



## Windsor Academy Trust

### Disciplinary Policy (Staff)

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<b>Responsible Committee:</b>	Windsor Academy Trust, Board of Directors
<b>Date revised by Board of Directors:</b>	21 May 2020
<b>Implementation Date:</b>	1 June 2020
<b>Next review date:</b>	March 2022

### Appendices

<b>Appendices</b>	
<b>Appendix A</b>	Examples of Misconduct/Gross Misconduct

## **1. Introduction**

1.1 The purpose of this policy is to help and encourage all employees to achieve and maintain standards of conduct. The aim is to ensure consistent and fair treatment for all employees in Windsor Academy Trust (WAT).

### **1.2 Definitions:**

Chief Executive means the Chief Executive of WAT.

Headteacher refers to all or any of the Headteachers or any of the academies within WAT or other senior manager delegated to deal with the matter by Headteacher.

Leadership Team refers to any member of the Leadership Group as defined by the School Teachers' Pay and Conditions Document, or a senior member of staff with responsibility for support staff.

Board of Directors/Directors means the Directors of WAT.

Companion refers to a person chosen by the employee to accompany them, who shall be a trade union representative or a workplace colleague.

### **1.3 Roles and Responsibilities**

The following roles and responsibilities will usually apply during this policy but may be varied or adapted to meet the circumstances as determined by the Chief Executive.

Investigating Officer means: either be a member of the Leadership Team, the Chief Executive (or nominated person), or a Director. An external person may also be appointed as an Investigating Officer.

Disciplinary Officer means: the Headteacher, the Chief Executive (or nominated person) or a Director.

Appeals Panel means: the Chief Executive, or panel of up to three Directors.

## **2. General Principles**

2.1 Examples of the type of conduct that is considered to be misconduct or gross misconduct, which could lead to action under this policy, are set out in Appendix A.

2.2 This policy is non-contractual and applies to all employees of WAT. It does not apply to agency workers or contractors.

2.3 This policy may be implemented at any stage, as set out below, taking into account the alleged misconduct of an employee. Employees will not normally be dismissed for a first act of misconduct, unless it is decided that it amounts to gross misconduct or are within their probationary period.

2.4 The employee is entitled to be accompanied by a companion to any meetings held under the formal procedure.

## **Part A – Informal Procedure**

### **3. Informal Action**

- 3.1 Management advice may be given to the employee by a member of the Leadership team. Action will be taken under Part B below if the matter is not resolved or, there is repeated minor misconduct or, where informal action is not appropriate (for example, because of the seriousness of the allegation).
- 3.2 There is no appeal against management advice given, which will not be recorded on the employee's disciplinary record but should be confirmed in a written memorandum. The employee may make written comment on the memorandum if s/he has any objection to the informal action taken. A copy of the memorandum or a note of any informal discussions may be placed on the employee's personal file. Where appropriate, the employee will be given reasonable support to effect an improvement.

## **Part B – Formal Procedure**

### **4. Disciplinary Hearing**

- 4.1 If, following appropriate investigation by the Investigating Officer, the Headteacher or Senior Manager considers on the facts that formal disciplinary action for misconduct is necessary, s/he will write to the employee to inform him/her, at least 5 working days in advance, setting out;
- a) the date, time and place of the disciplinary hearing
  - b) the nature of the complaint
  - c) the employee's right to be accompanied by a representative of his/her companion
  - d) the titles of enclosed copies of any documents to be used as evidence
  - e) the names of any witnesses to be called by the senior manager
  - f) his/her right to call witnesses on his/her behalf
  - g) the name of any adviser who will accompany the Disciplinary Officer at the hearing
- (At the employee's request, an extra copy of this notice, together with any enclosures, will be provided for his/her representative).
- 4.2 The employee must advise the Disciplinary Officer of the following at least 3 working days in advance of the hearing:
- a) the name and designation of his/her companion
  - b) provide any written documentation to be considered
  - c) the names of any witnesses that he/she wishes to call
  - d) any special requirements (e.g. disability, language requirements)
- 4.3 At the disciplinary hearing, before the Disciplinary Officer the employee (and his/her companion) will be given a reasonable opportunity to state their case, to question the Investigating Officer and any witnesses and, to call any witnesses and raise points about any information provided by witnesses.
- 4.4 Following the hearing, the Disciplinary Officer will consider the matter and confirm the decision in writing to the employee and their companion as soon as possible and usually within 5 working days of the hearing, to include:
- a) the sanction (if any) and the period it will remain current
  - b) his/her reasons for the decision
  - c) the change in behaviour required (if relevant) and the likely consequence of further misconduct
  - d) right of appeal

## **5. Formal Disciplinary Action**

### **5.1 First Written Warning**

- 5.1.1 The Disciplinary Officer may give the employee a first written warning which will include a statement that any further complaint or misconduct occurring within the next twelve months that is found justified after a disciplinary hearing, may lead to a final warning or dismissal, unless there are mitigating circumstances.
- 5.1.2 If a further complaint or concern is made about the employee's conduct within twelve months of the date of the first written warning when it remains live, the same procedure (as in 4 above) will be followed.

