

**The Heath Family Multi Academy Trust
Disciplinary Policy**

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1 POLICY STATEMENT

- 1.1 The purpose of the procedure is to give a structure to improve conduct to the standards expected and to facilitate the fair dismissal of those who have not improved or whose conduct is so unacceptable as to warrant dismissal without notice.
- 1.2 This policy must be read in conjunction with the Code of Conduct which sets out the standards to be expected of each employee.
- 1.3 The Heath Family Multi Academy Trust delegate their authority in the manner set out in this procedure.
- 1.4 There may be some occasions where an employee's behaviour could also be described as incapability. This Disciplinary Policy and the relevant Heath Family Multi Academy Trust's Capability Procedure may be used concurrently whilst the [Academy/Trust/School] endeavours to ascertain if the behaviour is misconduct or incapability.
- 1.5 There may be occasions where an employee's conduct could relate to their health. This Disciplinary Policy may be used concurrently with the Heath Family Multi Academy Trust's Sickness Absence Policy. In particular if an employee goes off sick following the use of this Disciplinary Policy the Heath Family Multi Academy Trust may use its Sickness Absence Policy.
- 1.6 There may be occasions when an employee attempts to use the Heath Family Multi Academy Trust's Grievance Policy in connection with actions taken under this Disciplinary Policy. This shall not lead to any delay or pause in the conduct of any matters under the Disciplinary Policy.
- 1.7 There may be occasions where this procedure needs to be modified, for example to comply with any requirements in relation to pupil safeguarding.
- 1.8 This policy does not form part of any employee's contract of employment and it may be amended at any time. We may also vary the procedures set out in this policy, including any time limits, as appropriate in any case.

2 WHO'S COVERED

This policy covers all employees at all levels and grades, including senior managers, officers, employees, trainees, part-time and fixed-term employees. It does not apply to agency staff and self-employed contractors.

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3 PERSONNEL RESPONSIBLE FOR IMPLEMENTING THIS POLICY

- 3.1 The Heath Family Multi Academy Trust has overall responsibility for the effective operation of this policy and for ensuring compliance with the relevant statutory framework. The Heath Family Multi Academy Trust has delegated day-to-day responsibility for operating the policy and ensuring its maintenance and review to the [the Head Teacher / Principal].
- 3.2 The [Senior Leadership Team] has a specific responsibility to ensure the fair application of this policy and all members of staff are responsible for supporting colleagues and ensuring its success.

4 DEFINITIONS

In this policy **working day** means any day on which you would ordinarily work if you were a full time employee. In other words it will be different for teaching and non-teaching staff but will not be different on the basis of whether an employee is full-time or part-time.

5 INFORMAL ACTION

- 5.1 Your line manager may give you informal warnings at any time about any conduct or performance falling short of the standard expected.
- 5.2 Informal warnings may be recorded in personnel files and referred to at a later stage to evidence that an informal approach was attempted and the success or failure of such an approach.
- 5.3 Failure to comply with informal action should not on its own be used as justification for issuing a higher form of sanction than would otherwise have been imposed under the formal process.

6 INVESTIGATING, DISCIPLINARY AND APPEAL MANAGERS

- 6.1 The personnel responsible for each stage of this policy depends on the role the relevant employee performs.
- 6.2 The following table describes the normal course of action although this may be subject to change depending on the circumstances of the individual case.

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Employee Level	Investigating Manager	Disciplinary Manager	Appeal Manager
[Principal/Head Teacher]	the [Chair of Governors/ Chair or Executive Principal of MAT or a non-staff [Trustee/Governor/ Director] nominated by the [Chair of Governors/ Chair/ Executive Principal of MAT	[Trustee/Governor/ Director]s' Disciplinary Panel appointed by the [Chair of Governors or Chair/ Executive Principal of MAT	[Trustee/Governor/ Director]'s Appeal Panel appointed by the [Chair of Governors or Chair/ Executive Principal of MAT
Other Leadership Spine and [Academy/Trust /School] Business Manager	[Principal/Head Teacher]	the [Chair of Governors or Chair/ Executive Principal of MAT or a non-staff [Trustee/Governor/Director] nominated by the [Chair of Governors or Chair/ Executive Principal of MAT	[Trustee/Governor/Director]' Appeal Panel appointed by the [Chair of Governors or Chair/ Executive Principal of MAT
Other Teaching Staff	Member of Leadership Team (other than [Principal/Head Teacher]) appointed by the [Principal/Head Teacher]	[Principal/Head Teacher]	[Trustee/Governor/Director]' Appeal Panel appointed by the [Chair of Governors or Chair/ Executive Principal of MAT
Other Support Staff	A person appointed by the [Principal/Head Teacher]	[Principal/Head Teacher]	[Trustee/Governor/Director]' Appeal Panel appointed by the [Chair of Governors or Chair/ Executive Principal of MAT

