



Disciplinary Policy

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HISP Multi Academy Trust Disciplinary Policy

Our Trust's Disciplinary Policy

From 2024 we write our policies through a particular lens: these documents are vital to the underpinning for our Trust to be one Trust. References to “you” are intended to explain the important role you, the reader, have in our Trust and references to “we” refer to the responsibilities we recognise HISP has as an employer. Together we are One Trust.

1. Introduction

We expect our employees to display the highest standards of conduct and behaviour. As an employee, you are expected to demonstrate these standards when carrying out your role and to follow the rules, policies and procedures at all times.

We are committed to assisting you achieve the required standards of conduct and behaviour. We will provide you with the necessary information, advice, support and encouragement. We have a Code of Conduct which provides a framework within which it is expected you will work. Please contact your local HR contact if you are unable to locate this on the staff policy platform.

There may be circumstances when your conduct and behaviour does not meet our expectations. Where your behaviour falls short of the expectations, we may take action and the Disciplinary Policy defines the framework for the approach that will be taken.

2. Scope

The Policy applies within HISP Multi-Academy Trust (the Trust) to:	<ul style="list-style-type: none">• Teachers including Leadership, Upper Pay Range, Main Pay Range and Unqualified Teachers in all units/Schools.• Support Staff in all units/Schools.
The Policy does not apply to:	<ul style="list-style-type: none">• Volunteers.• Contractors.• Agency workers.

This Policy is non contractual and does not form part of your terms and conditions.

If you have been subject to a TUPE transfer into HISP you may be excluded from this Policy where they have transferred under a contractual Policy. In such cases, you should refer to your School's contractual policies and procedures. Further advice must be sought from your local HR contact.

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3. Key Principles and Definitions

Misconduct - is an act of either wilful or negligent conduct, behaviour or omission.

Gross misconduct - is an act of misconduct which is so serious in nature that it fundamentally damages the employment relationship and justifies dismissal without notice.

Allegation - a claim or statement that you have done something wrong or illegal.

Balance of probabilities - a logic that is applied to assist the Investigating Officer and Panel members. This helps to form a view as to whether an event was more likely than not to have occurred based on the evidence.

Initial assessment - the process undertaken by an appropriate manager to establish the immediate facts/circumstances and to determine whether any further action is required.

Investigating Officer - the individual appointed to investigate the disciplinary matter.

Suspension or alternative arrangements – are neutral and precautionary acts. They may be considered at any point during the Disciplinary Policy once the initial assessment and/or investigation have established that the circumstances may be gross misconduct.

Timescales - all reference to 'days' in this how to guide refers to working days, regarded as Monday to Friday, excluding public holidays. If you work on a term time only basis, then school holidays will be excluded when applying the timescales.

A reference to "x working days" indicates the number of clear days between (and exclusive of) the day the letter is issued and the day of the meeting or hearing.

Unit – an organisational group within HISP Multi-Academy Trust which is not a School - such as the Learning Partnership, Central Team.

Confidentiality

It is expected that all parties involved in the disciplinary process will maintain confidentiality as appropriate. This is both within and outside of the School and HISP accounts (including social media).

If any party does not maintain confidentiality further action may be taken under the Disciplinary Policy.

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Right of Representation

You are actively encouraged to contact your professional association/ trade union representative at the earliest opportunity to obtain advice and support at any point within this procedure.

You will not usually be represented/ accompanied at any discussions within the informal stage of the Policy. There may be circumstances when you ask to be represented. This can be by a professional association/ trade union representative or a work colleague. Consideration will be given to any requests and will normally be accommodated where it does not cause a delay to the process.

You can request to be accompanied at an investigation or suspension meeting by a professional association/ trade union representative or a work colleague. In such cases, this should normally be accommodated where it does not cause any unnecessary delay in scheduling the meeting.

You have the right to be represented/ accompanied at a formal stage hearing or appeal hearing. This can be by a professional association/ trade union representative or a work colleague. The right to be accompanied is limited to one person only.

It is your responsibility to:

- arrange your own representative
- liaise with your representative to agree the formal hearing or appeal hearing date and time
- advise us of the representative's details as soon as practicable.

There is no right to legal representation at any stage of this Policy.

Suspension or alternative arrangements

Before making a decision about suspension or alternative arrangements, the appropriate manager must seek advice from HR and will carry out a suspension risk assessment (see the relevant How To guidance available from HR). The Executive Headteacher/Headteacher /Head of HISP Unit has delegated authority to suspend you, in consultation with HR. If suspension of the Executive Headteacher/Headteacher/Head of Unit is being considered then the decision rests with Academy Committee in consultation with the relevant Executive Team Leader and HR.

In some cases where urgent action is required, it may be necessary for you to take a short period of management leave ahead of any decision on how to proceed, including whether it is appropriate to suspend.

Suspension or alternative arrangements are neutral and precautionary acts. They may be considered at any point during this procedure, once the initial assessment

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and/ or investigation have established that the circumstances may be gross misconduct.

