



## DISCIPLINARY POLICY

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APPROVED BY:	BOARD

**This policy is applicable to our current schools, Khalsa Secondary Academy (KSA), ATAM Academy and The Khalsa Academy Wolverhampton (TKAW) and for any further schools we open or those that join our Trust.**

### **Introduction**

The Directors of 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 governors 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.]

## **DISCIPLINARY RULES**

The normally accepted rules of behaviour, 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 categorising 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 a 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 a Academy/Trust related event
- Gross negligence or insubordination
- Covertly recording hearings, meetings or colleagues
- Smoking on the Academy/Trust's premises
- 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 a 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 board expects all staff to maintain appropriate standards of behaviour 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 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.
- 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 Academy/Trust's HR adviser 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 and/or governors.

The disciplinary hearing panel should consist of members who have not previously been involved in the case and are not staff governors and, ideally, not parent governors.

### ***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 **five 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. Normally 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 as to other suitable dates beyond the usual five working days.

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.

If an employee is unable to attend the hearing they must inform the Principal or clerk to the disciplinary hearing panel immediately so an alternative date and time can be arranged. It is good practice to arrange an alternative date if the employee fails to attend. If an employee persistently fails to attend, a decision may have to be taken based on the evidence available.

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 either:

- An appeal against a decision of the Principal; or
- 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.

A staff appeals panel appointed by the governing board and comprising at least three governors shall hear all appeals. The staff appeals panel should consist of members who have not previously been involved in the case and are not staff governors and, ideally, not parent governors.

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 (appellant) 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 Teachers' Pay & Conditions of Service Regulations.

### **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 six months.

### **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 12 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. Examples of gross misconduct are set out within appendix C.

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 include a transfer to another post or demotion with or without protection of salary.

### **MISCELLANEOUS NOTES Child protection**

Allegations relating to child protection against employees should be dealt with in accordance with the relevant policy in force.

### **Disciplinary action against trade union officials**

All the foregoing disciplinary standards and procedures apply to the conduct and performance of all union officials, including Academy/Trust representatives, who are employees of the Academy/Trust. No disciplinary action, beyond a formal oral warning, shall be taken until a senior trade union representative or full-time official of the member of staff's trade union or association has been given an opportunity to discuss them with the Principal. In such cases, the discussion must take place within seven working days of notification by the Principal.

### **Confidentiality**

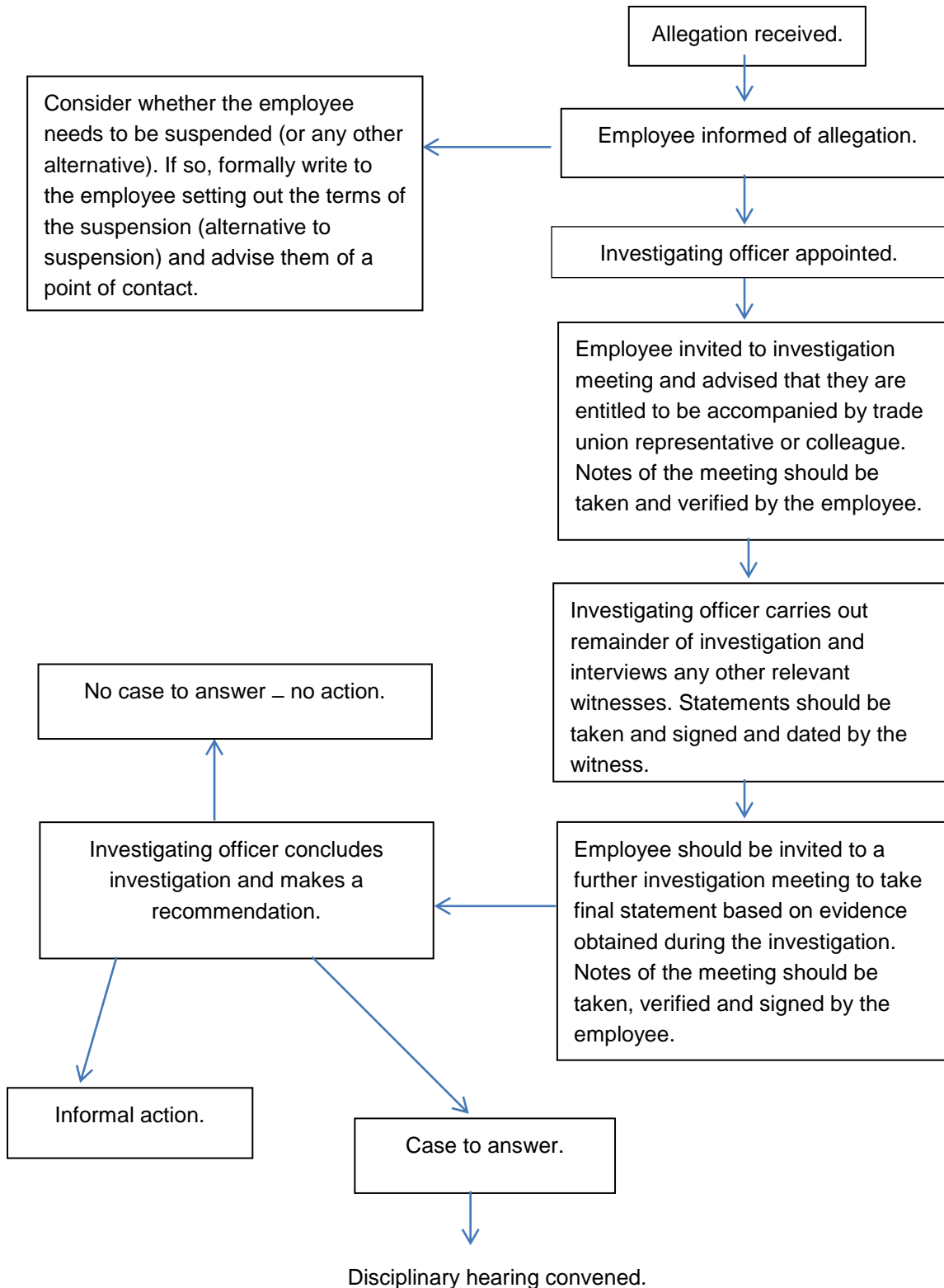
All proceedings described in this document shall be confidential. Any public statement or publication of the decision, save to the employee and his/her representative, shall be confined to the operative decision only. All employees/witnesses must treat as confidential any information communicated to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

