



Disciplinary Policy

This policy is applicable to our current schools: ATAM and The Khalsa Academy Wolverhampton and for any further schools we open.

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1. INTRODUCTION

The Trustees of The Khalsa Academies Trust are committed to ensuring that the highest standards are maintained at the school both in the provision of education to pupils and in every other aspect of the running of the school.

This policy applies to all employees. It does not apply to agency workers or self-employed contractors. This procedure is to be used to deal with issues of misconduct. Separate procedures exist to deal with matters of unsatisfactory performance and absence due to ill health.

In the event of a disciplinary matter arising concerning a Principal, all references throughout this document to the Principal should be replaced by the Chair of LAB and or Chair of the Trust/CEO.

This procedure does not form part of any employee's contract of employment and it may be amended at any time.

This Disciplinary procedure is not contractual and may be varied by the Trust.

2. Legal framework

This policy has due regard to all relevant legislation and statutory guidance including, but not limited to, the following:

- The Education Act 2011
- The Teachers' Disciplinary (England) Regulations 2012
- DfE (2022) 'Teacher misconduct: the prohibition of teachers'
- DfE (2023) 'Keeping children safe in education 2023'
- DfE (2021) 'Teachers' Standards'
- DfE (2020) 'Teacher misconduct: disciplinary procedures for the teaching profession'

This policy operates in conjunction with the following school policies:

- Staff Code of Conduct
- Child Protection and Safeguarding Policy
- Grievance Policy
- Allegations of Abuse Against Staff Policy

3 Roles and responsibilities

The Trust Board will be responsible for:

- Monitoring and reviewing this policy on a bi-annual basis to ensure its effectiveness.
- Ensuring that all members of staff have read and understand the provisions outlined in this policy.

- Initiating disciplinary action and deciding the appropriate level of action where an allegation is made against the principal.
- Ensuring a culture is established where employees are supported and assisted in achieving and maintaining the required standards of conduct.
- The dismissal of staff and for delegating the hearing of appeals to a sub-committee, if necessary.

The Principal will be responsible for:

- The day-to-day implementation of this policy and maintaining discipline among all staff.
- Ensuring this policy and associated procedure are readily available to all employees and can be accessed in an appropriate format.
- Initiating disciplinary action and deciding the appropriate level of action.
- Ensuring records are kept of all disciplinary meetings and communications with employees.
- Ensuring that all documentation relating to disciplinary issues is retained in accordance with the schools Records Management Policy.
- If a matter progresses to a disciplinary hearing, presenting details of the employee's failure to meet and maintain the required standards of conduct.
- Communicating the outcomes of disciplinary procedures to employees.
- If a matter concerns a safeguarding issue, ensuring the DSL has been notified.

Employees will be responsible for:

- Familiarising themselves with the standards outlined in the Staff Code of Conduct.
- Adhering to the provisions outlined in this policy and cooperating with the disciplinary procedure.
- Attending all meetings, interviews and hearings that take place in accordance with this policy and its associated procedure.
- Lodging appeals to the principal within five working days of receiving a decision.

4 Suspension

In certain circumstances, consideration may be given to suspending the member of staff from their place of work at the outset of the investigation or at any stage during the course of the investigation. The school will consider and document why suspension is necessary before making this decision, and will consider alternatives to suspension, where possible.

The suspension will be for no longer than is necessary and the school will confirm the arrangements to the employee in writing.

The decision to suspend may only be taken by a Principal or the CEO. If either are unavailable, the decision may be delegated to a nominated Vice Principal, who must make every effort to contact the Principal or CEO, to discuss the case and be authorised to make the decision.

Where the Principal is suspended, the CEO must notify the Trust Board providing reasons and contingency plans.

While the employee is suspended, they should not visit the school site or contact any of its pupils, parents, lab governors, members or colleagues, unless the employee has been authorised to do so by the Principal.

While suspended, the school will provide the employee with a named contact with whom they can liaise to support them through the investigation.

Suspension of this kind is not a disciplinary penalty and does not imply that any decision has already been made about the allegations. The employee will continue to receive their salary during the period of suspension. Every effort will be made to avoid lengthy periods of suspension. The decision to suspend, and the conditions of suspension, will be reviewed periodically and the employee will be updated as, and when, necessary.

In exceptional circumstances where potential fraud may have been committed then suspension will be on nil pay.

