



Warrington Primary Academy Trust

Discipline Policy

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Policy Responsibilities and Review

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Chair of Trustees signature:	
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1. Aims

This policy aims to:

- Help and encourage all employees to achieve and maintain satisfactory standards of conduct.
- Set out the procedures for when an employee's conduct falls below the expected standard.
- Ensure that all employees are treated fairly and consistently when a disciplinary issue is being dealt with.

2. Legislation and guidance

We are required to set out our disciplinary procedures under general employment law.

These disciplinary procedures are based on the [Disciplinary and Grievance code of practice from ACAS](#).

These procedures also comply with our funding agreement and articles of association.

Recordings of conversations, meetings or proceedings should not be taken without the agreement of all parties present. Such recordings, where they are undertaken without consent will not normally be accepted as evidence under this policy. Where recordings taken without consent are subsequently shared with others, this may constitute a breach of data protection law and confidentiality. In these circumstances a referral may be made to the Information Commissioners Office. Such recordings may also constitute an act of misconduct/gross misconduct under this policy.

3. Definitions

- A disciplinary issue will arise when a staff member has not behaved to the standard expected of them.
- Appendix 1 and 2 set out a non-exhaustive list of examples of what we define as misconduct and gross misconduct. For the purpose of this policy, misconduct does not cover staff capability or poor performance issues. These are addressed in our capability of staff policy.

4. Disciplinary procedures

Minor disciplinary issues will be dealt with informally at first, and will be escalated only where:

- There has been no resolution
- The issue is more serious
- There are repeated or multiple instances of misconduct
- There is suspected gross misconduct

When dealing with an issue informally, the employee's line manager will organise a brief meeting with the employee and set out the concerns. They will remind the employee of the expected standard of behaviour and consider what support is needed to help them improve. Notes will be taken and retained.

If the issue cannot be dealt with informally, formal procedures will begin. The employee will be notified of this in a face-to-face meeting with the Headteacher or manager. This will be followed up in writing.

4.1 Suspension

In some circumstances, it will be appropriate to suspend a member of staff temporarily, for example, where there is suspected gross misconduct. This will be a neutral act in that, in itself, it does not amount to guilt or constitute disciplinary action.

Where this is necessary:

- The Headteacher must authorise the suspension. If it is the Headteacher who is the subject of the disciplinary procedure, the CEO must authorise the suspension.
- The staff member will be informed of the suspension in a face-to-face meeting, followed by a notification in writing within 5 working days.
- The employee will be permitted to be accompanied to the meeting by either a colleague or trade union representative.
- The staff member will be suspended on full pay.

If an employee is suspended from duty, they will be allocated an appropriate contact person from within school. This contact person will maintain regular communication with the employee and filter any questions regarding the process. The role of the contact person is to provide updates regarding the investigation process and answer any procedural queries. The role does not include providing the employee with advice. For such guidance, the employee should speak to their Trade Union representative.

Depending on the totality of the circumstances consideration should be given to whether the result that would be achieved by suspension can be achieved through an alternative arrangement for example relocation to an alternative work site or restriction of duties pending investigation. Any such action must be deemed practical by the school and should not compromise the investigation process moving forward.

Criminal Offences

If an employee is suspected of, or charged with, a criminal offence this does not automatically justify disciplinary action against the employee but a considered view needs to be taken as to whether the offence merits action because of its employment implications.

Irrespective of any police involvement, the Headteacher, or in the case of a Headteacher, the Chair of Governors, in consultation with the CEO will make a decision about whether or not to suspend the employee on full pay pending a full investigation into the allegations.

If the school initiates formal disciplinary action relating to a criminal offence, then the disciplinary process will proceed as normal and independently of any police investigation.

It is essential that an employee immediately inform their Headteacher, or in the case of a Headteacher, the CEO, if they are involved in any criminal proceedings or are charged with a criminal offence. Failure to disclose such information may result in disciplinary action being taken. (See contract of employment)

Safeguarding (See Child Protection and Safeguarding & Allegations of abuse against staff policies)

All adults who come into contact with children and young people through work have a duty of care to safeguard and promote their welfare.

