



An Daras Trust
Igniting Curiosity Growing Capabilities

Disciplinary and Grievance Policy

An Daras Multi-Academy Trust

Adopted Date: 11 December 2019

Review Date: Autumn 2022

Wolferstans 
SOLICITORS

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1. INTRODUCTION

- 1.1. This policy aims to provide a fair and consistent framework for:
- a) dealing with allegations against staff (disciplinary matters); and

b) dealing with complaints made by staff (grievances).

- 1.2. It will cover the majority of such cases, although in some cases particular procedures will be more appropriate, such as the school's policies on **Allegations of Abuse against Staff** and **Whistleblowing**. Performance issues should be dealt with in accordance with the policies on **Appraisals and Capability** or **Managing Sickness Absence**. It applies to all employees, including the Headteacher.
- 1.3. Statutory guidance is contained in the [ACAS Code of Practice on Disciplinary and Grievance Procedures](#) ("the ACAS Code"). This policy aims to adhere to that and other ACAS guidance, where applicable.
- 1.4. The Governing Body has delegated to the Headteacher the authority to conduct disciplinary proceedings in all cases save for those in which dismissal is contemplated.
- 1.5. For simplicity, this policy uses "you" throughout for the person accused or the person who has raised the complaint, and "we" for the school.
- 1.6. This policy is non-contractual and so does not form part of your contract of employment. For those in their first two years of service the disciplinary procedure may be shortened or departed from.

In a larger MAT, it may be appropriate:

- for the Headteacher, or Executive Principal to have the power to suspend (unless personally involved) and to carry out the investigation,
- for a panel of governors from a local governing body or cluster governing committee to hold the dismissal hearing and
- for a panel of main board trustees to hold the appeal.

Arrangements may also vary for staff at different levels of seniority.

2. DISCIPLINARY PROCEDURE

- 2.1. Any disciplinary matter must be dealt with fairly and steps taken to establish the facts and to give you the opportunity to respond before taking any formal action. You may bring a companion to *[all meetings under this policy/all meetings where a warning or dismissal may be a potential outcome]*. Your companion may be either a trade union representative or a work colleague. For a first act of misconduct, dismissal would not normally be the case, unless it amounts to gross misconduct or you have not completed a probationary period.

Suspensions

- 2.2. The Headteacher has delegated authority from the governing body to suspend any member of staff. This will not occur without serious consideration, and in particular will not follow automatically when an allegation of abuse or gross misconduct is made. (See also the policy on Managing Allegations Against Staff). Depending on the nature of the case, it may be possible that alternative arrangements are made such as work location or reorganisation of duties, and these will be considered before a decision to suspend is made.
- 2.3. Suspension is not a disciplinary penalty and does not imply that any decision has been made about the allegations. If you are suspended, you will receive confirmation in writing as soon as possible and will be informed of the reasons. The suspension will be for no longer than necessary and will be kept under review. You will continue to receive full pay and benefits during any period of suspension.

Step 1 Disciplinary Investigation

- 2.4. When misconduct comes to light the Headteacher will usually appoint someone to carry out the investigation or will carry out the investigation themselves. The investigation is to establish a fair and balanced view of the facts. The extent of investigation needed will depend on the nature of the allegations and will vary from case to case. It may involve interviewing you and any witnesses, and reviewing relevant documents or other information. The Investigating Officer will inform you that they are going to initiate an investigation.
- 2.5. Where any allegation is made, the Headteacher should be informed and a meeting will be arranged with you. The Chair of Governors may be informed. If the Headteacher is the person accused, the Chair of Governors will arrange the meeting, and will assume all the duties of the Headteacher set out below.
- 2.6. The Investigating Officer will produce a report containing details of the allegation, the steps undertaken as part of the investigation (e.g. interviewing witnesses and reviewing documents) and a conclusion which will include a recommendation. The Investigating Officer will include a recommendation as to whether a disciplinary hearing should take place.
- 2.7. The Headteacher will consider this recommendation and make the decision as to the appropriate course of action.
- 2.8. Where misconduct is not considered to be serious enough to warrant a disciplinary hearing your manager may meet with you informally to discuss

the circumstances surrounding your misconduct. Written records of this discussion will be kept, as will documentation of any information from witnesses. You can bring a colleague to this meeting if you wish. The Headteacher may also decide that further training, mediation or a referral to occupational health is appropriate.

Step 2 Notification of Disciplinary Hearing

2.9. When a disciplinary hearing is required, you will be notified by letter as soon as practicable of:

- a) the date, time and location of the hearing;
- b) the identification of the person/persons chairing the hearing;
- c) the allegations against you;
- d) the investigation report, including all relevant documentation, setting out the basis of those allegations;
- e) the likely range of sanctions if the allegations are upheld.

2.10. The letter will remind you of your right to be accompanied. If you wish to bring a companion you must make the necessary arrangements with them.

2.11. The disciplinary hearing will be convened before a **Governors Staffing Panel**, made up of at least three Governors, none of whom have had any previous involvement with the case. The **Chair of Governors** will chair the hearing where dismissal is contemplated or where the Headteacher is subject to the disciplinary proceedings.

