



# RHT Disciplinary Procedure

The Richard Huish Trust

Trust Executive



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# Contents

## Disciplinary Procedure

	Page
1. Introduction	3
2. Enquiries	3
3. Purpose	3
4. Scope	3
5. Procedure	4
6. Representation	4
7. Investigation	4
8. Suspension	4
9. Formal Disciplinary	5
10. Confirmation of the outcome	5
11. Formal warnings	6
12. Gross misconduct	7
13. Appeals	7
14. Quality Management	8
15. Related Policies/Codes and Procedures	8
16. Associated Guidance	8

## 1. Introduction

Richard Huish Trust (the Trust) provides governance and oversight to those Academies which are part of the Trust namely: The Taunton Academy, West Buckland Primary, North Curry CofE Primary, Nerrols Primary and Nursery, and North Town Primary.

This policy applies to each of the Academies listed above.

This policy aims to ensure consistent and fair treatment for all in relation to disciplinary action taken in response to allegations of unacceptable conduct.

## 2. Enquiries

Any enquiries about this document or suggestions on how it can be improved should be addressed to the HR Advisor.

## 3. Purpose

The purpose of the procedure is to help and encourage all employees to achieve and maintain high standards of conduct, attendance and job performance. The Trust requires employees (whilst at work whether or not on Trust premises) to conduct themselves in a safe and proper manner, abiding by the **Trust's Staff Code of Conduct** standards and the appropriate conditions of service. This procedure sets out the action, which may be taken when these rules are breached.

This procedure has been updated in line with the 2015 ACAS Code of Practice on Disciplinary & Grievance Procedures to ensure that all staff are treated fairly and with respect and dignity and that the Trust meets all its legal requirements.

## 4. Scope

All staff employed by Richard Huish Trust.

Where disciplinary action is being considered against an employee who is a trade union representative this procedure will still apply. Depending on the circumstances, however, the matter will be discussed at an early stage with an official employed by the union after obtaining the employee's agreement.

If an employee is charged with, or convicted of a criminal offence that is not normally in itself reason for disciplinary action, consideration will be given to what effect the charge or conviction has on the employee's suitability to do the job and their relationship with the Trust, work colleagues and customers.

## 5. Procedure

- 5.1 Every effort will be made to avoid the use of disciplinary action where an alternative is appropriate. A separate process [the Performance Management Policy] will be used to address issues of professional capability and competence.
- 5.2 For minor infringements of discipline, the line manager will make every effort to resolve the matter by informal and confidential discussions with the employee. A record of the conversation will be made, confirming any actions to be taken and the implications if there is a repetition of the behaviour or if the informal process does not bring about an improvement. If this informal process does not bring about an improvement, if there is a repetition of the behaviour, or the misconduct is considered too serious to be classed as minor, the formal disciplinary procedure will be implemented.
- 5.3 The formal procedure is designed to establish the facts quickly and to deal consistently and fairly with disciplinary issues. Time limits are given for appropriate stages in the procedure. If it is not practical to adhere to these time limits, they may be amended, ideally by mutual agreement. Due regard will be given to all parties involved in the procedure. If appropriate, the Headteacher may suspend the employee, in accordance with **section 8 below**, whilst the investigation is carried out.

The case must be discussed with the Trust HR Advisor in advance of any suspension occurring.

- 5.5 RHT HR will offer advice at all stages of the procedure, and it is strongly recommended that Headteachers seek advice from HR.
- 5.6 Where a matter of discipline relates to a Headteacher's conduct the matter will be undertaken by the LGB, with an Investigating Officer appointed by the Trust CEO and any panel convened with members of the RHT Board.

Where a staff discipline committee is required, the LGB should nominate three of its members who are not staff members to form the Committee, and another three LGB members will be required to form an appeals Committee. The Trust reserves the right to utilise governors from other academies within the Trust, Directors of the RHT Board may also participate in staff discipline/dismissal committee meetings.

- 5.4 No formal disciplinary penalty will be imposed without an investigation and a disciplinary hearing. Other than, in cases of gross misconduct, or gross negligence, when the penalty may be dismissal without notice or payment in lieu of notice, no employee will be dismissed for a first offence. An employee will have the right to appeal against any formal disciplinary penalty imposed.