- During suspension or alternative arrangements, you must adhere to all relevant requirements.
- Written confirmation of the decision regarding suspension must be provided to you.
- Suspension or alternative arrangements must be regularly reviewed.
- There is no right of appeal against the decision to suspend you.

Criminal Offences

Where you are subject to a criminal investigation, the Executive Headteacher/ Headteacher/Head of Unit or senior member of staff must contact the Lead Investigation Officer within the police authority. This is to ensure that any internal investigation will not obstruct the criminal investigation.

Advice must be sought from the Trust Designated Safeguarding Lead (DSL) and HR in this situation.

Safeguarding Concerns (relating to vulnerable adults, children and young people)

Any allegation relating to a safeguarding concern against you must be dealt with in accordance with the Trust's child protection procedures. This ensures that a child, young person or vulnerable adult is not at risk or that a police or social care investigation is not prejudiced.

In the following circumstances it may be necessary to make a referral to the relevant body:

- if a dismissal takes place
- in circumstances where a disciplinary process has not concluded, and the potential outcome may have resulted in dismissal.

Where there is a requirement to make a referral to a relevant body, you must be notified in writing that such a referral has taken place.

Advice must be sought from HR in this situation and the relevant Executive Team Leader must be notified.

Grievances

Grievances raised by you while subject to a disciplinary process should be raised as an issue in the course of the disciplinary proceeding. Where you are dissatisfied with any disciplinary action against you, it should be dealt with as an appeal under the

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disciplinary procedure. In exceptional circumstances consideration will be given to suspending the disciplinary process and using the grievance procedure. Whether or not this is agreed will be a decision for the Headteacher (or suspending decision-maker) and the decision will be communicated to you.

4. Policy Stages

4.1 Initial Assessment

When a disciplinary matter arises or an allegation is made against you, an appropriate manager must establish the immediate facts/ circumstances. This must be completed before commencing any further action under the Disciplinary Policy. This is called an initial assessment and is not part of any formal investigation process. A record must be made of the initial assessment.

If the initial assessment identifies a safeguarding concern, then the appropriate manager must follow the Trust's Safeguarding Procedures and seek advice from the Designated Safeguarding Lead. Advice must also be sought from HR. The principles of safeguarding apply. Where the concerns relate to the DSL this should be referred to the relevant Executive Team Leader.

It is usually appropriate for the first line manager to undertake the initial assessment unless he/she is directly involved in the matter in which case the second line manager will normally undertake the initial assessment. If, as a line manager, you are unsure as to who is best placed to undertake this role then you should seek advice from HR.

The appropriate manager must look at the immediate facts/ circumstances of the case. Using this information, will enable the appropriate manager to determine:

- whether any further action is required
- the potential seriousness of the matter
- next steps.

An initial assessment must be given priority. It is typically completed on the same day as the matter is identified.

When completing the initial assessment, the appropriate manager should consider the following:

- whether it is a capability or conduct matter
- the potential degree of the misconduct or gross misconduct
- the possible impact on others
- any damage to property or other School/Trust equipment
- the likelihood that the employee has behaved or conducted themselves inappropriately
- the likelihood and scale of wilful or negligent behaviour or conduct
- whether there are repeated incidents that are minor in nature.

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The possible outcomes of the initial assessment are:

- there is no apparent substance to the disciplinary matter and therefore no further action is required
- the matter is more appropriately managed under the Capability Policy
- the disciplinary matter is minor and can be addressed using the informal stage
- formal action is required under the Disciplinary Policy.

4.2 Informal Stage

The Trust expects managers to have open and transparent discussions with employees to seek to address any disciplinary matters.

Having completed the initial assessment, the appropriate manager must discuss the disciplinary matter promptly with you.

You will not usually be represented/accompanied at any meeting within the informal stage of the Policy. There may be circumstances when you ask to be represented. This can be by a professional association/trade union representative or a work colleague. Consideration should be given to any requests. This should be accommodated where it does not cause a delay to the process.

It is important that the appropriate manager makes it clear to you that the meeting is the informal stage of the Disciplinary Policy. You must be made aware that it is not a routine discussion.

When undertaking the informal meeting, the appropriate manager must:

- provide clear, tangible examples of when and why behaviour and/ or conduct has been below the required standards which must be based on facts
- ask you to respond, explaining any reasons you feel may be relevant

The appropriate manager must then decide how the disciplinary matter will be managed, bearing in mind that it is important to understand any explanation you may wish to give, provide support where appropriate and stop any further instances from occurring.

The possible outcomes of the informal stage are:

- you provide an explanation and no further action is needed,
- OR
- you receive an explanation as to why your conduct/behaviour is unacceptable. There will be a discussion with you about:
 - whether there is any support, training or reasonable adjustments that may help you demonstrate the required standards
 - the standards of behaviour and/or conduct expected, with examples where appropriate

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- an action plan is developed if appropriate (refer to the template action plan available from your HR contact), and
- you receive a clear statement that if there is a further misconduct matter, this may result in formal action under the Disciplinary Policy, and
- you may be issued with a management advice letter (line managers should contact HR for the template)
- OR
- It is confirmed that the matter will be investigated under the formal stage of the Disciplinary Policy.