5 Investigations

The purpose of an investigation is for the school to establish a fair and balanced view of the facts relating to any disciplinary allegations 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 relevant witnesses, and/or reviewing relevant documents.

Investigative interviews 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. An employee does not have the right to bring a companion to an investigative interview; however, the school may, in its absolute discretion, allow an employee to bring a companion if it helps the employee to overcome barriers to effective participation caused by a disability or in exceptional circumstances.

The employee must cooperate fully and promptly in any investigation. This will include informing the school of the names of any relevant witnesses, disclosing any relevant documents to the school and attending investigative interviews if required. Any failure to comply may lead to disciplinary action. It is incumbent on the employee, during the investigation stage, to raise details of additional witnesses whom the school should interview during the investigation.

The school will make every effort to maintain confidentiality and guard against unwanted publicity whilst an allegation is being investigated. Where an employee has been accused of misconduct by a pupil, the school ensures that no material is published or made public that could identify the employee as the subject of the allegation.

Reporting restrictions will remain in place until the employee is charged with an offence or until the Secretary of State publishes information on the outcome of the investigation. Reporting restrictions will be disapplied if the employee waives their right to anonymity by going public themselves or by giving their written consent for another to do so, or if the restrictions are lifted by a judge.

6 Criminal charges

Where the employee's conduct is the subject of a criminal investigation, charge or conviction, the school will investigate the facts before deciding whether to take formal disciplinary action.

The school will not usually wait for the outcome of any prosecution before deciding what action, if any, to take. Where the employee is unable or has been advised not to attend a disciplinary hearing or say anything about a pending criminal matter, the school may have to take a decision based on the available evidence.

A criminal investigation, charge or conviction relating to conduct outside work may be treated as a disciplinary matter if the school considers that it is relevant to the employee's employment.

7 Disciplinary Rules

The normally accepted rules of behavior, which apply in society as a whole, will apply equally in the work situation. Any breach of an employee's Terms and Conditions of Employment, any conduct, which the Academy/Trust considers unsatisfactory or prejudicial to its interests, or any failure to meet the required standards of work, may render an employee liable to disciplinary action.

The lists below are not exhaustive and only serve as a guide to matters that the Academy/Trust may deem (depending upon the nature, circumstances and severity of the incident) to be a breach of general discipline or gross misconduct.

It is accepted that to differentiate between general and serious breaches of discipline is difficult, therefore each case must be treated on its own merits. Since the examples are only guidelines, discretion will have to be exercised by the Academy/Trust in categorizing breaches of discipline having regard to all the circumstances under which the breach of discipline occurred.

Some examples are (but not limited to):

EXAMPLES OF MISCONDUCT

- Poor timekeeping (i.e. lateness / leaving early) and attendance standards
- Work not of the required standard (where capability is not in question)
- Disruptive behaviour
- Minor breaches of policies

EXAMPLES OF GROSS MISCONDUCT

- Behaviour prejudicial to the good name or interests of the Academy/Trust or which may bring the employee or the Academy/Trust into disrepute
- Unauthorised and unreasonable absence from the place of work
- Wilful refusal to carry out a reasonable instruction or series of reasonable instructions
- Breach of confidentiality
- Breach of trust and confidence
- Theft, misuse or abuse of the property of the Academy/Trust or any other employee;
- Assault upon another employee or person
- Being under the influence of excessive (in the employer's opinion) alcohol on the Academy/Trust's premises, in working time or at an Academy/Trust event
- Fraudulent practices
- Falsification of any Academy/Trust records
- Violent or threatening behaviour towards people or property on the Academy/Trust's premises or at an Academy/Trust related event
- Gross negligence or insubordination
- Covertly recording hearings, meetings or colleagues
- Serious breach of health and safety procedures or regulations
- Making any sexual or other inappropriate contact with any pupil whatever the age of the pupil
- Using, handling or possessing illegal drugs or substances irrespective of whether it is on the Academy/Trust's premises, in working time, at an Academy/Trust event or whilst acting on behalf of the Academy/Trust
- Discrimination, harassment or victimisation on the grounds of protected characteristics as defined in the Equality Act of 2010
- Bullying, harassment or victimisation, whether verbal, written, photographic, pictorial or physical, whether inside or outside of the workplace.
- Inappropriate use of the Academy/Trust's Information Technology systems and passwords including email or internet abuse or misuse
- Using social media whether inside or outside of working time (e.g. blogs, Facebook, Twitter etc.) to post derogatory or offensive comments about the