2.12. If you fail to attend without good reason, the hearing may be held in your absence and a decision made on the basis of the information available. This may also occur if you are persistently unable to attend for health or similar reasons.

2.13. The Investigating Officer will normally have interviewed relevant witnesses and taken statements from them as part of the investigation report. The witnesses will not normally attend the hearing. If there are any relevant witnesses who have not been interviewed you should bring this to the attention of the Headteacher in good time before the hearing. You should not contact them directly to obtain a statement or to attend the hearing. Equally, if you believe that there is a particular reason why a witness should attend the hearing you should raise this in advance. Witnesses cannot however be required to attend.

Step 3 Disciplinary Hearing

- 2.14. As well as the Panel, the Investigating Officer will attend to present the findings of their investigation. A note-taker will also be present.
- 2.15. The Chair will go through the allegations and ask you to respond. You can also present any evidence of your own.
- 2.16. The hearing is an information-gathering exercise. The aim is to give you the fullest possible opportunity to explain your position. It is not intended to be an interrogation, and questions will be put to you to explore your response. Evidence in the investigation report will be raised with and you will be invited to comment on each aspect. As far as practicable any follow-up questions will be put in an open format, such as by asking “where”, “when”, “why” or “how”?
- 2.17. Your companion can make points or ask questions on your behalf during the hearing, but should not answer questions for you.
- 2.18. If, exceptionally, a witness does attend in person to give evidence, you will again be given the opportunity to respond to any information they provide but will not normally be permitted to cross-examine them directly.
- 2.19. At the end of the hearing you (or your companion) will have a further opportunity to make representations.
- 2.20. The hearing may be adjourned if it is deemed necessary to carry out any further investigations and you will be given a reasonable opportunity to consider any new information before the hearing is reconvened.
- 2.21. The person chairing the hearing may be in a position to verbally communicate the decision on the day. In all cases, the decision will be communicated in writing.

Step 4 Disciplinary Outcome

- 2.22. You will be informed in writing of the decision and the reasons for it, usually within 5 academy working days of the hearing. The panel/Headteacher may find that there is no case to answer and refer the case back to an informal process. Alternatively, the *panel/Headteacher* may give you a disciplinary first warning or final warning or dismiss you.
- 2.23. Written warnings will set out the nature of the misconduct, the period for which the warning will remain active and the likely consequences of further misconduct in that active period. After the active period, the

warning will remain permanently on your personal file but will be disregarded in deciding the outcome of future disciplinary proceedings.

Step 5 Appeal

- 2.24. You can appeal against the outcome to the **Chair of Governors** but must do so within 5 academy working days of the date on which you were informed of the decision.
- 2.25. The appeal will be dealt with as impartially as possible and where possible, will be conducted by a different panel of Governors not previously involved in the case.
- 2.26. You will be given written notice of the date, time and place of the appeal hearing no less than 5 academy working days before the hearing. At the same time you will also be provided with a copy of the notes taken at the disciplinary hearing.
- 2.27. The appeal hearing will be a complete rehearing of the case. It will therefore be conducted in the same way as the original hearing, with the Investigating Officer in attendance to present his or her report.
- 2.28. Following the appeal hearing, the panel may confirm or revoke the original penalty or substitute a different penalty, but the penalty will not be increased on appeal. You will be informed in writing of the decision and the reasons for it, usually within 5 academy working days of the hearing.

Confidentiality

- 2.29. We will make every effort to protect the privacy of all parties during and after an investigation into misconduct. It is in everyone's best interest to maintain this confidentiality to ensure a fair investigation with minimum impact for all parties. You must treat information communicated to you in connection with an investigation or disciplinary matter as confidential.
- 2.30. A breach of confidentiality will be taken seriously and may warrant its own investigation.

Resignations

- 2.31. If you hand in your resignation when a disciplinary hearing has been ordered or during an investigation, the investigation may still continue until an outcome has been reached, with or without your cooperation. If so, you will still be given a full opportunity to respond to the allegation.

Record keeping

- 2.32. Detailed records of all investigations and outcomes should be kept securely, and in line with the Data Protection Act, in your personal file. You should also be given a copy of the same information. This will enable us to provide all the necessary information for future schools if you require a reference. Where DBS checks highlight allegations that did not result in any criminal charges, records will need to show exactly what happened, what points of action were taken during and after the investigation, and how the result of the investigation was reached.
- 2.33. Allegations or investigations that are proven to be malicious will not be kept on your records or used in your references.

3. TYPES OF MISCONDUCT

- 3.1. Listed below are some actions normally considered to be misconduct or gross misconduct that would be dealt with under this policy. These lists are a guide and are not exhaustive.

