



# **Disciplinary Policy and Procedures**

## Contents

1. Purpose of policy .....	3
2. Personnel responsible for implementing the policy .....	3
3. Scope of the policy .....	3
4. Equality and diversity statement .....	3
5. Capability and disciplinary procedures.....	4
6. Flexibility in HR procedures .....	4
7. Safeguarding – Allegations made against staff .....	4
8. Criminal investigations.....	5
9. Examples of misconduct and gross misconduct.....	5
10. Right of accompaniment.....	5
11. Timeframes and availability .....	5
12. Disciplinary Procedure.....	6
13. Disciplinary hearing .....	8
14. Outcome to hearing .....	11
15. Alternatives to dismissal .....	12
16. Resignation prior to a disciplinary hearing .....	12
17. Appeal Process .....	12
18. Record Keeping.....	13
19. Review of the policy.....	13
Appendix 1 Examples of Misconduct.....	14
Appendix 2 Examples of Gross Misconduct .....	15
Appendix 3 Structure of a Disciplinary Hearing .....	17
POLICY HISTORY .....	18

## **1. Purpose of policy**

- 1.1 Reach South Academy Trust recognises that it has a statutory obligation to adopt formal policies and establish workplace procedures for dealing with staff conduct and discipline. A high standard of discipline is essential for the effective and efficient management of schools and the safety and wellbeing of all staff in the Trust.
- 1.2 Reach South Academy Trust recognises that disciplinary rules and procedures promote good employment relations and is committed to dealing with matters in a fair, non-discriminatory, consistent, effective and prompt approach throughout the organisation.
- 1.3 This procedure is designed to help and encourage all employees to achieve and maintain standards of professional conduct at all times. The company rules and this procedure apply to all staff.
- 1.4 Formal procedures are important to ensure a fair and consistent approach is taken at all times and this policy has been developed and aligned with the *Acas Code of Practice for Disciplinary and Grievance Procedures July 2020*.
- 1.5 The Trust reserves the right to engage an independent third party to assist at any stage of the disciplinary procedure.

## **2. Personnel responsible for implementing the policy**

- 2.1 The Board has overall responsibility for the effective operation of this policy but has delegated day-to-day responsibility for its operation to the Chief Executive Officer (CEO) and the Director of Human Resources.
- 2.2 Responsibility for monitoring and reviewing the operation of this policy and making recommendations for change to minimise risks also lies with the CEO and the Director of Human Resources. All managers have a specific responsibility for operating within the boundaries of this policy, ensuring that all staff understand the contents. Any changes will be subject to consultation and with the recognised trade unions. In addition, the policy will be monitored to ensure consistency of application and adherence to Equalities legislation.
- 2.3 All staff are responsible for the success of this policy and should ensure that they take the time to read and understand it as and when it applies to them.

## **3. Scope of the policy**

- 3.1 This policy covers all staff working at all levels and grades across the Trust (collectively referred to as staff in this policy). It does not apply to agency workers or contractors. This policy does not form part of your employment contract and the Trust may update it at any time in consultation with Trade Unions.

## **4. Equality and diversity statement**

- 4.1 Reach South Academy Trust is committed to fairness, equity and inclusion and values diversity in all aspects of its work as a provider of education and as an employer of people. We constantly strive to build a workforce that is representative of the community it serves. This policy is implemented in accordance with the Equality Act 2010 including the consideration of reasonable adjustments where possible.
- 4.2 Reach South Academy Trust is committed to eliminating all forms of discrimination on the grounds of age, disability, gender reassignment, marriage / civil partnership, pregnancy

maternity, race, religion or belief, sex and sexual orientation in the provision of our services and in recruitment and employment. This enables an environment that is characterised by dignity and respect, which is free from harassment, bullying and victimisation.

## **5. Capability and disciplinary procedures**

- 5.1 When dealing with disciplinary issues, managers, with the assistance of HR should, at the earliest opportunity differentiate between issues of conduct and issues of capability. Issues of conduct and capability need to be addressed differently; therefore separate procedures have been produced on how each should be handled.
- 5.2 In dealing with questions of an employee's ability to perform a job, negligence should be distinguished from incapability. Negligence normally involves a measure of personal blame for which some form of action under the Disciplinary Policy will be appropriate.
- 5.3 Incapability, in this context, is due to lack of ability, skills or experience and dealt with in accordance with the Trust's Capability (Performance) policy.
- 5.4 Questions of capability due to sickness absence and ill health should be dealt with through the Trust's Managing Attendance (Sickness Absence) Policy.