Academy/Trust, work colleagues, or third parties with which the Academy/Trust has an operational relationship

- Any misappropriation of files or documents belonging to the Academy/Trust of any kind or making copies, duplicates or excerpts of these for private or any other purposes unrelated to an employee's employment and without consent.
- Material breach of contract or of the Academy/Trust's policies and procedures
- Criminal offences, including those committed outside the workplace, which impact on the employee's ability or suitability to do his or her job

POLICY

The Trust expects all staff to maintain appropriate standards of behavior and performance. To assist employees in complying with this requirement, the board has formulated a set of disciplinary principles and has established a procedure to be followed when disciplinary matters arise. The purpose of the policy and the supporting procedures is to enable any disciplinary issue to be addressed speedily, ensuring fairness and consistency in the treatment of individual employees.

The following should be considered:

- Where an employee's conduct appears to be unsatisfactory, no disciplinary action shall be taken until the case has been carefully investigated and a disciplinary hearing has taken place.
- In all cases, the employee will be advised in writing, as soon as practicable, of the details of any allegations/complaints made against them.
- The employee will be given the opportunity to prepare and present their case before any decision is made.
- No employee will be dismissed for a first breach of discipline except in cases of gross misconduct.
- Wherever possible, meetings will be held during the employee's normal working time unless otherwise agreed.
- The employee will have the right to be accompanied throughout the disciplinary procedure by a trade union representative or work colleague.
- In every case, and at every stage, when determining the disciplinary action to be taken, the Principal or the LAB governors shall bear in mind the need to satisfy the test of reasonableness having due regard to all the circumstances.
- The Principal shall ensure that the employee is given an explanation for any sanction imposed and is told of his/her right of appeal, how to make it and to whom.
- LAB Governors and the Principal should be particularly careful not to discriminate on the grounds of race, gender, disability, sexual orientation, religion, trade union membership or age.
- Appropriate advice should be sought from the Trust's HR manager in all cases where disciplinary action is being considered.

- There may be occasions where this procedure needs to be modified to comply with the requirements of the Academy/Trust's safeguarding policies,

INFORMAL PROCESS

Minor conduct issues should be resolved informally between the employee and Principal. Such discussions should be held in private and, where appropriate, a note of any informal discussion should be placed on the employee's personnel file. Any note taken should be marked 'informal' and should not form part of the employee's disciplinary record and should be ignored for the purposes of any future disciplinary hearings.

The employee should be advised of the standard required and reasonable opportunity to achieve the required standard. In the event of insufficient improvement, or if an informal discussion is not appropriate due to the seriousness of the allegation, formal steps should be taken under this procedure.

FORMAL PROCESS

Stage 1 – investigation

The Principal will first appoint a member of the senior management team, or other appropriate person (hereafter called the investigating officer) to establish the facts promptly before recollections fade and to obtain signed witnesses' statements without undue delay. The investigating officer must be neutral and independent, i.e. have had no previous involvement and will not be involved in deciding the outcome of the case.

Initial investigations should be conducted at the earliest opportunity. The amount of investigation required will depend on the nature of the allegations and will vary from case to case. Often further information can come to light during the investigation which may result in the investigating officer carrying out further investigation or interviewing additional witnesses or re-interviewing witnesses.

The employee should be notified of the allegation(s) against them and invited to an investigatory meeting. The employee should be provided with reasonable notice of the meeting and be advised that they may be accompanied by a trade union representative or colleague. It is advisable to hold a further investigation meeting with the employee to obtain a further statement once all the facts have been gathered.

Witnesses must be advised of the purpose of the meeting and further advised that any information discussed should remain confidential and matters should not be discussed with any other member of staff. All statements taken should be dated and signed by the witness. If a witness wishes to remain confidential, the investigating officer should seek the reasons for this. No guarantee of complete anonymity can be provided to a witness.

Where statements from pupils are deemed necessary, these will be taken as soon as possible after the incident and in such a way as to avoid the risk of collusion between pupils. All interviews should be conducted with another senior member of staff present and (particularly where very young pupils are involved) consideration

should be given to the presence of at least one parent/guardian.

Investigative interviews are solely for the purpose of fact-finding and no decision on disciplinary action will be taken until after a disciplinary hearing has taken place.

