



## Staff Disciplinary Policy

***The legal framework and documents referenced in this policy are:***

*Equality Act 2010*

*ACAS Code Of Practice On Disciplinary And Grievance Procedures, Mar 2015*

*Employment Act 2002 (Dispute Resolution) Regulations 2004*

### **Introduction**

The primary purpose of this disciplinary policy and procedure is to encourage and support a genuine and permanent improvement in the conduct and job performance of all staff.

The disciplinary procedure will be used only when necessary and as a last resort. Where possible, informal and/or formal support, counselling and other good management practice will be used to resolve matters prior to any disciplinary action being taken.

Any member of staff can discuss any part of this policy with a colleague or their line manager. They can help clarify an employee's rights as well as give guidance and support where it may be needed. Every individual has the right to representation at any point during the disciplinary process.

The disciplinary procedure does not apply in an employee's probationary period but only once a successful probation has been completed.

The underlying principles of this policy and procedure are that:

- No formal disciplinary action will be taken until the case has been investigated unless in exceptional circumstances;
- No staff member will usually be dismissed for a first disciplinary offence, except in the case of gross misconduct or if it occurs in a probationary period;
- At every stage in the procedure staff will be advised of the nature of the complaint against them and will be given the opportunity to state their case before any disciplinary decision is made



- At all formal stages of the procedure staff will have the right to be accompanied by a colleague
- Staff will be offered the right to appeal against any formal disciplinary action taken
- This policy and procedure may be implemented at any stage if the alleged misconduct warrants such action
- Alamiyah School may choose to suspend the staff member concerned with pay whilst a case is being investigated

## **Suspension**

Suspension is not disciplinary action. The purpose of suspension is manifold and can be used when it is necessary to remove a member of staff from the workplace pending an investigation for example, to allow time for a 'cooling down period' for both parties, for their own or others protection, to prevent them influencing or being influenced by others or to prevent possible interference with evidence.

Only the Headteacher, Principal and Board of Trustees has the authority to suspend a member of staff.

An employee suspended from duty will receive written confirmation within three days of:

1. The reason for the suspension
2. The date and time from which the suspension will operate.
3. The timescale of the ongoing investigation.
4. The right of appeal to the immediate manager of the suspending manager should the suspension last more than 7 days

## **Support and Counselling**

Counselling is an attempt to correct a situation and prevent it from getting worse without having to use the disciplinary procedure.

Where improvement is required, the employee must be given clear guidelines as to:

- what is expected in terms of improving shortcomings in conduct or performance



- the time scales for improvement.
- when this will be reviewed
- the employee must also be told, where appropriate, that failure to improve may result in formal disciplinary action.

A record of the counselling should be given to the employee and a copy retained in their personnel file. It is imperative that any counselling should be followed up and improvements recognised and recorded. Once the counselling objectives have been met, any record of the counselling will be removed from the employees file.

If during counselling it becomes clear that the matter is more serious, then the discussion will be adjourned, and pursued under the formal disciplinary procedure.

## **Gross Misconduct**

Alamiyah School may at any time terminate your employment immediately without warning in the event of what is deemed gross misconduct. Below is a non-exhaustive list of examples of what would be deemed gross misconduct.

- Verbal abuse or the use of abusive language at the school.
- Any conduct detrimental to the interests of the Alamiyah School, its relations with its staff, parents or public or damaging to its public image, shall be a disciplinary offence.
- Failure to declare any court or police action against you whilst you are employed by Alamiyah School.
- Smoking is prohibited on the Alamiyah School premises and failure to adhere to this policy may result in instant dismissal.
- Theft or the unauthorised possession of property belonging to the Alamiyah School, its employee or parents
- Assault on any employee or person associated with the Alamiyah School
- Breach of confidence i.e. the divulging of confidential information relating to the Alamiyah School, its employees or parents
- Dishonesty.
- Being under the influence of drugs or alcohol whilst on duty.
- Serious or persistent breach of safety rules, policies & procedures in place at the school



- Physical assault and / or physical or verbal abuse towards a child including unnecessary harshness
- Breach of the Race Relations and Sex Discrimination Legislation which includes any discrimination in any way against a person on the grounds of colour, religion, ethnic or national origin, sex or marital status etc
- Negligence of duty of care towards pupils

## **Disciplinary Procedure for Formal Investigation**

### **1. Formal Investigation**

Formal investigations should be carried out by a case lead which would be the most senior member of SMT or Trustee who is not directly involved with the incident being investigated and who is in a more senior position than the staff member involved. This member of SMT may involve others to assist with the investigation process. All the relevant facts should be gathered promptly as soon as is practicable after the incident.

Statements should be taken from witnesses at the earliest opportunity. Any physical evidence should be preserved and/or photographed if reasonable to do so.

### **2. Report**

A report should be prepared which outlines the facts of the case. This should be submitted to the Principal or Trustee who will decide whether further action is required. Where appropriate, this report may be made available to the individual and their representative.

### **3. Investigatory Hearing**

In most circumstances where misconduct or serious misconduct is suspected, it will be appropriate to set up an investigatory hearing. This would be chaired by the Principal / Board of Trustees, who would be accompanied by another manager. The



investigating manager would be asked to present his/her findings in the presence of the employee who has been investigated.

