If any new matters are raised in the appeal hearing further investigation may need to be carried out. The Chair may adjourn the appeal hearing if there is a need to carry out any further investigations such as re-interviewing witnesses in the light of any new points that have been raised at the hearing. If any new information comes to light this will be provided to the employee with a summary including, where appropriate, copies of additional relevant documents and witness statements. The employee will have a reasonable opportunity to consider this information before the hearing is reconvened.
- 13.4 The employee must be given written notice of the date, time and place of the appeal hearing. This will normally be no less than five working days. The employee may bring a companion to the appeal hearing (see paragraph 9).
- 13.5 Where possible, the appeal hearing will be conducted by a panel who have not been previously involved in the case (e.g. different governors). Governors of other Cheshire Academies Trust Academies or the Trust Board may be asked to sit on the panel at the discretion of the Chair. The hearing may be a complete re-hearing or it may be a review of the fairness of the original decision in the light of the procedure that was followed and any new information that may have come to light. This will be at the Principal/CEO discretion depending on the circumstances of the case. In any event the appeal will be dealt with as impartially as possible.
- 13.6 Following the appeal hearing the Principal/CEO may:
- (a) confirm the original decision;
 - (b) revoke the original decision; or
 - (c) substitute a different penalty. Ordinarily a penalty will not be increased on appeal unless there is new information or evidence being available that requires further investigation
- 13.7 The employee will be informed in writing of the decision and the reasons for it, usually within 5 working days of the appeal hearing. Where possible this information will also be explained to the employee in person. There is no further right to appeal.

14. Referrals to external bodies

- In cases where employees are dismissed or resign during a disciplinary process a referral to the Disclosure and Barring Service and Secretary of State will be made where the thresholds for referral are met.