## **6. Flexibility in HR procedures**

- 6.1 Normally, this procedure will apply as set out. However, in some circumstances, two or more policies may apply to a situation, e.g. where a member of staff is taken through the disciplinary procedure and a grievance is raised. In these circumstances the most appropriate procedures will be determined by the manager/HR using the principles of Acas best practice and employment law. This decision will be reached following discussion with the employee and/or their representative, the final decision of the most appropriate process will remain with management. The aim should be to incorporate the essential elements from each procedure but minimise the number of meetings and correspondence to the benefit of all parties to resolve and manage issues promptly.

## **7. Safeguarding – Allegations made against staff**

- 7.1 All staff must understand that the nature of their work and the responsibilities related to it, place them in a position of trust. It is essential that everybody working in the Trust understands their safeguarding responsibilities in maintaining safety of children and preventing harm, regardless of their role.
- 7.2 The safety of children in our care is paramount and as such any allegation made against staff is taken very seriously. The Trust's Allegations against Staff Policy outlines the processes followed in such circumstances. The Trust's Disciplinary Policy may also be utilised where required and the Head of Safeguarding and HR will provide guidance through this process.
- 7.3 If the allegation is substantiated and a member of staff is dismissed, the Local Authority Safeguarding Lead (known as either LADO or DOFA) will provide guidance whether a referral should be made for consideration as to the individual being barred from, or have conditions imposed in respect of, working with children.
- 7.4 If the allegation is substantiated and the member of staff is given a warning, this will remain on their personal file. If the warning timeframe expires and is therefore, not 'live', the warning will only be taken into account if relevant and reasonable to do so in the context of the responsibility for the protection of children.
- 7.6 The Trust will refer on to the Teaching Regulations Agency (TRA) those serious misconduct cases relating to registered teachers, which do not raise issues relating to the safety and welfare

of children and young people, and cases where a teacher is dismissed through this procedure or where the proceedings would have led to dismissal had the employee not resigned.

## **8. Criminal investigations**

- 8.1 If a member of staff is charged with, or convicted of a criminal offence, this may be reason for disciplinary action. Consideration must be given to what effect the charge or conviction has on the staff member's suitability to do the job and their relationship with the Trust and work colleagues. The disciplinary procedure will only be instigated where there are reasonable grounds that the nature of the activities is serious enough to have an adverse effect on the ability of, or confidence in, the employee to carry out their duties properly.
- 8.2 Where a member of staff is alleged to have committed a criminal offence and Police investigations are underway, disciplinary proceedings can be taken and a decision implemented in accordance with this procedure before Police investigations are completed. This must, however, be handled carefully and in accordance with Police instructions so as not to interfere in the police investigation.

## **9. Examples of misconduct and gross misconduct**

- 9.1 **Misconduct** - Misconduct is where a member of staff breaks specific rules about behaviour or conduct. It is where conduct falls below expected standards and is usually wilful. There may be occasions when negligent conduct amounts to misconduct. Breaches of reasonable conduct at work can take many forms. A list of behaviours which may be considered as forms of misconduct can be found at Appendix 1. The list is not exhaustive and there may be other examples relating to particular jobs where disciplinary action may be warranted following a thorough examination of the circumstances involved. Consideration will always be given to the particular circumstances. Action taken should be with the aim of being corrective rather than punitive.
- 9.2 **Gross Misconduct** - Gross misconduct is a term used to describe misconduct, which is so serious that it may destroy the employment contract between the employer and the employee and make further working relationships and trust impossible or where the misconduct is repeated. Examples of the sorts of conduct that could be regarded as gross misconduct, rendering the employee liable to summary dismissal, can be found at Appendix 2. Again, this list is not exhaustive.

## **10. Right of accompaniment**

- 10.1 All staff have the right to be accompanied and/or represented by a Trade Union representative to which they belong at the time of the allegation or workplace colleague not acting in a legal capacity or connected with the matter. Management will give maximum assistance in securing representation promptly so that the matter can be resolved without unnecessary delay.
- 10.2 If a staff member's representative/workplace colleague is unable to attend the date originally proposed, the member of staff must contact the Investigating officer and agree another date for the meeting to convene provided that it is reasonable and is not more than five working days after the originally proposed date. This five-day limit will only be extended in exceptional circumstances. This may mean the employee may need to consider being accompanied by an alternative representative/workplace colleague.
- 10.3 The representative may address the investigation and hearing, ask questions and confer privately with the member of staff, but has no legal right to answer questions on behalf of the employee.