## 6. Representation

- 6.1 You have the right to be accompanied at an investigatory meeting and throughout the formal procedure by a 'companion' as defined by the ACAS Code of Practice – namely a Trust work colleague or a trade union representative. A trade union representative who is not an employed official must have been certified by their union as being competent to accompany a worker.
- 6.2 There is no right to be accompanied by a companion at meetings under the informal resolution procedure (see **section 5.2** above) although you may seek advice on a confidential basis from a trade union representative before or after such a meeting. There may be exceptional situations where the manager, Human Resources and the employee all agree for a companion to be present in an informal meeting.

## 7. Investigation

- 7.1 As soon as reasonably practicable after a suspected breach of disciplinary rules comes to light, your line manager or other appropriate person designated by the Headteacher will instigate an impartial investigation. The purpose of the investigation is to gather facts without unreasonable delay - ideally this should be carried out within a two week period.
- 7.2 You will be advised as soon as possible that an investigation is taking place and this will be confirmed to you in writing. You will normally be interviewed as part of the investigation, but there may be exceptional circumstances where the Trust will proceed directly to a formal disciplinary meeting. You have the right to be accompanied to the investigatory meeting by a companion as defined by this procedure (see **section 6.1 above**).
- 7.3 The Trust may inform and / or involve the Police and / or any other relevant statutory bodies where required at the appropriate point of the formal Disciplinary Procedure.

## 8. Suspension

- 8.1 If considered appropriate you may be suspended from your duties while the investigation is undertaken although you will normally only be suspended if:
- a) there is a significant health and safety/ business risk/ the potential for such risk and / or
  - b) your continued presence in the workplace may hinder an investigation taking place.
- 8.2. You may be suspended at the beginning or at any time during the investigation depending on the circumstances. If you are suspended it will be confirmed to you in writing by the Headteacher. Suspension is a precautionary measure only and should not be seen as a disciplinary or judgement but to allow an investigation to take place. When suspended your contract of employment will continue

in full force and effect and you will be paid your normal basic pay rate and receive any usual benefits. You will not be allowed onto Trust premises while suspended without the prior consent of the Headteacher. When suspended you are required to be available to attend meetings and respond to requests under this procedure.

- 8.3 An employee, who has been under suspension on full pay for three weeks or more and has not been notified of a proposal to dismiss, may appeal in writing to the Local Governing Body (LGB) against the suspension. Notice of such an appeal shall be given in writing by the employee to the LGB Clerk and the appeal heard as soon as practicable by the LGB Panel hearing the appeal and within one calendar month.
- 8.4 A suspension against which an appeal by an employee is made will continue to operate pending the determination of the appeal.
- 8.5 At the hearing of an appeal against suspension, the employee may be accompanied by a trade union representative or work colleague.

## **9. Formal disciplinary meeting**

- 9.1 Having established the facts, if there is reasonable belief that you have committed a disciplinary offence, you will be invited, in writing, to a formal disciplinary meeting which should take place as soon as is practically possible. At this meeting you will be given full opportunity to state your case. You have the right to be accompanied (as defined **in section 6 above**). Any documentary evidence to be considered in connection with the allegations should be circulated to both parties as soon as possible and at the latest three days in advance of the meeting. You should also give copies of any papers or witness statements that you intend to rely on at the meeting at least three days in advance of the meeting to the HR Adviser.
- 9.2 You will be given at least one week's notice to attend the formal disciplinary meeting which you (and your companion) must make every effort to attend. The manager chairing the meeting and you (and your companion, where you have a companion) may exceptionally agree for the meeting to be arranged with fewer than five days' notice where it is agreed that this would be helpful to all parties. The meeting will only be re-arranged if you provide a good reason why you are unable to attend, or your companion cannot make the arranged date. If there are medical reasons for non-attendance then you will be required to produce a doctor's statement. If a fee is charged, the Academy will refund the cost to you. If you unreasonably fail to attend the rearranged meeting it will take place in your absence.

If the meeting has to be rearranged, this should normally be no more than one week from the date of the original scheduled meeting.