Working Together to Safeguard Children 2020 and Keeping Children Safe in Education, place a duty on organisations to safeguard and promote the wellbeing of children and young people. This

includes the need to ensure that all adults who work with or on behalf of children and young people are competent, confident and safe to do so.

Adults working with children and young people may be at risk of allegations of abuse being made against them. Allegations may be malicious but equally some may be genuine.

It is essential that any allegation of abuse is dealt with fairly, quickly and consistently and in a way that both protects the child but at the same time supports the adult who is the subject of the allegation.

The framework for managing allegations against individuals who work with children is set out in the Allegations of abuse against staff policy and All Working Together to Safeguard Children: A guide to inter-agency working to safeguard and promote the welfare of children 2018

In the event that an allegation of abuse is made against a member of staff, the Headteacher will seek advice from the Local Authority Designated Officer (LADO) and HR who will provide appropriate recommendations in accordance with this document.

The decision to suspend an employee from work and undertake a disciplinary investigation will be considered where there is cause to suspect a child is at risk of significant harm, or the allegation warrants investigation by the police and is so serious that it might be grounds for dismissal.

The Trust and Local Governing Committee have a duty to carry out their functions under The Education Acts with a view to safeguarding and promoting the welfare of children under section 175 of the Education Act 2002. In line with safeguarding and promoting the welfare of children, previous patterns of behaviour will be considered as part of any safeguarding investigation.

From 12 October 2009, a new duty to share information was introduced under the Vetting and Barring Scheme. Employers have a duty to notify the DBS of relevant information so that individuals who pose a threat to vulnerable groups can be identified and barred from working with these groups.

4.2 Investigation

The Headteacher, CEO or Chair of Governors will appoint an Investigating Officer to undertake an investigation into the allegations.

Before a disciplinary hearing takes place, the Investigating Officer will gather the facts of the case and evidence. The investigating officer will, if necessary, hold investigatory meetings.

An employee can either directly, or through their trade union representative, raise concerns regarding the appointment of an Investigating Officer. In such circumstances, the employee must outline in writing the reasons for their objections and the school must give due consideration to the issues raised. The employee will be informed in writing of the school's decision with a justification of the decision taken provided.

The purpose of the investigation is to gather the facts relating to the allegation and interview the employee and any witnesses as appropriate. Where there is witness involvement, signed witness statements will be obtained. These will be confidential but will be shared as required and appropriate to the parties involved in any formal process that might arise from the investigation. The investigation may also involve the examination of systems, documents and personnel files.

The employee will be informed of the outcome of the investigation in writing.

If the investigating officer determines that the matter should move forward to a formal disciplinary hearing a disciplinary officer will be appointed. This will be a person independent from the investigating officer.

4.3 Notification

If it is decided that there is a disciplinary case to answer, the employee will receive a written notification 5 working days before the hearing. The meeting could be sooner if it is agreed by both parties. The notification will include:

- Details of the alleged misconduct and its possible consequences
- Copies of any written evidence, including witness statements
- The time, date and location of the disciplinary meeting
- A statement that the employee has the right to be accompanied by a colleague or a trade union representative
- Notification that the employer intends to call witnesses (if relevant)

If the employee intends to call a witness, they should notify the employer.

A Hearing Panel will conduct the hearing. The panel will be made up of senior school leaders and LGC members.

4.4 Disciplinary hearing

The purpose of the disciplinary hearing is to bring together all of the available information relating to the case at a single hearing and for a decision to be made as to whether or not the allegation(s) are proven on the balance of probabilities and, if so, the disciplinary sanction to be applied. 5 days before the hearing, the employee will receive a copy of all evidence that will be relied upon during the procedure.

At the hearing, the person conducting the hearing will explain the case against the employee and go through the evidence that has been gathered. The person may choose to have the investigating officer present the management's case.

The employee will be allowed to set out their case and answer any allegations that have been made. The employee will also be given a reasonable opportunity to ask questions, present evidence and call relevant witnesses. They will also be given an opportunity to raise points about any information provided by witnesses.