## **11. Timeframes and availability**

- 11.1 It is recognised that the disciplinary process can be very time consuming, however it is important that everyone involved: management, human resources, union representatives and staff make every effort to give this process priority to ensure a prompt conclusion.

- 11.2 It is an expectation that all involved will make themselves available for meetings and ensure correspondence is dealt with promptly. Where individuals cannot accommodate the process in a timely manner and this may result in an unreasonable delay, for example due to sickness, annual leave or other work commitments, consideration should be given to providing alternative representation, human resources support or investigating manager.
- 11.3 Staff whether the subject of an investigation/meeting or as a witness, are obliged to attend investigative meetings and disciplinary meetings as a requirement of their contract of employment and must take all reasonable steps to do so. Failure to do so may result in disciplinary action, including dismissal, being taken in their absence.
- 11.4 Where a member of staff is unable to engage with the process due to sickness, this will be managed through the Trust's Management Sickness Absence Policy. However, depending on circumstances it may be necessary to continue with the disciplinary processes to avoid unreasonable delay that may create further distress to the member of staff. HR and if required, occupational health guidance will be sought and this will be managed on a case by cases basis.

## **12. Disciplinary Procedure**

### **12.1 Preliminary investigation**

- 12.1.1 Where a potential disciplinary matter arises, the manager should carry out a preliminary investigation. This will involve establishing the facts of the incident and may involve a brief discussion with a complainant, a witness, or where necessary, the member of concerned, whenever possible an initial written account of the events should be obtained such as a written statement.
- 12.1.2 If it is necessary to discuss the incident with the member of staff, they should be advised that it is not a formal disciplinary meeting and is solely to establish the facts. There is no right to representation at this meeting, however, in cases where there may be significant stress for those involved, the Trust will assess whether a work colleague or representative should be present, where possible. Where this is the case, this would not unduly delay the discussion. The employee must also be advised that an outcome of the preliminary investigation could be a requirement for them to attend a further formal meeting.
- 12.1.3 Where the matter appears to be of a minor and straightforward nature the manager should deal with the issue informally, as in accordance with section 12.3, informal action – management guidance
- 12.1.4 If, following the preliminary investigation, it is felt that the matter requires further investigation, or that the matter is a potential disciplinary incident, a formal investigation should be conducted.

### **12.2 Suspension & temporary redeployment**

- 12.2.1 Suspension is an emotive term and, although it is not of itself a conduct action, it can be seen by both the individual and others as having negative connotations, including implied guilt. On that basis suspension should be a last resort after consideration of how to mitigate risk during the course of the investigation. Suspension is not an assumption of guilt and is not considered a disciplinary sanction.
- 12.2.2 However, it may be appropriate in potentially serious circumstances where it is considered that allowing the member of staff to continue working could:
- place the safety and/or well-being of students, staff or the member of staff at risk, or;
  - where it is felt that the continued presence of the staff member may impair the investigation, or;

- in the interests of protecting the organisation and/or in certain cases where police inquiries take priority consideration must be given to suspending the member of staff.
- 12.2.3 Before deciding to suspend a member of staff, the senior manager must seek guidance from HR and will be required to assess the degree of risk involved by completing a risk assessment form. Consideration should be given to alternative actions in the place of suspension such as redeployment to another role, department or working from home.
- 12.2.4 Any suspension must remain under review at all times, and may be lifted at anytime with immediate effect. Consideration should also be applied to alternatives to suspension if the opportunity arises.
- 12.2.5 Whilst not a sanction in itself, a suspension from work may have a negative impact on a member of staff's own wellbeing and therefore, consideration must be given to protecting the welfare of the employee. HR will provide guidance on such circumstances.
- 12.2.6 A suspended member of staff should be assigned a welfare person not involved with the case, to provide regular contact with the employee to offer support and sign post the member of staff to relevant agencies and resources. Agreement will be sought from the member of staff to a suitable person.
- 12.2.7 Staff who are suspended will receive their full contractual pay and will be bound by their contractual terms and conditions of employment with no expectation to work.
- 12.2.8 There may be times during a period of paid suspension where a member of staff falls sick, meaning that, in normal circumstances, you would be unable to come into work. In this situation, you must follow the Trust's usual sickness absence notification procedures. For the duration of your period of illness, you will be treated as being on sickness absence, your suspension will be lifted and our normal sick pay provisions will apply.
- 12.2.9 In some circumstances, staff may be required to remain from the workplace on a temporary basis whilst preliminary investigation is completed. This will be for a limited time only i.e. one or two days maximum.