- 9.3 At the meeting your companion is entitled to address the meeting, ask questions and confer privately with you. Your companion does not, however, have the right to answer questions on your behalf or address the meeting if you do not wish them to, or prevent the employer from explaining their case.
- 9.4 A member of Human Resources will be present to provide advice on proceedings as appropriate. A note taker will also be present to take written notes of the meeting.
- 9.5 Prior to making a decision the disciplinary meeting will be adjourned to consider all relevant information. The meeting may also be adjourned if necessary for the purpose of clarifying or gathering additional information. If new information is gathered or clarified you will be advised of the new information and given a reasonable time to consider it prior to the meeting being reconvened.

## **10. Confirmation of the outcome**

- 10.1 Following an adjournment and once the manager conducting the meeting is satisfied that all relevant information has been gathered and properly considered you will be advised of the decision and what, if any, disciplinary action is to be taken.
- 10.2 The decision and action will be confirmed to you in writing, within five days, with a copy of the notes of the disciplinary hearing. If you consider that the notes do not properly reflect the discussion you have the right to propose amendments to the record within five working days. Where these are

agreed, the record will be duly amended. If your proposed amendments are not agreed, your comments will be attached to the record. You will also be advised of your right to appeal against the decision.

## 11. Formal warnings

Depending on the severity and circumstances of the case, the Academy may issue at its discretion, either a:

### 1. Notice to improve

If conduct or performance is found not to meet acceptable standards an employee will normally be given an improvement note for unsatisfactory performance. This will set out the performance issue in writing, the improvement that is required, the timescale for the improvement and any help/support that the Academy will be offering. The employee will be advised this is the first stage of the formal disciplinary procedure and advised of their right to appeal in accordance with **section 11 below**. A record of the improvement will be kept for a minimum of three months and a maximum of twelve months, but will then be considered spent, subject to the employee's conduct or work performance having been satisfactory throughout that period.

### 2. First warning for misconduct

If the offence is considered serious misconduct, or if a further offence occurs following a notice to improve, a first warning for misconduct will be given. This will be in writing and set out the nature of the misconduct, the improvement required and the time limit within such improvement must be achieved. The warning will also inform the employee that a final written warning may be considered if there is no sustained satisfactory improvement or change and advise the employee of their right to appeal in accordance **with section 11 below**. A copy of this warning will be kept, and will be disregarded for disciplinary purposes, after a minimum of twelve months and a maximum of eighteen months, subject to the employee's conduct and work performance having been satisfactory throughout that period.

### 3. Final Written Warning

If the offence is sufficiently serious, or if there is further misconduct or a failure to improve performance during the currency of a prior warning, a final written warning will be given. This will give details of the complaint, the improvement required and the time limit within such improvement must be achieved and will warn that, if there is no improvement, dismissal will be the next course of action [or some action short of dismissal]. The final written warning will advise the employee of the right to appeal in accordance **with section 11 below**. A copy of the final written warning will be kept, and will be disregarded for disciplinary purposes, after a minimum of twelve months and a maximum of twenty four months, subject to the employee's conduct and work performance having been satisfactory throughout that period.

### 4. Dismissal and/or alternative sanctions to dismissal

If there is still further misconduct or failure to improve performance the final step in the procedure may be dismissal with notice or payment in lieu of notice. The employee will be provided with written reasons for the dismissal, the date of termination and informed of their right to appeal in accordance **with section 11 below**. In cases where it is concluded that gross misconduct has taken place, the Academy may summarily dismiss the employee without notice or payment in lieu of notice. The decision to dismiss can only be taken by a member of the Senior Management Team/ the Headteacher, **having previously consulted with the RHT HR Director**.

Gross misconduct cases may not always result in dismissal. Depending on the circumstances of the case and any significant mitigating factors, the Academy may decide to take action short of dismissal and / or may include the issue of alternative disciplinary penalties in addition to a warning including the following examples:

- final written warning or the reissuing of a final written warning and /or,
- time extension of the final warning,
- monetary payments by way of restitution for culpable loss or damage caused by you, (any such payment required will take into account the earnings of the employee concerned) and / or
- other appropriate actions to prevent the repetition of the misconduct.