Once the investigation is complete, the investigating officer should complete a report detailing their findings and identifying any recommendations.

Please see appendix A for guidance on carrying out an investigation.

Stage 2 – Disciplinary hearing

Following an investigation, if there are grounds for disciplinary action, the employee will be invited to attend a disciplinary hearing which will be held as soon as reasonably practicable.

Disciplinary hearing panel

The case will be considered by a disciplinary hearing panel, consisting of three panel members. This could include the Principal, LAB governors and Trust HR.

The disciplinary hearing panel should consist of members who have not been involved in the investigation process. Any LAB governors that are either current staff or parents could be excluded from being on the panel to avoid any potential claims made against them on the grounds of conflict of interest/bias/confidentiality.

Representation

The employee may be accompanied, if he/she so wishes, by a recognised trade union representative, or work colleague of his/her choice.

Notice requirements

The employee will be given at least **seven working days'** notice in writing of the time, date and place of the hearing before the disciplinary hearing panel. If the trade union representative/colleague is unable to attend on the date proposed, the employee can offer an alternative time and date, within five working days of the original. Only one postponement on these grounds will be permitted.

In proposing an alternative date, the employee must have regard to the availability of the disciplinary hearing panel. Where it is impossible to convene a panel, the Academy/Trust will liaise with the employee to arrange the hearing to secure a third date and time.

Please note that the Academy/Trust reserves the right to finalise a date and time in a situation where there is no mutual agreement.

At the same time as the notice is sent, the employee shall be:

- Provided with the full details of the allegations, the basis for the allegations, and what the likely range of consequences will be if the allegations are found to be true.
- Provided with a summary of relevant information gathered during the investigation.

Provided with two copies of any relevant documents to be considered by the

Principal/disciplinary hearing panel, the second copy being provided for the use of his/her representative.

- Provided with two copies of any relevant witness statements, except where a witness's identity is to be kept confidential, in which case the employee will be provided with as much information as possible while maintaining confidentiality.
- Told to forward to the clerk to the hearing any papers that he/she wishes to be considered by the Principal/disciplinary hearing panel no later than **two working days** before the date of the hearing.
- Asked to acknowledge receipt of the letter and say whether he/she will attend the hearing, accompanied or otherwise.

The hearing may be adjourned if there is a need to carry out further investigations. The employee will be provided with reasonable opportunity to consider any new information obtained before the hearing is reconvened.

The employee will be notified of the decision, including full reasons within **five working days** of the hearing.

Please see appendix B for details of the procedure to be followed at the hearing.

Stage 3 – Appeal

Appeals against disciplinary action will involve an appeal against a decision of the disciplinary hearing panel.

If an employee feels that disciplinary action taken against them is wrong or unjust, they should appeal in writing, stating their full grounds of appeal, to the clerk to the disciplinary hearing panel within **ten working days** of the date on which they were informed of the decision.

The appeal should be dealt with as promptly as possible, and wherever possible within **20 working days** of the appeal being lodged. The employee will be provided with at least **five working days'** notice of the date, time and place of the appeal hearing, along with any relevant documentation as set out above.

An appeals panel will comprise of three members. The composition may include LAB Governors, CEO, Trust Officer and/or LAB governors from other school(s) within the Trust.

The procedure to be followed at the appeal hearing shall be similar to the disciplinary hearing set out within appendix B, except that the employee shall present the case for appeal first, with the chair of the disciplinary hearing panel, the Principal or authorised representative answering the appeal.

Where an appeal is upheld all appropriate persons shall be informed accordingly.

The provision and arrangements for representation shall be the same as for the stage 2 – disciplinary hearing above.

The decision reached by the staff appeals panel will be final.

DISCIPLINARY SANCTIONS

The usual penalties for misconduct are set out below. Each case will be assessed on its own merits.

An employee will not normally be dismissed for a first act of misconduct unless it is decided the conduct amounts to gross misconduct.

At the same time as the sanction is determined, consideration may be given, in the case of teachers, to withholding an increment as provided for in the Academy/Trust Pay Policy.

First written warning

A first written warning will usually be appropriate for a first act of misconduct where there are no other active written warnings on the employee's disciplinary record.

A first written warning will remain active for either 6 or 12 months. The specific length will be stated to the employee following the conclusion of the hearing.