### **12.3 Informal action – Management guidance**

- 12.3.1 If a staff member's conduct falls below a level of what is considered to be acceptable, in the interests of good management and employee relations, minor disciplinary matters should wherever possible, be resolved informally. The Line Manager is required to make staff aware, at the earliest opportunity, that this behaviour is unacceptable, and provide clear guidance on how to make improvements, ensuring the agreed actions are documented.
- 12.3.2 This process should always take place in a private and confidential setting and should be undertaken on a one-to-one basis between the manager and employee concerned.
- 12.3.3 The aims of advice and support should be to assist and encourage the employee in meeting the standards of conduct required of them. Notes of the key points referred to in the one-to-one discussion must be made and issued to the employee. A note that the one-to-one discussion has taken place and the date may be retained on the personal file.
- 12.3.4 The employee must be informed that if there is no improvement or if an offence is committed again, the next stage may be to invoke the formal disciplinary procedure.

## **12.4 Formal investigation**

- 12.4.1 If an investigation is necessary then this should be initiated by the Commissioning Manager without delay, to ensure facts are gathered while the circumstances are fresh in the member of staff's and witness's memory and furthermore to support a timely and informal resolution where appropriate.
- 12.4.2 The Commissioning Manager is responsible for commissioning an Investigating Officer to undertake the investigation process. The Investigating Officer will have had no prior involvement or previous experience of case. They can also hear the case should it proceed to a disciplinary hearing or alternately they can commission a Hearing Manager. Therefore the Commissioning Manager can have a dual role as Commissioning Manager and Hearing Manager.
- 12.4.3 The Commissioning Manager will appoint a suitable Investigating Officer and provide a terms of reference for the investigation. The investigation will consider any other concerns that may arise during the course of the investigation related to the allegation(s). The investigating officer will be responsible for conducting the investigation process supported by a Human Resources representative. The role of an investigator is to be fair and objective in order to establish the essential facts of the matter and reach a conclusion on what did or did not happen. An investigator should do this by looking for evidence that supports the allegation and evidence that contradicts it.
- 12.4.4 The investigation should start as soon as possible after the alleged incident has occurred or complaint received. An investigation is a fact-finding exercise to collect all relevant information on a matter. This can enable the Commissioning Manager to fully consider the circumstances/evidence and make an informed decision about the allegation(s). Making a judgement without completing a reasonable investigation can make any subsequent decisions or actions unfair, and leave the Trust vulnerable to legal action.
- 12.4.5 The investigation will require the member of staff and may require witnesses to be interviewed to establish the facts. Staff should be given sufficient notice of any investigation meetings, this must be no less than five working days in advance. Witnesses would not normally be entitled to representation by a Trade union representative or workplace colleague, however the Trust would encourage them to do so or they should be advised to seek advice as appropriate. Minutes of the meeting will be taken and agreed with the relevant employee and a copy provided for the member of staff's own records.
- 12.4.6 When the investigation is complete the Investigating Officer will be responsible for completing the investigation report, which must include their findings as a result of the investigation. It is not an investigator's role to prove the guilt of any party but to investigate if there is a case to answer.
- 12.4.7 The investigation report should be sent to the Commissioning Manager. This manager, together with non-leading advice from Human Resources will have the responsibility for making a decision on the facts and in their own best and rounded judgment as to whether the matter is referred to a disciplinary hearing or an one-to-one meeting, for example, to discuss further recommendations or no case to answer. The investigating officer, the member of staff and their nominated representative will receive written confirmation of the Commissioning Manager's decision.

## **13. Disciplinary hearing**

- 13.1 If following receipt of the investigation report the Commissioning Manager believes there is a case to answer and the incident potentially warrants disciplinary action, then a disciplinary hearing will be arranged. The hearing will be arranged without unreasonable delay taking into account the availability of all parties.