Employees have a statutory right to be accompanied at a meeting that may result in a formal warning being issued, disciplinary action being taken, or the confirmation of either of these.

The employee has the right to be accompanied by a colleague or a trade union representative. Employees must make the request in advance of the meeting, to allow the school to prepare and to ensure the employer knows who the companion will be.

If an employee's chosen companion will not be available to meet at the proposed time, the hearing will be postponed to a time proposed by the employee, as long as the alternative time is reasonable and not more than 5 working days after the original date.

The companion can address the hearing to put and sum up the employee's case, respond on behalf of the employee to any views expressed at the hearing and confer with the employee during the hearing. The companion does not, however, have the right to answer questions on the employee's behalf, address the hearing if the employee does not wish it or prevent the employer from explaining their case.

4.5 Taking appropriate action

The hearing will be adjourned and a decision about whether further disciplinary action is necessary will be taken. The employee will be informed of the decision in writing within 5 working days.

Actions taken may be:

- **A verbal or informal warning** where it is decided that the action was not serious enough to warrant a formal written warning. This may be accompanied by a notification that arrangements will be put in place to improve the staff members' behaviour, such as a training course or occupational health support
- **A first written warning** for a first instance of misconduct. A further instance may result in a final written warning. A first written warning will remain on the employee's personnel file for 12 months. The written warning will explain that a further instance of misconduct or no change in behaviour within a given timeframe will result in a final warning
- **A final written warning** where the employee has already received a first warning, or where the employee's misconduct was sufficiently serious. A further instance may result in demotion or dismissal
- **Dismissal** where there has been gross misconduct or a final written warning has already been given

We will refer a case of teacher gross misconduct to the Teaching Regulation Agency (formerly NCTL) if we believe the case is so severe that the TRA should consider whether the teacher should be prevented from teaching. We will also refer cases to other relevant authorities where appropriate.

4.6 Dismissal

Decision to dismiss

The power to dismiss staff in WPAT schools rests with the Local Governing Committees and the WPAT Trust Board.

Dismissal

Once the decision to dismiss has been taken, the Local Governing Committee (Dismissal Panel) will dismiss the member of staff with notice. Similar arrangements are made by LGC for Headteachers and the Trust Chair in the case of CEO.

Appeal

4.7 Appeals process

If a member of staff feels that a decision to dismiss them, or other action taken against them, is wrong or unjust, they may appeal in writing against the decision within 5 days of the decision, setting out at the same time the grounds for appeal. Appeals will be heard without unreasonable delay and, where possible, at an agreed time and place. The same arrangements for notification and right to be accompanied by a companion will apply, as with other formal meetings, notes will be taken and a copy sent to the staff member raising the appeal.

The appeal will be dealt with impartially and, wherever possible, by Governors or Trustees who have not previously been involved in the case. Wherever it is practical, appeals panels can be made up of appropriately trained Governors from any/all LGC's within the Trust.

Staff will be informed in writing of the results of the appeal hearing as soon as possible.

The employee has the right to appeal any sanction. Appeals must be made in writing within 5 working days of the decision, setting out at the same time the grounds for appeal.

Appeals will be heard without unreasonable delay and at an agreed time and place. Employees' statutory right to be accompanied by a companion will apply as with other formal disciplinary hearings. Notes will be taken and a copy sent to the employee.

The employee will be informed in writing of the results of the appeal hearing within 10 working days.

4.8 Special cases

If the employee involved in a disciplinary procedure is also the trade union representative, we will notify the union and discuss the matter with an official employed by the union before action is taken, after obtaining the employee's agreement. The procedure will continue as normal.

If the employee who is subject to disciplinary procedures raises a grievance about the disciplinary allegations or the procedure itself, the grievance procedure will run concurrently.

If the employee who is subject to disciplinary procedures raises a grievance about something unrelated to the disciplinary, consideration will be given to pausing the disciplinary while the grievance is addressed.

