

HORIZONS EDUCATION TRUST

Disciplinary Policy

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1.0 AIMS

1.1 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

2.0 LEGISLATION & GUIDANCE

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

2.2 These disciplinary procedures are based on the [Acas Code of Practice on disciplinary and grievance procedures](#). This policy covers all trust employees.

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

3.0 DEFINITIONS & SCOPE

- **A disciplinary issue** will arise when an employee is alleged to have behaved or acted inappropriately and/or contrary to the staff code of conduct
- Appendix 1 sets 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 [Appraisal & Capability Policy](#).
- This policy applies to employees only. It does not apply to agency workers, consultants, self-employed contractors, volunteers or interns
- This policy does not form part of any contract of employment or other contract to provide services, and we may amend it at any time

4.0 DISCIPLINARY PROCEDURES

4.1 Minor disciplinary issues

4.1.1 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

4.1.2 When dealing with an issue informally, the employee's line manager will organise a meeting with the employee and set out the concerns. This meeting will be held

without undue delay whenever there is cause for concern. The line manager 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. Where appropriate, a note of an informal discussion may be placed on the employee's personnel file.

4.1.3 If the issue cannot be dealt with informally, for example due to the seriousness of the alleged misconduct, or if the matter is not resolved following an informal meeting, formal procedures will begin. The employee will be notified of this in a face-to-face meeting with the commissioning officer, to be held in person, or over video conferencing if necessary.

4.1.4 This will be followed up in writing.

4.1.5 The commissioning officer will be:

- For staff based in trust schools, the headteacher will act as the commissioning officer.
- When the disciplinary is regarding a headteacher, the Director of Education will act as the commissioning officer.
- For staff not based in a particular school, such as trust central team staff, the CEO will act as the commissioning officer.
- When the disciplinary is regarding the CEO, the Chair of Trustees will act as the commissioning officer.

4.2 Suspension

4.2.1 In some circumstances it will be appropriate to suspend a member of staff temporarily, for example where there is suspected gross misconduct. This in itself does not constitute disciplinary action or imply that any decision has been made about the allegations.

4.2.2 Where suspension is necessary:

- For staff based in trust academies, the headteacher must authorise the suspension. If it is the headteacher who is the subject of the disciplinary procedure, the Director of Education must authorise the suspension
- For staff not based in a particular academy, such as trust central team staff, the suspension must be authorised by the CEO. If it is the CEO who is the subject of the disciplinary procedure, the Chair of Trustees must authorise the suspension
- Where possible, the employee will be informed of the suspension in a face-to-face meeting held in person, or over video conferencing if necessary, followed by a notification in writing within **5 working days**.
- The employee will be permitted to be accompanied to the meeting by a colleague, a trade union representative or a trade union official.
- The employee will be suspended on full pay.
- While an individual is suspended, they must not visit trust premises or contact any pupils, parents/carers or other members of staff, unless authorised to do so by the commissioning officer.

4.3 Investigation

- 4.3.1 When formal disciplinary procedures begin, an independent investigating officer will be appointed by the commissioning officer. This will be a member of staff who is not involved in the disciplinary issue.
- 4.3.2 The investigating officer will gather the facts of the case and evidence. The purpose of this investigation is to determine whether a formal disciplinary hearing is required by gathering the facts and any evidence relating to the disciplinary allegations.
- 4.3.4 The investigating officer will hold an investigation meeting with the employee in question, and seek HR advice as appropriate. The investigation meeting will be held solely for the purposes of fact finding, and no decision on disciplinary action will be taken until after the investigation has been concluded or, if required, a formal disciplinary hearing has been held.
- 4.3.5 If relevant, the investigating officer will hold meetings with identified witnesses. Notes can be taken during these meetings and the witness asked to sign a copy to form a witness statement. Alternatively, the witness can write and submit a witness statement.
- 4.3.6 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, the hearing will be led by the commissioning officer. This will be a person independent from the investigating officer.

4.4 Notification

- 4.4.1 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 hearing could be sooner if it is agreed by both parties. The notification will include:
- Details of the alleged misconduct and its possible consequences, including stating where dismissal is a possibility.
 - Copies of any written evidence, including witness statements and any relevant documents or other evidence which will be used at the disciplinary hearing.
 - The time, date and location of the disciplinary hearing (including the details if it is to be held over video conferencing, if relevant).
 - A statement that the employee has the right to be accompanied by a colleague, a trade union representative or a trade union official.
 - Notification that the employer intends to call witnesses (if relevant).
- 4.4.2 If the employee intends to call witnesses, they should notify the commissioning officer in advance of the disciplinary hearing and it will be for the employee to arrange the attendance of their witnesses.
- 4.4.3 The employee should submit any additional evidence they intend to rely on in advance of the hearing.