11.1 You have the right to appeal in accordance with **section 11** below, on a decision to impose any of the above alternative sanctions.

## 12. Gross misconduct

12.1 Gross misconduct is a breach of Trust policies and disciplinary rules which is so serious that it amounts to fundamental breach of trust and confidence between you and the academy. You can be summarily dismissed for a first offence which is considered to constitute gross misconduct. If you are dismissed for gross misconduct, the dismissal is without notice or payment in lieu of notice.

12.2 The following are some of the offences the Trust considers to be gross misconduct. This list is not exhaustive or exclusive:

- any form of assault or physical violence,
- theft, deliberate malpractice, deception, cover up of deficiencies or falsification of documents or accounts,
- serious breach of financial regulations,
- bringing the Trust into serious disrepute,
- deliberate unauthorised disclosures to a third party of any confidential information or intellectual property,
- failure to comply with the law in all business activities,
- submission of falsified claims for overtime, expenses, advances or allowances or other fraudulent acts,
- falsely reporting or recording sick absence,
- acts of discrimination, bullying, harassment or victimisation of employees, students or visitors to the campus which compromise that person's dignity,
- downloading of inappropriate material from the internet as set out in the IT Acceptable Use Policy,
- serious breach of health and safety procedures,
- deliberate plagiarism,
- incapacity to work due to being under the influence of alcohol or illegal substances,
- using or dealing in illegal substances on Trust premises,
- wilful damage to property belonging to the Trust, its students, customers, visitors or fellow employees,
- serious insubordination,
- abusive behaviour,
- serious negligence,
- continued absence without leave,
- covert recording of staff, meetings etc. – i.e. without express consent.

## 13. Appeals

### 13.1 Notices to improve, first warnings, final written warnings, alternative sanctions

An employee who wishes to appeal against a notice to improve, a first warning for misconduct, a final written warning or an alternative sanction should inform the Headteacher in writing within seven days of receipt of the disciplinary letter, stating the grounds for the appeal.

Depending on who imposed the penalty the appeal will be heard by the Deputy Headteacher, the Headteacher or the Local Governing Body Panel members. The members of the LGB panel hearing the appeal shall not include any member of the Academy who has been directly involved in the circumstances leading to disciplinary action.

The appeal will be heard as soon as is practicable and within one calendar month of the appeal being lodged. At the appeal hearing, the employee will be given an opportunity to state his or her case and will be entitled to be accompanied and represented by the trade union representative or work colleague of his or her choice. The decision of the LGB Panel will be confirmed in writing within seven days. An alternative to an appeal may be for the employee to set down his/her comments in writing. If there was a case to be heard such responses such responses will be kept with the warning on the employee's file.

### 13.2 Dismissal

An employee who wishes to appeal against dismissal should inform the Headteacher in writing within seven days of receipt of the dismissal letter, stating the grounds for the appeal. Depending on who imposed the penalty the appeal will be heard by the Deputy Headteacher, the Headteacher or the Panel

of the LGB hearing the appeal. In the case of an appeal against dismissal, a panel should consist of at least two Governors (where possible three), with an HR Advisor present in an advisory capacity. A Trust Director may be involved in the panel. The appeal will be heard as soon as is practicable and within one calendar month of the appeal being lodged. At the appeal hearing, the employee will be given an opportunity to state his or her case and will be entitled to be accompanied and represented by the trade union representative or work colleague of his or her choice. The decision of the LGB Panel hearing the appeal will be confirmed in writing within seven days.

The appeal decision, if convened, will be final and binding.

#### **14. Quality Management**

- 14.1 It will be the responsibility of the RHT HR Adviser in liaison with the Trust's Board, and Academy Headteachers to review and monitor the effectiveness of this procedure annually and to recommend change where necessary.
- 14.2 The effectiveness of the procedure will be reported on annually in the Human Resources Quality Report, by the HR Director.

#### **15. Related Policies/Codes and Procedures**

RHT Headteachers and Staff Performance Management Policy

RHT Academy IT Acceptable Use Policy

**RHT Staff Code of Conduct**

#### **16. Associated Guidance**

ACAS Code of Practice on Disciplinary & Grievance Procedures