Witnesses should be called at this stage, and the employee (or their representative) allowed to question these witnesses. The employee has a right of representation at this hearing.

#### **4. Decision Making**

Following the full presentation of the facts, and the opportunity afforded to the employee to state their side of the case, the hearing should be adjourned, and everyone would leave the room except the Principal /Board of Trustees hearing the case, and the other manager.

They would discuss the case and decide which of the following option was appropriate:

- Take no further action against the employee
- Recommend counselling for the employee
- Proceed to a disciplinary hearing

#### **5. Verdict and Disciplinary Hearing**

All parties should be brought back, and informed as to which option has been chosen. Should the decision be taken to proceed to a disciplinary hearing, then this may follow on immediately from the investigatory hearing if the following criteria have been met:

- the employee has been informed by letter that the investigation may turn into a disciplinary hearing, and that he has the right to representation
- he has been told in advance what the nature of the complaint is, and had time to consult with a representative
- all the facts have been produced at the investigatory hearing, and the Principal/Trustee is in a position to decide on disciplinary action.



- the Principal/Trustee should inform the employee and their representative that the hearing would now become a formal disciplinary hearing, and invite them to say anything further in relation to the case.

It may be appropriate at this point to adjourn proceedings, whilst necessary arrangements are made for a representative to attend the disciplinary hearing at the request of the employee.

Should anyone who is subject to disciplinary action resign during the course of it, the action will cease unless there are extenuating circumstances which require its continuance.

The subject of the discipline may also request that the disciplinary action continue.

## **6. Disciplinary Hearing**

If the employee or their companion cannot attend the hearing it is their responsibility to let the relevant person know immediately so an alternative time can be arranged. The employee must make every effort to attend the hearing, and failure to attend without good reason may be treated as misconduct in itself. Failure to attend without good reason, or persistently failure to attend (for example for health reasons), will mean that a decision may need to be made based on the available evidence.

The hearing will be chaired by the Principal/Trustee and a member of the Management/Trustees with relevant HR experience will also be present. A companion may attend the disciplinary hearing.

At the disciplinary hearing, allegations against the employee will be presented along with the evidence that has been gathered. The employee will be able to respond and present any evidence of their own. Their companion may make representations and ask questions, but should not answer questions on the employee's behalf. The employee may confer privately with their companion at any time during the hearing.

The employee may ask relevant witnesses to appear at the hearing, provided they give sufficient advance notice to arrange their attendance. The employee will be given the opportunity to respond to any information given by a witness.



The disciplinary hearing may be adjourned if further investigations need to be conducted, such as re-interviewing witnesses in the light of any new points raised at the hearing. The employee will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.

The decision and reasons will be communicated as soon as possible usually within one week of the disciplinary hearing. Where possible this information will be explained in person.

### **Minor Misconduct**

Below are listed examples of misconduct which may warrant either a ***verbal warning*** or a ***first written warning***.

It is stressed however that this list is not exhaustive and that on all occasions a full and proper investigation must take place prior to the issue of a warning.

- Persistent lateness and poor time-keeping.
- Absence from work, including going absent during work, without valid reason, notification or authorisation.
- Smoking within unauthorised areas.
- Failure to work in accordance with prescribed procedures.
- Incompetence.
- Unreasonable standards of dress or personal hygiene.
- Failure to observe School regulations and procedures.

### **Verbal Warning**

A Verbal Warning is appropriate when it is necessary for the Headteacher to take action against an employee for any minor failing or minor misconduct.

### **First Written Warning**



A First Written Warning is appropriate when:

- a verbal warning has not been heeded and the misconduct is either repeated or performance has not improved as previously agreed.
- an offence is of a more serious nature for which a written warning is more appropriate.
- the recurrence or accumulation of an offence/offences, if left, will lead to more severe disciplinary action.

### **Gross Misconduct**

Listed below are examples of misconduct which may be considered to be Gross Misconduct and may warrant a Final Warning, Demotion or Dismissal.

It is stressed however that this list is not exhaustive and that on all occasions a full and proper investigation must take place prior to the issuing of a Final Warning, Demotion or Dismissal.

- Theft, including unauthorised possession of School property.
- Breaches of confidentiality, prejudicial to the interest of the School,
- Being unfit for duty because of the misuse/consumption of drugs or alcohol.
- Refusal to carry out a management instruction which is within the individuals capabilities and which would be seen to be in the interests of the School.
- Breach of confidentiality / security procedures.
- Physical assault, breach of the peace or verbal abuse.
- False declaration of qualifications or professional registration.
- Failure to observe School rules, regulations or procedures.
- Wilful damage of property at work.
- Incompetence or failure to apply sound professional judgement.
- Bribing or attempting to bribe another individual, or personally taking or knowingly allowing another person to take a bribe

### **Final Written Warning**

A Final Written Warning is appropriate when:



- an employee's offence is of a serious nature falling just short of one justifying dismissal.
- an employee persists in the misconduct which previously warranted a lesser warning

### **Downgrading or Transfer to another Post**

This action is appropriate when:

- previous attempts, via the disciplinary procedure, to rectify a problem have failed and this is a final attempt to solve a problem without having to dismiss an employee.
- an employee is considered by the Headteacher/Principal to be incompetent or otherwise unfit to fulfil the duties for which he is employed but where dismissal is not thought to be appropriate.