4.5 Right to be accompanied

- 4.5.1 Employees have a statutory right to be accompanied at a disciplinary hearing or appeal hearing.
- 4.5.2 The statutory right is to be accompanied by a colleague, a trade union representative or a trade union official. Employees must make the request in advance, to the commissioning officer, to ensure the trust knows who the companion will be.
- 4.5.3 If an employee's chosen companion will not be available to meet at the proposed time, the hearing will be postponed to an alternative time which is reasonable and not more than **5 working days** after the original date.
- 4.5.4 A companion, if a colleague, is allowed reasonable time off from duties without loss of pay, but no one is obliged to act as a companion if they do not wish to do so.
- 4.5.6 The trust will make reasonable adjustments for disabled employees. This may include allowing an employee to bring a companion who is not a colleague, trade union representative or trade union official.

4.6 Disciplinary hearing

- 4.6.1 The hearing will be chaired by the commissioning officer. The investigating officer and a member of HR will also be present.
- 4.6.2 At the hearing, the commissioning officer will explain the case against the employee and go through the evidence that has been gathered.
- 4.6.3 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.
- 4.6.4 The employee's 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 privately 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 them to, or prevent the employer from explaining their case.
- 4.6.5 The hearing may be adjourned if further investigation needs to be carried out, such as re-interviewing witnesses in light of any new points the employee raises at the hearing. The employee will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.
- 4.6.6 If the employee or their companion cannot attend the hearing, they should inform the commissioning officer immediately and an alternative time for the hearing will be arranged. The employee must make every effort to attend the hearing and failure to attend without good reason may be treated as misconduct in itself. If the employee fails to attend without good reason or is persistently unable to do so (for example, for health reasons), a decision may have to be taken based on

the available evidence, including any written representations the employee has made.

4.7 Taking appropriate action

4.7.1 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**.

4.7.2 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 employee's behaviour, such as a training course or occupational health support.
- **A first written warning** for a first instance of misconduct. A first written warning will be placed on the employee's personnel file and remain active for 12 months. The written warning will explain that a further instance of misconduct or no change in behaviour within a given timeframe may result in a final warning.
- **A final written warning** where the employee already has an active first warning, or where the employee's misconduct was sufficiently serious to warrant a final written warning. A final written warning will be placed on the employee's personnel file and remain active for 12 months. The written warning will explain that a further instance of misconduct or no change in behaviour within a given timeframe may result in dismissal or other disciplinary action.
- **Dismissal** where there has been gross misconduct, regardless of whether there are active warnings on the employee's personnel file, or where there has been further misconduct and there is an active final written warning on the employee's personnel file.
- **Alternatives to dismissal** can be considered at the trust's discretion. Examples include:
 - Demotion
 - Transfer to another role
 - Loss of seniority
 - Period of suspension without pay
 - Reduction in pay

4.7.3 The trust will refer a case of gross misconduct by a teacher, trainee teacher or someone holding a teacher reference number to the Teaching Regulation Agency (TRA) if we believe the TRA should consider whether the teacher should be prevented from teaching (see appendix 1 for instances of when this may apply). We will also refer cases to other relevant authorities, including but not limited to the Disclosure and Barring Service, where appropriate.

4.8 Dismissal

4.8.1 If the decision is made to dismiss, this will need to be communicated to the CEO, the Director of Finance and the Director of Operations.

4.9 The effect of a warning

- 4.9.1 Written warnings will set out the nature of the misconduct, the change in behaviour required, the period for which the warning will remain active, and the likely consequences of further misconduct in that active period.
- 4.9.2 A first written warning will usually remain active for 12 months and a final written warning will usually remain active for 12 months. The employee's conduct may be reviewed at the end of a warning's active period and, if it has not improved sufficiently, we may decide to extend the active period.
- 4.9.3 After the active period, the warning will remain permanently on the employee's personnel file but will be disregarded in deciding the outcome of future disciplinary proceedings once it has expired.

4.10 Criminal allegations

- 4.10.1 Where an employee's conduct is the subject of a criminal investigation, charge or conviction, we will investigate the facts when we are able to do so (there may be a delay in waiting for a police investigation to be conducted) before deciding whether a formal disciplinary hearing is required.
- 4.10.2 We 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, we may have to take a decision based on the available evidence.
- 4.10.3 A criminal investigation, charge or conviction relating to conduct outside work may be treated as a disciplinary matter if we consider that it is relevant to an employee's employment.