7 SUSPENSION

- 7.1 In cases where it is justified, after a preliminary investigation, the Principal/Head Teacher or the Chair of Governors or Chair/ Executive Principal of Heath Family Multi Academy Trust may suspend you for a reasonable period of time.

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- 7.2 The Principal/Head Teacher must inform the Chair of Governors or Chair/Executive Principal of Heath Family Multi Academy Trust of the suspension or in the event of suspension by the Chair of Governors /Chair/ Executive Principal of Heath Family Multi Academy Trust the Chair must inform the Governing Body/the Heath Family Multi Academy Trust (excluding staff [Governors/Directors/Trustees]).
- 7.3 This period of suspension must be reviewed by the Chair of Governors or Chair/Executive Principal of Heath Family Multi Academy Trust at weekly intervals and must be no longer than is required depending on the circumstances.
- 7.4 Suspension should ideally be undertaken in person but may be undertaken in writing. If it is undertaken in person it will be confirmed in writing.
- 7.5 Suspension may be justified in cases where:
- 7.5.1 Relationships have broken down.
 - 7.5.2 Gross misconduct is alleged.
 - 7.5.3 There are reasonable concerns that evidence or witnesses could be interfered with.
 - 7.5.4 There are responsibilities to other parties.
 - 7.5.5 To protect pupils or property.
- 7.6 Suspension is a neutral act and is not a disciplinary sanction and you will be receive full pay and benefits during a period of suspension (unless you are otherwise absent from work due to sickness or other leave and have exhausted the pay entitlements connected to your absence).
- 7.7 During a period of suspension the [Academy/Trust/School] may require you not:
- 7.7.1 to attend [Academy/Trust/School] at any time (except with the prior agreement of the Principal/Head Teacher or Chair of Governors/ or Chair/ Executive Principal of Heath Family Multi Academy Trust
 - 7.7.2 to communicate in any way with parents pupils governors except:
 - 7.7.2.1 with the prior agreement of the Principal/Head Teacher / Chair of Governors or Chair/ Executive Principal of Heath Family Multi Academy Trust

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7.7.2.2 where following the investigation you are called to a formal disciplinary meeting, when you may then approach governors parents or pupils as potential witnesses but this must be done via the Investigating Manager to avoid any breach of the Data Protection Act or confidentiality.

7.7.3 to discuss the fact of your suspension or the fact of or nature of the allegations against you with any member of staff except:

7.7.3.1 with the prior agreement of the Principal/Head Teacher / Chair of Governors or Chair/ Executive Principal of Heath Family Multi Academy Trust for communication with your union representative;

7.7.3.2 where you are called to an interview with the Investigating Manager or a disciplinary meeting when you may approach work colleagues for the purposes of identifying a willing work workplace colleague but only if you do not have a trade union representative, or

7.7.3.3 where you are called to a formal disciplinary meeting you may approach work colleagues as potential witnesses in support of your case.

7.8 During a period of suspension the [Academy/Trust/School] may suspend your access to your email account/intranet.

7.9 During a period of suspension the [Academy/Trust/School] may take such steps as necessary to cover your lessons or other commitments.

8 FORMAL PROCESS

8.1 Step 1 - Investigation

8.1.1 The Investigating Manager will conduct an investigation into the alleged conduct.

8.1.2 The Investigating Manager may appoint any other person from within the [Academy/Trust/School] or externally to assist in the investigation.

8.1.3 The investigation may include a face to face interview with you but this is not mandatory. You may if you wish provide a written statement or response to the Investigating Manager.

8.1.4 You are required to co-operate fully with the Investigating Manager to ensure that the investigation can be completed as swiftly and thoroughly as possible.