5. Record keeping

Minutes will be kept of all interviews and meetings. Where possible, these will be confirmed as an accurate reflection of what was discussed during the meeting.

Records of all materials relating to the disciplinary process will be kept securely, only for as long as necessary and in line with data protection law.

If disciplinary action is taken, a record of this will be added to the employee's personnel file.

We will disclose any proven disciplinary offences by a staff member if a reference is requested by a future employer.

6. Monitoring arrangements

This policy will be reviewed annually, but can be revised as needed.

This policy will be agreed by all schools and professional associations and approved by the WPAT Resources Committee.

APPENDIX 1 – examples of misconduct

The following are examples of misconduct, which will normally justify the use of the disciplinary procedure; however this list is neither exclusive nor exhaustive. Depending upon the severity of degree, any of these may constitute gross misconduct, in addition to the examples given in Appendix 2.

- (a) **Disobedience** - when an employee, without sufficient cause, deliberately disobeys, omits or neglects, or fails to observe, a lawful order, operational requirement or standing order of the employing department
- (b) **Insubordination** - when an employee is insubordinate, by word or act
- (c) **Abuse of Authority** - when an employee's conduct towards a fellow employee or a member of the public is oppressive or abusive
- (d) **Unauthorised Absence from Duty** - when an employee without permission or sufficient cause is absent from duty, late for duty, leaves their place of work
- (e) **Neglect of Duty** - when an employee:
 - (i) Without sufficient cause fails to discharge the obligations which either statute, or the contract place upon them
 - (ii) By carelessness or neglect suffers any loss, damage or injury to occur to any person, or property
 - (iii) Fails to report any matter, which it is the employee's duty to report
 - (iv) Fails to make an entry, which it is the employee's duty to make, in any book or document
 - (v) Fails properly to account for, or to make a prompt and true return of any money or property, which comes into the employee's possession in the course of their duties
- (f) **Unauthorised Employment** - engaging in unauthorised employment during hours when contracted to work for the school, or engaging in employment during off-duty hours which conflicts with or is detrimental to the interests of the school, or weakens public confidence in the conduct of the school's business
- (g) **Sleeping on Duty** (except those people who are required to 'sleep in' as part of their duties)
- (h) **Criminal Conduct** - when an employee has been found guilty by a Court of Law of a criminal offence, having regard to the nature of the offence (see section 8)
- (i) **Being an Accessory to a Disciplinary Offence** - when an employee is knowingly an accessory to any disciplinary offence or misconduct by another employee
- (j) **Neglect of Health** - when an employee without sufficient cause neglects to carry out any instruction of a medical officer appointed by the school or, while absent from duty on account of sickness commits any act or adopts any conduct which wilfully hinders their return to duty
- (k) **Failure to disclose** - where an employee fails to inform the school that they are subject to criminal proceedings, are charged with a criminal offence or are convicted of a criminal offence during their employment with the school, that may have an impact on the employment relationship. Where a CRB check is a requirement of the position, failure to disclose any change in personal circumstances that may call into question suitability to work in that role. **(See Appraisal and Capability policy)**

- (L) **Other General reasons may include:** Unauthorised absence or persistent lateness from work, using bad language in front of pupils. Failure to follow the policies, practices and requirements of the school unsatisfactory standards of work (not related to capability) inappropriate use of school facilities and Failure to comply with reasonable instructions from senior staff

APPENDIX 2 – Examples of gross misconduct

'Gross misconduct' is regarded as misconduct of such a nature that it fundamentally breaches the contractual relationship between the employee and the employer and justifies the employer in no longer accepting the continued presence of the employee at the place of work. The following are examples of gross misconduct, which have led to the dismissal of school employees. However, this list is neither exclusive nor exhaustive.