4.11 Special cases

- 4.11.1 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.
- 4.11.2 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.
- 4.11.3 If the employee who is subject to disciplinary procedure raises a grievance about something unrelated to the disciplinary, consideration will be given to pausing the disciplinary while the grievance is addressed.
- 4.11.4 If the person appointed to deal with the investigation, disciplinary hearing or appeal is unable to undertake the role due to previous involvement or a conflict of interests then the trust reserves the right to substitute that person for another.

5.0 APPEALS PROCESS

- 5.1 The employee has the right to appeal any disciplinary sanction. Appeals must be made in writing to the clerk within 10 working days of the decision, setting out at the same time the grounds for appeal.
- 5.2 A disciplinary appeals panel will be appointed of no less than 3 members.
- 5.3 If the employee is appealing against a dismissal, the date on which dismissal takes effect will not be delayed pending the outcome of the appeal. However, if the appeal is successful, the employee will be reinstated with no loss of continuity or pay.
- 5.4 If the employee raises any new matters in their appeal, we may need to carry out further investigation. If any new information comes to light, we will provide the employee with a summary including, where appropriate, copies of additional relevant documents and witness evidence. The employee will have a reasonable opportunity to consider this information before the hearing, and the employee, or their companion, may comment on any new evidence arising during the appeal before any decision is taken.
- 5.5 Appeals will be heard without unreasonable delay and at an agreed time and place (in person, or over video conferencing as necessary). The employee will be notified, in writing, of the date, time and place of the appeal hearing. Employees' statutory right to be accompanied by a companion will apply as with formal disciplinary hearings. Notes will be taken and a copy sent to the employee.
- 5.6 The appeal hearing will consider the fairness of the original decision in the light of the procedure that was followed, the evidence and any new information that may have come to light.
- 5.7 The appeal will be dealt with impartially and by a panel that has not previously been involved in the case.
- 5.8 The appeal hearing may be adjourned if required to carry out further investigations in light of any new points that the employee raises at the hearing. The employee will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.
- 5.9 Following the appeal hearing, we may:
- Confirm the original decision
 - Revoke the original decision
 - Substitute a different penalty
- 5.10 The employee will be informed in writing of the results of the appeal hearing as soon as possible. There will be no further right of appeal.

6.0 RECORD KEEPING

- 6.1 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.
- 6.2 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, our privacy notices and our records retention schedule.
- 6.3 If disciplinary action is taken, a record of this will be added to the employee's personnel file.
- 6.4 We will disclose any proven, unexpired disciplinary offences by an employee if a reference is requested by a future employer.

6.1 Confidentiality

- 6.1.1 We aim to deal with disciplinary matters sensitively and with due respect for the privacy of any individual involved. All employees must treat as confidential any information communicated to them in connection with an investigation or disciplinary matter.
- 6.1.2 The employee, and anyone who may accompany the employee (including witnesses), must not make electronic recordings of any meetings or hearings conducted under this procedure, whether these meetings or hearings are conducted in person, by telephone, or using remote working platforms or technologies.
- 6.1.3 The employee will normally be told the names of any witnesses whose evidence is relevant to disciplinary proceedings against them, unless we believe that a witness's identity should remain confidential.

7.0 MONITORING ARRANGEMENTS

- 7.1 This policy will be reviewed every 2 years, but can be revised as needed.
- 7.2 This policy will be approved by the Finance, People and Premises committee.

APPENDIX 1: DISCIPLINARY RULES FOR ALL EMPLOYEES

Purpose

The disciplinary rules should be read in conjunction with our disciplinary policy. The disciplinary rules are intended to give examples of the type of conduct that is considered to be misconduct or gross misconduct, and which could lead to action under our disciplinary policy.

Gross Misconduct

Gross misconduct is a serious breach of contract and includes misconduct which, in our opinion, is likely to prejudice our organisation or reputation or irreparably damage the working relationship and trust between us. If you are suspected of committing an act of gross misconduct, you may be suspended with full pay pending investigation. Allegations of gross misconduct will be dealt with under our disciplinary policy and, if upheld, will normally lead to dismissal without notice or pay in lieu of notice (summary dismissal). The following are examples of matters that are normally regarded as gross misconduct. This list is intended as a guide and is not exhaustive:

- 1. Behaviour that has or may have harmed a child* or, behaviour towards a child or children that indicates you would pose a risk of harm to children, for example:**
 - Sexual behaviour towards or relations with a pupil
 - Physically harming a pupil
 - Criminal offences related to or against a child
- 2. Criminal activities or offences, whether committed at work or not, that may affect our reputation or otherwise affects your suitability and/or ability to continue in employment.**
- 3. Sexual misconduct, whether at work or not and, whether criminal or not.**
- 4. Acts of physical or threatened violence, vandalism, bullying or, behaviour which provokes violence.**
- 5. Possession, use, supply or attempted supply of illegal drugs or any other inappropriate substances, whether illegal or not.**
- 6. Being under the influence of alcohol or other substances that make you unfit to perform your duties during working time, or illegal use of drugs at any time.**
- 7. Deliberately accessing internet sites containing pornographic, offensive or obscene material on our equipment or during working time.**
- 8. Communicating offensive, obscene or unauthorised sexually explicit material whether verbally, written, in electronic communication, or by social media.**
- 9. Serious negligence, serious neglect of duties or, a serious or deliberate breach of your conditions of employment, operating procedures, public**

examination rules, DfE statutory requirements, statutory rules affecting your work or, Health and Safety rules, for example:

- Failure to comply with the Prevent Duty
- Failure to report safeguarding concerns
- Failure to exercise proper control or supervision of pupils
- Disclosure of restricted public examination material or content
- Falsifying sickness absence
- Taking leave when permission denied
- Job abandonment
- Ignoring handling instructions/responsibilities/safety regulations to include those in relation to chemicals, machinery, equipment or food

10.A serious breach of our Code of Conduct.

11.A serious act of insubordination.

12.Dishonesty associated with place of work or job being undertaken, for example:

- Theft or unauthorised removal or misuse of property.
- Fraud, forgery or other dishonesty, including fabrication of expense claims, time sheets, qualifications, application forms, public examination forms and any other forms or records in use, falsification of any information given on your application form for a post, entitlement to work (including immigration status) in order to gain employment or other benefits or falsification of registration of pupils.
- Demanding or accepting monies or other considerations as a bribe for the use of our property or provision of our service.
- Failure to disclose criminal convictions, cautions, bindover orders reprimands or warnings (except those which are 'protected' under the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended from time to time) or, failure to disclose during the course of your employment an arrest or summons for an offence, a conviction, a bindover order, a reprimand or a warning given by a police force.
- Undertaking unauthorised paid or unpaid employment during working hours, including during periods of sickness absence.

13.Unauthorised use or disclosure of confidential information (or information which is of a confidential nature) or failure to ensure that such information in your possession is kept secure.

14. Making statements that are or could be damaging, slanderous or libellous whether verbally, written, in electronic communication or by social media, which could be harmful to a pupil, an employee or other worker, a governor, a member of the public, or our reputation.

15. Unlawful harassment or victimisation of, or unlawful discrimination against, a pupil, an employee or other worker, a governor, or a member of the public.

16. Victimising a person who has raised concerns, made a complaint, given evidence or information under our policies, e.g. grievance policy, disciplinary policy or otherwise.

17. Making a disclosure of false or misleading information under our whistleblowing policy maliciously, for personal gain, or otherwise in bad faith against a person or, making untrue allegations in bad faith against a person.

18. Bringing the organisation into serious disrepute.

Misconduct

The following are examples of matters that will normally be regarded as misconduct and will be dealt with under our disciplinary policy. This list is intended as a guide and is not exhaustive.

1. Absenteeism and lateness, for example:

- Unauthorised absence or leaving your job during working hours without permission or sufficient cause for absence
- Frequent failure to attend work punctually
- Failure to comply with our sickness absence reporting procedure

2. Neglect of duty, for example:

- Failure to adopt safe working practices/use protective equipment where required by law or management
- Damage to, or unauthorised use of our property or contractors property
- Insubordination

3. Obscene language or other offensive behaviour.

4. Undertaking additional employment outside normal working hours without authorisation.

5. Breaches of our policies.

6. Breaches of your contract.

*Child/children relates to anyone under the age of 18.

[Teacher misconduct guidance](#) from the TRA explains that, among other things, the following offences may be serious enough to warrant prohibition of teaching:

- Abuse of position or trust (particularly involving pupils) or violation of the rights of pupils
- Actions or behaviours that undermine fundamental British values
- Misconduct seriously affecting the education and/or wellbeing of pupils, and particularly where there is a continuing risk
- Serious departure from the personal and professional conduct elements of the Teachers' Standards
- Sustained or serious bullying, or other deliberate behaviour that undermines pupils, the profession, the school or colleagues