- 13.2 At least 10 working days prior to the hearing the Investigating Officer and member of staff will be written to confirm:
- The hearing is being held in accordance with the Trust's disciplinary procedure and who will be present;
  - The alleged misconduct, the classification of the misconduct, i.e. minor, serious, gross and pending the outcome of the meeting, disciplinary action up to and including what level may be taken;
  - The date, time and location of the meeting;
  - The names and roles of the disciplinary panel, confirmation of the name of the manager presenting the management case, the representative presenting the employee case.
  - Reference to any previous disciplinary action, including spent sanctions on file in some exceptional cases, in line with case law;
  - Confirmation of the member of staff's right of representation at the meeting by a Trade Union Representative or workplace colleague.
  - Requirement to exchange cases and confirm witnesses and expected dates
- 13.3 Preparing for the meeting
- 13.3.1 Employers are required to act fairly and reasonably at all stages of a disciplinary process. This includes the way in which the member of staff is advised of arrangements for the hearing and how the hearing is conducted.
- 13.3.3 To ensure the member of staff is treated with dignity, the hearing will be held in a private space away from interruptions or telephone calls. Disciplinary meetings should be held face-to-face and not on video-conferencing or other methods unless mutually agreed by all parties. If there is a situation where a face-to-face meeting is not possible for a considerable period of time the Trust may consider it reasonable to proceed 'virtually' but this should be in exceptional cases.
- 13.3.4 It is important to ensure that all relevant parties are in receipt of the relevant facts of the case, and where appropriate written statements from witnesses.
- 13.4 Witnesses
- 13.4.1 The confidential nature of witness statements, records and reports must be respected by all parties and must not be disclosed to anyone not directly involved in the case. Any breach of confidentiality may be the subject of further disciplinary action.
- 13.4.2 It is not a requirement to call all witnesses to attend a hearing who have been party to the investigation. It may be sufficient to include their statement within the investigation report. It will be the responsibility of management and the member of staff to call and brief their own witnesses and decide whether they should be called.
- 13.4.3 Whilst both management and the employee will have the opportunity to decide which witnesses they may wish to call at the meeting. The panel will in addition have the authority to request the attendance at the meeting of any witnesses they deem to be relevant to the case. It is important to note that where witness request anonymity, it is more difficult for employees to defend themselves and respond fairly to the case against them and have a fair hearing under principles of natural justice. For this reason, it would only be in the rarest of unprecedented circumstances that anonymity can be permitted for witnesses where there is a genuine belief of intimidation.
- 13.5 Composition of the panel for disciplinary meetings:
- 13.5.1 Chair - The person who chairs the meeting and takes responsibility for making the decision regarding the outcome - will be an appropriate Director or manager.

- 13.5.2 Panel Members – Persons who will support the chair in the hearing and the final decision, acting impartially and in good faith without conflict of interest or outside influence.
- 13.5.3 Support to the panel - all disciplinary meetings must have a Human Resources representative present to assist and advise the panel. This is to ensure that there is a full and thorough meeting, that the agreed procedure has been fully complied with and that any decision made is fair and reasonable in the circumstances. Unsolicited advice should only be provided to panel members where they are straying into non-adherence to this policy or erring in some clear way.
- 13.4.4 Note taker – it is advisable to have a note taker present at the meeting to act as a witness to what was said. This person should not be connected with the case and should not be controversial to any party.
- 13.5 Conducting a Disciplinary Hearing
- 13.5.1 During the hearing the member of staff will be fully informed of the nature of the alleged offence and the established facts.
- 13.5.2 The member of staff will be provided with every opportunity to question the Investigating Officer, witnesses, put forward their case, call witnesses in their defence and offer mitigating circumstances.
- 13.5.3 Management will be provided with every opportunity to question the Investigating Officer, witnesses, put forward their case, and call witnesses as part of their case.
- 13.5.4 Either party may request an adjournment at any time during the hearing.
- 13.5.5 When all the evidence has been presented the meeting should be adjourned for the panel to review the evidence and reach a decision.
- 13.5.6 All evidence should be submitted to the chair of the panel five working days prior to the disciplinary hearing. Only in exceptional circumstances and at the discretion of the chair will new evidence be permitted at the meeting itself. New evidence refers to something significant that was not previously raised or known and could not reasonably have been expected to be known.
- 13.5.7 In certain circumstances the meeting may have to be adjourned pending a specialist report, e.g. additional information regarding the investigation or medical assessment before a final decision can be reached.
- 13.5.8 Where appropriate the staff member, their representative and the manager presenting the case should be recalled and informed of the chairperson's decision. Where this is not possible or should the member of staff wish the outcome of the disciplinary meeting can be communicated in writing. If disciplinary action is the result, the employee should be informed of the salient points of the decision, which should be confirmed in writing within five working days. The notes of the meeting will be provided on request to any party to the meeting.
- 13.6 Conducting the meeting
- 13.6.1 The Chair of the meeting will introduce all of those present, and the reason for them attending, including any staff member's representative.
- 13.6.2 The Chair will confirm the structure of the meeting, as detailed in Appendix 1 confirming adjournments can be requested from either party during proceedings, with the agreement of the Chair.