### **Criminal charges or convictions outside employment**

These should not be treated as automatic reasons for dismissal. The main consideration should be whether the offence is one that makes workers unsuitable for their type of work. In all cases, Principals (and/or the disciplinary hearing panel) having considered all the facts, will need to consider whether the conduct is sufficiently serious to warrant instituting the disciplinary procedure. In addition, staff should not be dismissed solely because a charge against them is pending or because they are absent as a result of being remanded in custody.



## APPENDIX A – CARRYING OUT AN INVESTIGATION



## **APPENDIX B – 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.

### **APPENDIX C – GROSS MISCONDUCT**

Gross misconduct may be defined as conduct warranting summary dismissal, demotion or dismissal and the withholding of increments, that is, it is of such a nature that the employee's continued presence at work is intolerable either to management, or to his/her fellow employees. Examples of the type of conduct that shall warrant summary dismissal (that is, dismissal without the normal period of notice) are described below:

- Theft, fraud or embezzlement in relation to his/her employment.

- Offences relating to child protection.
- Fighting and offences involving violence against the person of others while at work. (A member of staff is entitled to use such force as is necessary and reasonable to defend him/herself where he/she did not initiate such action.)
- Serious bullying or harassment.
- Serious insubordination.
- Serious breach of the GTC professional code of conduct.
- Misuse of the Academy/Trust's property or name and/or bringing the Academy/Trust into serious disrepute.
- Serious incapability while on duty brought on by alcohol or other substances.
- Serious negligence which causes or might cause unacceptable loss, damage or injury.
- Serious breach of confidence (subject to the Public Interest (Disclosure) Act 1998).
- Unauthorised removal of, or malicious damage to, the property of the Academy/Trust, of its employees or of persons in relation to whom the Academy/Trust and/or its employees are in a position of trust.
- Falsification of time records, travel, subsistence and expense claims in relation to his/her employment.
- Sexual offences and sexual misconduct while at work.
- Serious breaches of safety regulations endangering other persons, including deliberate damage to, neglect of, or inappropriate use of safety equipment.

The above list is neither exclusive nor exhaustive and, therefore, does not preclude the possibility of dismissal for other offences of similar gravity not specified. Notwithstanding the above reference to summary dismissal in relation to gross misconduct, the disciplinary hearing panel may arrive at a decision other than summary dismissal having regard to all the circumstances.