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8.1.5 The Investigating Manager will produce an Investigation Report setting out evidence and detailed allegations and a recommendation.

8.1.6 You will be sent a copy of the Investigation Report.

8.2 Step 2 – Disciplinary Meeting

8.2.1 If the Investigation Report contains a recommendation that you be subject to a formal disciplinary sanction you shall be required to attend a formal disciplinary meeting with the Disciplinary Manager.

8.2.2 The disciplinary meeting shall take place at least 2 days after the Investigation Report was sent to you.

8.2.3 The Disciplinary Manager shall consider all the evidence presented and you shall have an opportunity to present evidence in your defence and any evidence in mitigation.

8.2.4 The Disciplinary Manager may adjourn the disciplinary meeting to allow further investigations in the light of your evidence and will reconvene to give you an opportunity to comment on any further evidence produced by further investigations.

8.2.5 The Disciplinary Manager is not required to hear oral evidence and may rely on written evidence.

8.2.6 If the Disciplinary Manager does decide to hear oral evidence, you will be given an opportunity to comment on it by attending the meeting.

8.3 Step 3 - Appeal

8.3.1 If the Disciplinary Manager decides to impose a formal disciplinary sanction you will have the right to appeal to the Appeal Manager provided that you do so in writing to the Disciplinary Manager within 10 working days of the written notification of the disciplinary decision.

8.3.2 Your appeal must set out the grounds of appeal in detail. This will enable the Disciplinary Manager and Appeal Manager to determine if the appeal is to be by way of a rehearing of the case or by way of a review of the case.

8.3.3 The Appeal meeting will normally take place within 20 working days of your notice of appeal being received by the Disciplinary Manager.

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- 8.3.4 The Appeal Manager may not impose a more severe sanction than that imposed by the Disciplinary Manager.
- 8.3.5 The Appeal Manager may consider any new evidence produced by you not available to the Disciplinary Manager.
- 8.3.6 The Appeal Manager may only consider new evidence produced by the Disciplinary Manager if it touches upon your credibility in relation to evidence you have already given or if it rebuts any new evidence produced by you or any assertions made by you in your grounds of appeal.
- 8.3.7 If the Appeal Manager considers that any new evidence from whatever source would warrant a more severe sanction the Appeal Manager shall refer the matter to the original Disciplinary Manager for consideration and the Disciplinary Manager may impose a more severe sanction. If there was an appeal against such an increased sanction, it would be heard (where possible) by a different Appeal Manager.
- 8.3.8 The Appeal Manager is not required to hear oral evidence and may rely on written evidence.
- 8.3.9 If the Appeal Manager does decide to hear oral evidence, you will be given an opportunity to comment on it either by attending the meeting or by reviewing the notes of that oral evidence after the meeting (if you were not present at the disciplinary meeting).

9 FORMAL SANCTIONS

The Disciplinary Manager may impose the following sanctions:

9.1 A First Written Warning

- 9.1.1 A First Written Warning will remain live for **12** months from the date that the Disciplinary Manager's written decision was sent to you.
- 9.1.2 For a first disciplinary offence (ignoring any informal action), a First Written Warning would be the normal response.

9.2 A Final Written Warning

- 9.2.1 A Final Written Warning will remain live for **18** months from the date that the Disciplinary Manager's written decision was sent to you.

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9.2.2 A Final Written Warning would normally be given for a second disciplinary offence committed or discovered during the currency of a live First Written Warning (even if that First Written Warning related to a different type of misconduct)

9.2.3 A Final Written Warning could be given for serious misconduct regardless of previous disciplinary history if the conduct is sufficiently serious.

9.3 Dismissal on notice

9.3.1 Dismissal on contractual notice would be given for a disciplinary offence (other than an act of gross misconduct) committed or discovered during the currency of a live Final Written Warning (even if the Final Written Warning related to a different type of misconduct).

9.3.2 For the avoidance of doubt the notice commences immediately and does not await the outcome of any appeal.

9.3.3 If your contract contains a payment in lieu of notice clause the [Academy/Trust/School] may exercise that clause to bring your contract to an end with immediate effect.