- 13.6.3 The meeting is the chance for both the employer and the employee to state their case and for the hearing panel to consider the evidence presented by both parties.
- 13.6.4 Minutes of the meeting will be taken as a record of proceedings
- 13.6.5 Where a member of staff fails to attend because of extenuating circumstances, they will be invited to another meeting, where possible within five days of the original meeting. Where there is no valid reason for non-attendance, the meeting will proceed and a decision made in the employees absence if the Chair determines this is the right and most appropriate course.
- 14. Outcome to hearing**
- 14.1 **No further action** - All allegations and documentation will be removed from the employee's file and removed from the record.
- 14.2 **First written warning** - This is used where a member of staff has been found to have displayed proven misconduct. This written warning will set out the nature of the misconduct/reasons for the warning and any improvements and the change in behaviour required. The member of staff will be notified that the warning constitutes part of the formal disciplinary process and that the consequences of any further misconduct of a similar nature could be a further written warning and ultimately dismissal during the life of the warning. The employee should be notified that they have a right of appeal and that a record of the warning will be kept on file. The life of the warning is 6-12 months subject to continuous satisfactory conduct during this period.
- 14.3 **Final written warning** - This warning will be given where misconduct is not sufficient to justify dismissal, but is sufficiently serious that it warrants only one warning, or where the misconduct is considered serious enough to justify dismissal but a lesser sanction is appropriate in the particular circumstances. A final written warning may also be issued where there is still a failure to improve following previous written warning/s.
- 14.4 A final written warning will give the reason for the warning and advise that dismissal may result if there is no satisfactory improvement. It must state the right of appeal. A copy of the warning will be kept on file. The life of the warning is 12 to 18 months subject to continuous satisfactory conduct during this period.
- 14.5 A final written warning may, in the most serious of circumstances, be the first and last warning, even if there is no previous record of disciplinary action against the member of staff. It should be noted that despite the word 'final', it would be possible for an employee to have more than one final written warning on file at the same time if they have been issued for unrelated reasons and particularly reasons arising from different Trust policies.
- 14.6 In addition, and where appropriate, there are a number of supplementary sanctions that a Manager/panel may consider to accompany a written warning. Such sanctions may include, for example, the necessity to attend specified training.
- 14.7 The written notification will include the following information:
- The exact nature of the misconduct.
  - The basis of the decision.
  - The period of time given for improvement, if appropriate, and the standard of improvement expected.
  - The disciplinary sanction being applied and, where appropriate, how long this will last.
  - Notification of the likely consequences of further proven misconduct.
  - Information about the employee's right of appeal, including how they should make it and to whom.

14.8 **Dismissal** – Normally occurs if an allegation of gross misconduct is found to be proven or there is no improvement in the conduct within the specified period, which has been the subject of a final written warning, or another instance of misconduct has occurred during the currency of a previous warning and a final written warning has already been issued.

14.9 Where a member of staff is dismissed, a written statement will be provided detailing the reasons for dismissal, the date on which the employment contract will end, the appropriate period of notice or payment in lieu, payment of any outstanding annual leave and the right of appeal.

14.10 **Gross misconduct** - Some acts termed gross misconduct are so serious in themselves or have such serious consequences that they may call for a dismissal on the first offence. Any dismissal for gross misconduct will take immediate effect once the decision has been made and the member of staff will be entitled to no notice period regarding the termination their employment.

## 15. Alternatives to dismissal

15.1 Where there are mitigating circumstances, alternatives to dismissal may be considered.

15.3 Action short of dismissal may include extending an existing final written warning, issuing a final written warning for a maximum period of 18 months, redeployment, or demotion. In such circumstances, protection of salary will not be applicable. In some circumstances where the Trust has incurred financial damages, sanction may include options to recover such costs, as reasonable and in agreement with the employee.

15.4 The member of staff must be advised that the proposed action is offered as an alternative to dismissal. The staff member may, if they wish, opt for dismissal/summary dismissal rather than accept the alternative to dismissal.

15.5 In the event of continued failure to meet the required standards in a case where an alternative to dismissal has been applied, further disciplinary action may be taken depending on the circumstances.

15.6 The member of staff's right of appeal is not affected and remains in accordance with the disciplinary policy and they must be advised, in writing, of their right to appeal against any formal disciplinary action.