Final written warning

A final written warning will usually be appropriate for:

- Misconduct where there is already an active written warning on the employee's record; or
- Misconduct that is considered sufficiently serious to warrant a final written warning even though there are no other active warnings on the employee's record.

A final written warning will remain active for 24 months.

Dismissal

Dismissal will usually be appropriate for:

- Further misconduct where there is an active final written warning on the employee's record; or
- Any gross misconduct regardless of whether there are active warnings on the employee's record.

Gross misconduct will usually result in summary dismissal without notice or payment in lieu of notice.

Where dismissal takes place or where an employee leaves in circumstances where they might have been dismissed, the matter shall be reported to the appropriate persons or bodies as required by statute.

Other sanctions

Other sanctions may also be considered, although in all cases advice must be sought from HR. Possible alternative sanctions:-

- Demotion
- Transfer to another department or job
- Loss of seniority

- Reduction in pay
- Loss of future pay increment

Confidentiality

All proceedings described in this document shall be confidential. Any public statement or publication of the decision, save to the employee and his/her representative, shall be confined to the operative decision only. All employees/witnesses must treat as confidential any information communicated to them in connection with an investigation or disciplinary matter.

Referrals to the Teaching Regulation Agency and DBS

Allegations of serious professional misconduct by a teacher may be referred to the Teaching Regulation Agency (TRA). A referral is appropriate if the alleged misconduct is so serious, it warrants a decision on whether a teacher should be prevented from teaching.

If an individual may have harmed a child or vulnerable adult, or put a child or vulnerable adult at risk of harm, a referral to the DBS must be made by the employer

APPENDIX A – HEARING FORMAT

PROCEDURE TO BE FOLLOWED AT A DISCIPLINARY HEARING

Introductions

- The chair of the disciplinary hearing panel should make introductions, explain the purpose of the hearing and the procedure to be followed.
- After the introductions, the chair should confirm that the hearing is being held as part of the Academy/Trust's disciplinary procedure and that there will be a written record of the hearing.
- The chair should clarify whether or not there will be any witnesses called by the parties.
- The allegations against the employee should be fully outlined.

Academy/Trust to present case

- The presenting officer (usually the investigating officer) should present the Academy/Trust's case to the chair, putting forward all relevant facts which led to disciplinary proceedings being instigated against the employee. The investigating officer's report and recommendations should be presented referring to relevant documentary evidence where necessary. The presenting officer should also call any relevant witnesses as necessary.
- The employee should be invited to ask the presenting officer any questions and to raise any points about any documentary or witness evidence presented.
- The chair and panel members may also ask the presenting officer any questions with regards to the evidence provided.

Employee to present case

- The employee or his/her representative should present their case using any evidence in support of their case including documentary and witness evidence where necessary. The employee or his or her representative must be allowed a full and fair opportunity to state his/her side of events and explain any conduct or mitigating factors.
- The employee should be permitted to call witnesses to give evidence as necessary.
- The presenting officer should be invited to ask the employee any questions and to raise any points about any documentary or witness evidence presented.
- The chair and panel members may question the employee about any

points/evidence raised. While the employee should be allowed to confer with their representative, they should personally address any questions asked of them.

Summing up and decision

- After all the evidence has been heard, the chair should summarise the key points.
- The chair should retire to consider his/her decision with the panel and should be accompanied by only the technical advisor and clerk to the appeal. Such discussions or minutes are not privy to the employee or his or her representative.
- The chair should inform the employee whether the decision will be communicated orally that day or provided at a later date in writing.
- The employee must be notified of his or her right of appeal against any disciplinary action taken.

In respect of the appeal hearing, the above steps should be followed, save that the employee will present their case first.

Additional points to note

- At any time during the proceedings, either side may request an adjournment for a reasonable period to allow consultation.
- Full minutes of the hearing should be taken. Ideally a separate minute taker should be appointed who is also independent to the proceedings. A copy of the minutes should be sent to the employee following the hearing and the employee should be asked to sign a copy to confirm they are accurate.
- If the employee fails to attend the hearing it is good practice to re-arrange the hearing to an alternative date in order to give the employee a further chance to attend. If the employee persistently fails to attend without good reason, the hearing can proceed in the employee's absence. The employee should be warned in advance that this will be the case.
- In the event of a disabled employee, consideration should be given to any reasonable adjustments necessary.