### **5.2 Final Written Warning**

- 5.2.1 The Disciplinary Officer may give the employee a final written warning, which will include a statement that any further complaint of misconduct occurring within the next two years that is found justified after a disciplinary hearing, will lead to dismissal, unless there are mitigating circumstances.

### **5.3 Dismissal**

If a further complaint or concern is received before the final written warning has expired, the complaint will be referred to a hearing before the Disciplinary Officer, following the same procedure to that in section 4 above.

If the Disciplinary Officer decides the complaint is justified, s/he may decide to dismiss the employee. The Disciplinary Officer will state his/her decision and his/her reasons and inform the employee of his/her right to appeal to the Appeals Panel. S/he will confirm the decision and right of appeal in writing to the employee (and his/her companion) as soon as possible and normally within 5 working days of the hearing. The Disciplinary Officer will record the outcome of his/her considerations and the names of persons present at the hearing.

The Disciplinary Officer will confirm in writing to the employee that s/he is dismissed, whether the decision was with or without notice, or with pay in lieu of notice, the effective date of dismissal.

## **6. Gross Misconduct**

- 6.1 If the complaint or concern is considered so serious that it may amount to gross misconduct, justifying dismissal without previous warning and without notice, the employee may be informed that s/he is suspended on full pay pending further investigation. Suspension may also be necessary in other circumstances e.g. where the employee would be able to access evidence, influence witnesses, or where there could be a risk to others.
- 6.2 Where suspension has taken place, the employee will be suspended on full pay. The suspension will be reviewed periodically (normally every 4 weeks) to consider whether circumstances surrounding the suspension have changed.
- 6.2 If, following an investigation, the Investigating Officer considers the facts of the case amount to a prima facie case of gross misconduct the procedure to be followed will be as in section 4 of this policy where a possible outcome may be dismissal without notice or pay in lieu of notice.

## **7. Right of Appeal**

- 7.1 The employee has a right of appeal against a decision to issue a warning or to dismiss.
- 7.2 Appeals against formal warnings or dismissal should be made in writing within 5 working days of the receipt of the written decision.
- 7.3 The appeal will be heard by the Appeals Panel and can either; confirm the sanction, reduce the sanction or overturn it.
- 7.5 All appeal hearings will be held as soon as practicably possible after receipt of the appeal.
- 7.6 The outcome of the appeal will be confirmed in writing as soon as possible and usually within 5 working days of the hearing. There is no right of further appeal against such a decision of the Appeal Panel.
- 7.7 Where the Appeals Panel overturns a decision to dismiss or to issue a written warning, they may substitute a lesser sanction. There is no right of appeal against such a decision of the Appeals Panel.
- 7.8 In the event that the Appeal Panel decides not to uphold the decision to dismiss, the notice of dismissal shall be immediately withdrawn or reinstated without loss of pay.

## **8. Variation in Disciplinary Action**

- 8.1 If appropriate, the Disciplinary Officer may decide to take informal action (as in Part A above) instead of giving a first written warning.
- 8.2 The Disciplinary Officer may decide the misconduct is so serious that it justifies a final written warning, without any previous written warning having been given.
- 8.3 Rather than dismiss, the Disciplinary Officer may decide to issue no sanction or a lesser sanction.

## **9. Trade Union Representatives**

- 9.1 Where disciplinary action is being considered against an employee who is a trade union representative the normal disciplinary procedure should be followed. The matter will be discussed at an early stage with an official employed by the union, after obtaining the employee's agreement.

## **10. Confidentiality**

- 10.1 All employees subject to disciplinary investigations or proceedings must treat as confidential any information communicated to them in connection with an investigation or disciplinary matter. Only the decision of a disciplinary hearing, following appeal may be reported.
- 10.2 All records will be retained in line with WAT's Information and Records Retention Policy (for Staff).

## **Appendix A – Examples of Misconduct/Gross Misconduct**

Some examples are (but not limited to):

### **Examples of Misconduct**

- Absenteeism and lateness
- Neglect of duty
- Insubordination
- Obscene language or other offensive behaviour
- Undertaking additional employment outside normal working hours without authorisation
- Breach of Trust policies
- Breach of contract

### **Examples of Gross Misconduct**

- Behaviour prejudicial to the good name or interests of the Trust or which may bring the employee or the Trust into disrepute
- Repeated unauthorised and unreasonable absence from the place of work
- A serious act of insubordination or series of insubordination
- Breach of confidentiality
- Breach of trust and confidence
- Theft, misuse or abuse of the property of the Trust or any other employee
- Assault upon a pupil, another employee or person
- Being under the influence of alcohol or drugs on the Trust premises, in working time or at a Trust event
- Fraudulent practices
- Falsification of any records
- Violent or threatening behaviour towards people or property on the Trust's premises or at a Trust related event
- Gross negligence
- Covertly recording hearings, meetings or colleagues
- Smoking on the 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 on the Trust premises, in working time, at a Trust event or whilst acting on behalf of the 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
- Serious breaches of the Trust's IT user and social media and internet related policies
- Using social media (e.g. blogs, Facebook, Twitter etc.) to post derogatory or offensive comments about the Trust, work colleagues, or third parties with which the Trust has an operational relationship
- Any misappropriation of files or documents belonging to the 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 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