## 16. Resignation prior to a disciplinary hearing

16.1 In cases where a member of staff resigns either during an investigation or prior to a disciplinary hearing, the commissioning manager, with support from Human Resources, will decide whether it is appropriate for the disciplinary process to continue. This decision will be communicated to the individual in writing. In safeguarding matters, the Trust has a statutory duty to report to the relevant bodies, therefore, in such cases the disciplinary process will continue.

16.2 In circumstances, where a decision is reached that it is necessary to proceed the individual will be given the right to be in attendance at subsequent investigation meetings and/or disciplinary hearing [known as Evidence Review Hearing if conducted after employment ends]. If the individual declines this opportunity or fails to attend the meeting, then the meeting(s) will proceed and a decision made in the individual's absence.

## 17. Appeal Process

17.1 A member of staff who wishes to lodge an appeal against the outcome of a disciplinary hearing must do so in writing within 10 working days of the date of the letter confirming the outcome and clearly state the grounds for the appeal. This should be sent to the named individual outlined in the disciplinary hearing outcome letter. This time limit will be strictly observed.

17.2 The Trust's Appeal Policy outlines the grounds of an appeal and details the procedure.

**18. Record Keeping**

18.1 Records in connection with this policy will be retained in line with the Trusts GDPR policies and processes.

**19. Review of the policy**

19.1 This policy is reviewed as required by Reach South Academy Trust in consultation with the recognised Trade Unions.

19.2 This policy will be reviewed every three years, earlier review may be required in response to exceptional circumstances, organisational change or relevant changes in legislation or guidance.

19.3 We will monitor the application and outcomes of this policy to ensure it is working effectively.

## Appendix 1 Examples of Misconduct

- Misuse of school and /or Reach South's facilities such as internet, email, telephone and photocopies
- Poor time keeping including taking excess breaks
- Unauthorised absences from work or leaving the workplace without permission
- Failure to follow notification procedures and requirements of the sick pay scheme, including occupational sick pay.
- Minor insubordination - failure to follow reasonable management instructions
- Minor breaches of safety regulations and safe working practices
- Knowingly falsifying work documentation
- Carelessness in behaviour toward pupils, employees or members of the public on grounds of their colour, race, disability, ethnic origins, sex, sexual orientation, age, marital status or religious beliefs such as using unsuitable language or not being considerate of the protected groups' needs.
- Unacceptable behaviour towards pupils, colleagues, and members of the public such as the use of inappropriate language or swearing
- Improper disclosure of written or verbal information that may be considered confidential or sensitive
- Non-compliance with Data Protection principles
- Smoking on academy/Trust premises
- Minor non-compliance of school or Trust policies including Appropriate Workplace Behaviour Policy (Code of Conduct)
- Failure to declare personal interests
- Mismanagement of Trust finances leading to the overspend of a budget
- Safeguarding low level concerns

## Appendix 2 Examples of Gross Misconduct

- Dishonesty, including theft from school/Trust, embezzlement of school funds, fraud, or corrupt or improper practice for private gain
- Serious neglect with school and/or Trust finances that lead to significant financial losses
- Misrepresentation of skills, qualifications, experience or identification documents in connection of employment or another matter
- Deliberate falsification of statutory school and/or Trust records including the wilful damage to or concealment of official records
- Acceptance of bribes or other corrupt practices for personal gain
- Stealing from members of staff, pupils or the public
- Falsification of time sheets, claims for expenses or overtime including TOIL (time off in-lieu)
- Other offences of dishonesty
- Failure to improve faults of a similar nature, that build into a pattern of unacceptable behaviour, performance or attitude
- Deliberately undermining the achievement of the team, school or Reach South Academy Trust goals
- Persistent and frequent absenteeism
- Wilful failure to adapt to changing technologies, methods and patterns of work (as distinct from inability to adapt which is dealt with under the capability procedure)
- Serious and wilful neglect of duties
- Being unfit for duty through drink or drugs (other than those which have been medically prescribed)
- Sexual misconduct at work including indecent behaviour, offensive behaviour or sexual harassment including making inappropriate sexual comments or sexting
- Bullying, abusing or threatening behaviour towards pupils and other employees
- Acts of violence, fighting, physical assault or threatening behaviour towards a pupil, fellow employee or member of the public
- Knowingly aiding and abetting a disciplinary offence
- Substantiated allegations in relation to child protection and safeguarding issues
- Harassment, bullying, abuse or victimisation of any person, whether or not an employee,
- Acts of discrimination, harassment or verbal abuse against pupils, employees or members of the public on grounds of their colour, race, disability, ethnic origins, sex, gender, sexual orientation, age, marital status or religious beliefs
- Deliberately misusing, damaging academy or Trust property
- Serious insubordination or wilful disobedience, including serious act(s) or persistent repetition of a failure to comply with a reasonable instruction
- Misuse of the academy's / Reach South's property or name, or bringing the school or trust into disrepute
- Making false or malicious statements about any person, whether or not an employee including pupils
- Deliberate failure to report evidence or suspicion of any impropriety or breach of procedure on the part of another employee
- Serious non-compliance with Data Protection principles that cause harm
- Undertaking unauthorised (un)paid employment during working hours including during sickness absence
- Deliberate and or inappropriate use of school's or trust's computer equipment/software; including deliberately accessing internet sites containing pornographic, offensive or obscene material or legally restricted information
- Causing loss, damage or injury through serious negligence
- A serious breach of health and safety rules
- A serious breach of trust and confidence
- A serious breach of school and/or Trust policies including the including Appropriate Workplace Behaviour Policy (Code of Conduct)