- (a) **Falsehood** - when an employee:
 - (i) Knowingly or through neglect and whether or not for a fraudulent purpose, makes any false, misleading or inaccurate oral or written statement or entry in any record or document made, kept or required by the school, or
 - (ii) Knowingly or through neglect falsified any information in support of an application for any post in the employment of the school
 - (iii) Malicious or vexatious complaints
 - (iv) Other offences of dishonesty
- (b) **Misconduct in relation to Official Documents** - when an employee without sufficient cause destroys or mutilates any record or document made, kept or required by the school, or alters or erases or adds to any entry in such a record or document
- (c) **Improper Disclosure of Information** - when an employee without proper authority communicates to any person information which was given to the employee in confidence in the course of their employment with the school
- (d) **Corrupt or Improper Practice** - when an employee improperly uses, or attempts to use, their official position for their own private advantage or for the private advantage of some other person
- (e) **Discrimination** - against another employee or member of the public on the grounds of disability, age, sex (including sexual harassment), sexual orientation, colour, race, creed, nationality or ethnic origin. This also covers employees with responsibility for dependants
- (f) **Misuse of WPAT/School Property** - when an employee, without authority, uses WPAT property, including vehicles, equipment and tools, for the employee's own purposes, and not connected with their duties for the school
- (g) **Unauthorised Removal of School/WPAT Property** - or of property within the school's control
- (h) **Damage to School/WPAT Property** - when an employee:
 - (i) Wilfully or without due care causes any waste, loss or damage to any property of the school, or
 - (ii) Fails to report any loss of, or damage, to any property issued to or used by the employee, or entrusted to the employee's care
- (i) **Theft** - of school property, or of property in the school's control, or of school employees, or otherwise carried out during the course of the employee's employment
- (j) **Fighting** - physical assault (including threatened physical assault)
- (k) **Conduct at work likely to offend decency** - including sexual misconduct, harassment, bullying, not treating people with dignity and respect, racial acts

- (l) **Failure to observe Health & Safety and Security Regulations** - when an employee fails to carry out safety procedures, thereby endangering the employee and others; or fails to observe security arrangements designed for the protection of employees, the general public, and school property
- m) **Being under the influence of drink or drugs** (other than those medically prescribed) - when an employee makes themselves unfit through drink or drugs so that they are unable to carry out their duties
- n) **Computer/Telephone Use** - when an employee fails to observe the rules of the School Computer and Telephone use policy or procedures
- o) **Breach of school procedures** - when an employee fails to follow the school's policies, procedures and practices
- p) **Damage to the reputation of the School** - when an employee's conduct brings the school's name into disrepute
- q) **Child Protection** - any behaviour or issue that falls under Child Protection Procedures.

Examples of appropriate behaviours and consequently inappropriate behaviours are documented in the Guidance For Safer Working Practice For Adults Who Work With Children and Young People 2009 document and include but are not limited to

- Conduct which would lead any reasonable person to question an employee's motivations and intentions
 - Sharing information about a child or young person in an inappropriate forum
 - Using one's position to gain access to information about a child or young person for personal advantage
 - Intimidating, bullying, humiliating, threatening or undermining a young person or child
 - Using one's status or position of trust to form or promote relationships of a sexual nature or relationships which may become so
 - Failure to maintain professional boundaries with a child or young person
 - Communicating with a child or young person which could be interpreted as inappropriate or sexually suggestive or provocative i.e. verbal comments, letters, notes, electronic mail, phone calls, texts
 - Using inappropriate language either in the presence of directly to children and young people
 - Inappropriate physical restraint
- (r) **Covert Recordings** - when an employee, without good cause, records any conversation, meeting or proceeding, including disciplinary and grievance hearings and appeals without the knowledge and agreement of all parties present.

Teacher misconduct guidance from the Teaching Regulation Agency explains that, among other things, the following offences will be serious enough to warrant prohibition of teaching:

- Serious departure from the personal and professional conduct elements of the Teachers' Standards
- Misconduct seriously affecting the education and/or wellbeing of pupils, and particularly where there is a continuing risk
- Actions or behaviours that undermine fundamental British values

- Abuse of position or trust (particularly involving vulnerable pupils) or violation of the rights of pupils
- Sustained or serious bullying, or other deliberate behaviour that undermines pupils, the profession, the school or colleagues.