Misconduct

- a) Breaches of your contract of employment;
- b) Breaches of our policies, including the sickness absence policy, IT user policy and health and safety policy;
- c) A breach of confidentiality or school regulations.
- d) Unauthorised absence from work;
- e) Unauthorised use of our facilities – for example using the internet for excessive personal emailing;
- f) Inappropriate or offensive behaviour – for example, using foul or abusive language;
- g) Intentionally disregarding the reasonable instructions of a senior member of staff;
- h) Gross misconduct

- 3.2. Gross misconduct is a serious breach of contract and includes misconduct, which in our opinion is likely to prejudice our reputation or irreparably damage the working relationship and trust between us and you. It will normally lead to dismissal without notice or pay

in lieu of notice. The following list is non-exhaustive, but examples of gross misconduct can include:

- a) Inappropriate conduct with children or young people, including failing to maintain appropriate professional boundaries;
- b) Serious failure to follow our child protection procedures;
- c) Harassment or discrimination related to any of the protected characteristics – see other relevant policies including equal opportunities, and anti-harassment and bullying;
- d) Serious or repeated breaches of health and safety requirements;
- e) Physical assaults or threats to a colleague, pupil or member of the public;
- f) Unauthorised removal of school property, or malicious damage to school property or equipment;
- g) Criminal offences that in our opinion may undermine your ability to do your job or adversely affect internal relations, staff or pupils;
- h) Theft or dishonesty at work;
- i) Fraud or forgery, including falsification of documents such as expense claims, pupils' work;
- j) Being under the influence of alcohol, illegal drugs or other substances during working hours or not being incapable of fulfilling your duties;
- k) Any action that seriously harms the school's reputation;
- l) Publishing material and/or content which has the potential to damage the reputation of the school;
- m) Serious negligence or a serious or deliberate breach of your contract of employment;
- n) Serious or repeated failure to obey instructions, or any other serious act of insubordination.

4. GRIEVANCE PROCEDURE

4.1. Grievances are complaints, concerns, or problems raised by you relating to your employment. The procedures outlined below can be used when:

- a) You have a grievance with a colleague;
- b) You have a grievance with your manager or another member of the leadership team, including the Headteacher or Governors/Trustees;

4.2. Grievances may include:

- a) terms and conditions of employment;
- b) health and safety;
- c) work relations;
- d) bullying and harassment;
- e) new working practices;
- f) working environment;
- g) organisational change;
- h) discrimination.

4.3. Other matters, such as pay or the outcome of your annual appraisal will normally be dealt with under our policies on Pay and Appraisal and Capability.

Informal Procedure

4.4. Resolving grievances is essential in ensuring a healthy and motivated workforce. Ideally, grievances can be resolved quickly and informally through open communication with your line manager or Headteacher. In that way it is easier for all concerned to continue working together effectively in the future. If you are unable to speak to your manager (e.g. because the complaint concerns your manager), you should speak informally to a more senior manager, which could be the Headteacher. If this does not resolve the issue or is not appropriate, staff should follow the formal procedure below.

Formal Procedure

4.5. If you think that informal procedures cannot or have not resolved your grievance you can initiate formal procedures. If you raise a grievance after disciplinary proceedings have started against you, we will consider suspending the disciplinary period for a short time to consider the implications of the grievance on the disciplinary proceedings. If the grievance and disciplinary issues are closely related, it should be possible to deal with them all as part of the disciplinary procedure.

4.6. The formal procedure will progress as outlined below:

Step 1 Written Grievance

4.7. You should submit your concerns in writing in a document clearly labelled formal grievance. The grievance should set out the nature of the complaint to include any relevant facts, dates, and names of individuals involved so that it can be investigated.

4.8. The written grievance should be handed or emailed to your manager or, if the manager is the subject of the grievance, to a member of the senior leadership team or the Headteacher. Where the Headteacher is the subject of the grievance, the form should go to the Chair of Governors. Where the Governing Body is the subject of the grievance, you should consult with the Headteacher before approaching the Chair of Governors.

Step 2 Grievance Meeting

4.9. We will arrange a grievance meeting, normally within 5 academy working days of receiving the written grievance.

4.10. You have the right to bring a companion (a trade union representative or a colleague) to the formal grievance meeting or appeal meeting under this procedure. You should tell the person holding the grievance meeting who your chosen companion is in good time before the meeting.

4.11. The person holding the meeting will hear from the parties involved and review any relevant documentation. The person may adjourn the meeting or defer a decision until they are satisfied that they have thoroughly reviewed all the evidence and taken into account all relevant factors.

4.12. In some cases, it may be necessary for investigations to be carried out into the grievance. The meeting may be adjourned to carry out these investigations, or an investigation may be conducted before the grievance meeting if appropriate. The nature of the investigation will depend on the

complaint; it may involve interviewing you, a witness or witnesses, or reviewing relevant documents.

Step 3 Grievance Outcome

- 4.13. You will usually be notified in writing of the decision and the reasons for the outcome within 5 academy working days. The outcome will include notification of any further action we intend to take to resolve the grievance. You will be informed of your right to appeal against the outcome.

Step 4 Appeal

- 4.14. If you are not satisfied with the outcome you can appeal by writing to the Clerk to Board & Governors within *5 working days* of the decision, stating in detail the grounds. An appeal meeting will be held as soon as practicable and will be dealt with impartially by a more senior manager not previously involved. Where the Headteacher made the decision, a panel of Governors will hold the appeal meeting.