- Breach of any professional code of conduct applicable to the job which could bring the profession or Reach South into disrepute
- Misuse of official position for personal gain
- Any breaches of contractual terms and conditions including the failure to notify in a timely manner any matters that may affect a member of staff's continued employment
- Relevant criminal offences. However, criminal offences should not be treated as automatic reasons for dismissal regardless of whether the offences are relevant to the individual's employment. The main consideration should be whether the offence is one that makes the individual unsuitable for this type of work. Employees should not be dismissed solely because a charge against them is pending or because they are remanded in custody

## Appendix 3 Structure of a Disciplinary Hearing

Chair of meeting presents:

<b>Introductions</b>	Explain roles and reason for attendance, acknowledging any representative.
<b>Housekeeping</b>	Confirm anticipated duration of meeting. Request mobile phones are switched off to avoid any interruptions.
<b>Adjournments</b>	Ensure everyone is aware that adjournments can be requested throughout proceedings.
<b>Possible Outcome</b>	Confirm the possible sanction applicable if the management case is upheld, as documented in the invitation to the hearing i.e. the worst case scenario for the employee in terms of outcome.
<b>Structure of the meeting</b>	<p>Talk through process prior to proceeding and seek confirmation that the employee understands the process.</p> <p><b>Management case:</b></p> <ul style="list-style-type: none"><li>• The management representative presents management case and calls witnesses for the management case.</li><li>• Employee/representative have the opportunity to question the management representative and witnesses.</li><li>• Manager/panel have the opportunity to question the management representative and witnesses.</li><li>• Further questions if necessary from the Employee/representative.</li><li>• Further questions if necessary from Manager/panel.</li></ul> <p><b>Employee Case:</b></p> <ul style="list-style-type: none"><li>• Employee/representative presents their case and calls witnesses for the employee's case.</li><li>• The management representative /HR Support has the opportunity to ask questions of the employee/representative and witnesses.</li><li>• Manager/panel have the opportunity to ask questions of the employee/representative and witnesses.</li><li>• Further questions if necessary from management representative/HR Support.</li><li>• Further questions if necessary from Manager/panel.</li></ul> <p><b>Summing up:</b></p> <ul style="list-style-type: none"><li>• The management representative has the opportunity to sum up their case (no new evidence to be submitted at this point).</li><li>• The employee/representative has the opportunity to sum up their case (no new evidence to be submitted at this point).</li></ul> <p><b>Adjournment and deliberation:</b></p> <ul style="list-style-type: none"><li>• The management representative and employee and representative to withdraw, along with any witnesses.</li><li>• Manager/panel to consider the facts presented to them and to determine whether misconduct has taken place.</li></ul> <p><b>Decision:</b></p> <ul style="list-style-type: none"><li>• The management representative, the employee and their representative to be recalled and wherever possible, for the conclusion of the Manager/panel to be conveyed verbally. This will be confirmed in writing within five working days of the date of the hearing.</li></ul>
<b>Appeal</b>	Confirm that the employee can appeal the decision and details of how to do so will be included in the decision letter.
<b>Close Meeting</b>	

## POLICY HISTORY

Policy Date	Summary of change	Contact	Implementation Date	Review Date
December 2021	Review and update policy by HR	People Team	XX	XX
December 2021	Consultation with Trade Unions	People Team	XX	XX
April 2022	Implementation of new policy	People Team	April 2022	September 2024
September 2024	Review – no changes	People Team	September 2024	September 2027