9.4 Dismissal without notice or compensation

9.4.1 Dismissal without notice or compensation (also known as Summary Dismissal) will only occur if you have committed an act of gross misconduct or otherwise have destroyed the trust and confidence required between the employee and the [Academy/Trust/School].

9.4.2 For the avoidance of doubt the dismissal takes effect immediately and does not await the outcome of any appeal.

9.4.3 The Code of Conduct contains a **non-exhaustive** list of matters which the [Academy/Trust/School] considers may amount to gross misconduct.

9.5 Voluntary demotion as an alternative to higher formal sanction

9.5.1 There may a situation where the Disciplinary Manager considers that a recent promotion or job change has been a contributory factor in your misconduct.

9.5.2 The Disciplinary Manager may offer you the option of taking a voluntary demotion as an alternative to a higher formal sanction.

10 [TRUSTEE/GOVERNOR/DIRECTOR] PANELS

- 10.1 [Trustee/Governor/Director] Disciplinary and Appeal Panels shall comprise two/three non-staff governors not previously involved in the matter.
- 10.2 In the event that there are insufficient numbers of [Trustee/Governor/Director] available to participate in a Panel, the Chair of Governors or Chair/ Executive Principal of Heath Family Multi Academy Trust as appropriate may appoint associate members to solely participate in the appropriate Panel.

11 WORKPLACE COLLEAGUE

- 11.1 If you are the subject of disciplinary allegations leading to a disciplinary interview by the Investigation Manager or a meeting with the Disciplinary Manager or Appeal Manager you may be accompanied at such interview or meeting by a workplace colleague (who must be involved in the substance of the allegations against you) or an accredited trade union representative of a union recognised by the [Academy/Trust/School].
- 11.2 You must let the relevant Manager know who your workplace colleague will be at least one working day before the interview or meeting.
- 11.3 If you have any particular need, for example, a disability which causes you a substantial disadvantage, adjustments may be made to the procedure to allow you to participate and in limited circumstances this may include allowing you be accompanied by someone other than is listed in clause 8.1.
- 11.4 Your workplace colleague can address the meeting in order to:
 - 11.4.1 put your case
 - 11.4.2 sum up your case
 - 11.4.3 respond on your behalf to any view expressed at the interview meeting.
- 11.5 Your workplace colleague can also confer with you during the interview meeting.
- 11.6 Your workplace colleague has no right to answer questions on your behalf, or to address the interview meeting if you do not wish it, or to prevent you from explaining your case.
- 11.7 Where you have identified your workplace colleague to the relevant Manager and he or she has confirmed in writing to the relevant Manager that they cannot attend the date or time set for the interview meeting, the relevant Manager may postpone the interview meeting provided that you

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have suggested an alternative date within 5 working days of the original date set by the [Academy/Trust/School] to a date or time agreed with your workplace colleague provided that it is reasonable.

12 TIMING OF INTERVIEW MEETINGS

12.1 Interview or meetings under this procedure may:

12.1.1 need to be held when you were timetabled to teach

12.1.2 be held after the end of the [Academy/Trust/School] day

12.1.3 not be held on days on which you would not ordinarily work.

13 VENUE FOR INTERVIEWS OR MEETINGS

If the allegations are sensitive the relevant Manager may hold the interview or meeting off the [Academy/Trust/School] site.

14 TRADE UNION OFFICERS

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

15 REFERRAL

15.1 Where a teacher is dismissed for serious misconduct (or may have been dismissed for serious misconduct if the teacher had not resigned) the [Academy/Trust/School] must consider whether to refer the circumstances to the Teaching Agency under section 141D of the Education Act 2002 which came into force on 1 April 2012

15.2 Where a person working within the [Academy/Trust/School] (whether a teacher or not) is dismissed or would have been dismissed if they had not resigned) because that person committed conduct:

15.2.1 which endangered a child or was likely to endanger a child

15.2.2 which if repeated against or in relation to a child, would endanger that child or would be likely to endanger him

15.2.3 involving sexual material relating to children (including possession of such material)

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- 15.2.4 involving sexually explicit images depicting violence against human beings (including possession of such images)
- 15.2.5 of a sexual nature involving a child
- 15.2.6 the [Academy/Trust/School] must refer that person to the Independent Safeguarding Authority under section 35 of the Safeguarding Vulnerable Groups Act 2006.