### **Dismissal**

Dismissal is appropriate when:

- employee's behaviour is considered to be Gross Misconduct.
- an employee's misconduct has persisted, exhausting all other lines of disciplinary procedure. The authority to dismiss resides with the Principal / Board of Trustees.

### **Time Scales for the Expiry of Warnings**

Warnings issued to employees shall be deemed to have expired after the following periods of time.

- Verbal Warnings: 6 months
- First Written Warnings: 6 months
- Final Written Warnings: 12 months (or as agreed and recorded at the hearing)

These time scales remain provided that during that period, no further warnings have been issued in respect of the employee's conduct.

### **Letter of Warning**

All Warnings must contain the following information :

- The letter must be issued within 7 days of the date of the disciplinary hearing.



- The nature of the offence and where appropriate, that if further misconduct occurs, more severe disciplinary action will be taken.
- The period of time given to the employee for improvement.
- The employees right to appeal to the Principal/Board of Trustees directly above that of the one issuing the warning.
- A copy of the warning and any supporting documentation must be attached to the individuals personnel file.
- The employee must also receive a copy of the warning which in the case of any written warning will be sent to their home address by recorded delivery if not handed to them in person.
- In the case of a final written warning, reference must be made to the fact that any further misconduct will lead to dismissal, and that the employee has the right of appeal, and to who they can make that appeal.

The letter confirming dismissal will contain the following information:

- The reason for dismissal and any administrative matter arising from the termination of their employment.
- The employees right of appeal and to whom they should make that appeal

## **Appeals**

Every employee has the right to appeal against the outcome of a disciplinary hearing. The basis of an appeal should normally relate to one of the following areas:

- the School's' Procedure had not been followed correctly.
- the resulting disciplinary action was inappropriate.
- the need for disciplinary action was not warranted.
- new information regarding disciplinary action has arisen

An appeal should be put in writing to the Board of Trustees.

The letter of appeal may be constructed by the employee or their representative. The letter should contain the grounds for appeal and should be lodged within 10 days of receipt of the warning / dismissal letter

An appeal will be arranged within 20 working days of receipt of the appeal letter.



If an appeal is against dismissal, the date on which dismissal takes effect will not be delayed pending the outcome of the appeal. However, if the appeal is successful, the employee will be reinstated with no loss of continuity or pay.

If the employee raises any new matters in their appeal, further investigation may need to be conducted. If any new information comes to light a summary will be provided including, where appropriate, copies of additional relevant documents and witness statements. There should be reasonable opportunity to consider this information before the hearing.

Written notice of the date, time and place of the appeal hearing will be provided. This will normally be two to seven days after receipt of written notice.

The appeal hearing may be a complete re-hearing of the matter or it may be a review of the fairness of the original decision in the light of the procedure that was followed and any new information that may have come to light.

Where possible, the appeal hearing will be conducted impartially by a more senior manager or director/trustee who has not been previously involved in the case.

The appeal hearing may need to be adjourned if further investigations need to be conducted in the light of any new points raised at the hearing. Reasonable time will be provided to consider this information before the hearing is reconvened.

Following the appeal hearing, there will be three possible outcomes:

- (a) confirm the original decision;
- (b) revoke the original decision; or
- (c) substitute a different penalty.

The final decision will be communicated as soon as possible, usually within one week of the appeal hearing. Where possible we will also explain this to you in person. There will be no further right of appeal.

### **Appeals against Verbal and First Warnings**

In the case of verbal and first warnings, the appeal will be heard by the member of management or Board of Trustees next in line to the one who issued the warning.



**Appeals against Downgrading, Final Warnings and Dismissal**

The hearing and determining of appeals against final warnings and dismissal will be heard by the appropriate Trustee. They may also involve another member of SMT / Trustee not previously involved with the case.

When dealing with an appeal against a Final Warning or Dismissal written statements of case may be submitted no later than 2 days prior to the date of Appeal Hearing.

No additional written evidence will be admitted by the Appeal Committee on the date of the Hearing.

Witnesses may be required by either party at an appeal hearing, dependent upon the circumstances and nature of the case. However, there is no specific obligation on either party to produce a witness.

Either party must give 5 days prior notice that they intend to call specific persons involved or associated with the case under consideration.

It is the responsibility of the management representative and for the appellant to each arrange for the availability and attendance of any witness they wish to call.

***All records relating to disciplinary action will be kept in accordance with the provisions of the Data Protection Act 1998.***

**Monitoring & Review of Policy:**

This Policy will be reviewed on an annual basis.

We will monitor the effectiveness of our policy by regularly reviewing our progress on the wider social and personal issues involved, and to ensure that it does not disadvantage particular sections of the community.

This policy was adopted at a meeting at Alamiyah School

Held on: .....

Signed on behalf of the Alamiyah School: .....



Date of Next Review: July 2019