The appropriate manager must make a record of each discussion and should:

- seek to agree the record with you if possible
- share the record with you
- confirm in writing what has been discussed
- keep a copy on your personnel file.

4.3 Investigation

Where the outcome of the informal stage indicates that the disciplinary matter requires more formal action an investigation will be required to ascertain the facts and assess whether or not there is potentially a case to answer which could in formal action under the Disciplinary Policy and an Investigating Officer (IO) will need to be appointed. This would usually be a manager who has had no prior involvement in the case.

The Investigating Officer is responsible for the investigation into the disciplinary matter. The purpose of the investigation is to establish the facts and the required course of action.

The investigation must be unbiased, proportionate and fair. It must be undertaken as a matter of priority, not try to prove guilt, but to get balanced evidence from both sides.

On completion of the investigation, the Investigating Officer will recommend whether:

- there is no case to answer
- the case proceeds to a formal hearing
- alternative action is more appropriate.

The Investigating Officer must not recommend what level of sanction, if any should be imposed as this will be for the Panel to decide at the hearing.

The skills and responsibilities required to conduct an effective investigation can be found in the relevant How To guidance available from your HR contact.

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4.4 Formal Stage – Disciplinary Meeting

Where the Investigating Officer has concluded that an allegation should be taken forward to a disciplinary meeting, then we will write to you to:

- Set out the disciplinary allegation which has been made against you
- Provide all the evidence we will look at when considering the allegation
- Confirm the date, time and venue for a formal disciplinary hearing. The letter must give you 7 working days' notice of the hearing (excluding school holidays for those on term-time based contracts).
- Set out the possible outcomes of the meeting (including whether dismissal might result)
- Set out details of your right to be accompanied

You should let us know as soon as possible if there is a reason why you cannot attend the meeting at the arranged time. We will usually reschedule the meeting once, provided we are satisfied with your reason for not attending. We will not reschedule the meeting a second time unless there is a sound very good reason to justify this. Note that we may not reschedule at all if we decide it is likely to lead to unreasonable delay, and we may instead have to make our decision on the disciplinary issue without you being present.

You should review the evidence provided and contact us as soon as possible if there are any other documents, or further evidence, which you would like us to consider. Please provide copies of anything you want us to look at no later than 72 working hours before the disciplinary hearing.

We will arrange for a note-taker to attend formal disciplinary meetings. All discussions in disciplinary meetings will remain confidential between those present. Notes taken will be circulated to all present and retained on the individual personnel file.

At the meeting, we will go through all of the evidence with you and make sure that you understand the allegation you are facing. We may call witnesses as part of this process, but we are not obliged to do so.

We will give you time to respond to the allegations and to put your own case. We will also give you the opportunity to ask us questions, present your own evidence, call your own witnesses (if you wish) and respond to the evidence we put forward. If there are any questions you want us to put to our witnesses, please tell us and (unless there is a good reason not to) we will make sure they are asked.

We will not usually make a decision on the day of the meeting. We will usually send you our decision in writing. We will try to do this within two weeks of the disciplinary meeting.

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Possible outcomes short of disciplinary action

- No further action – where the allegations are found by the Panel to be unsubstantiated.
- Management advice – where the allegations are found to be substantiated by the Panel (either wholly or partially) but the matter is not deemed to be sufficiently serious to warrant a formal warning

4.5 Disciplinary action and dismissal

There are three stages in our procedure for dealing with cases of misconduct. We may start at any stage of this procedure, and we may skip stages if we think it appropriate.

First stage – We will give you a first written warning. Unless you already have active written warnings relating to disciplinary matters on your work record, a first written warning will usually remain in place for 12 months from the date you are notified of the decision. It will then be removed from your record.

Second stage – If there is an active first written warning on your record and you are involved in further misconduct, we will usually issue you with a final written warning. In serious cases of misconduct, we may issue a final written warning without first issuing a first written warning. In either case, the final written warning will usually remain in place for 24 months from the date you are notified of the decision. It will then be removed from your record.

Third stage – If there is an active final written warning on your record and you are involved in further misconduct, you may be dismissed with notice. You may also be dismissed for a serious case of misconduct, or if you are involved in gross misconduct. Where a matter is deemed to be gross misconduct dismissal without notice will be considered. We explain what we mean by ‘misconduct’ and ‘gross misconduct’ in Appendix One.

Where dismissal is being considered, the Panel will need to be constructed so that a panel member has the appropriate authority to dismiss, if necessary, in accordance with the Trust’s scheme of delegation.

The outcome of the hearing must be confirmed in writing within 5 working days of the hearing. A copy of the outcome letter and any warning must be placed on your personnel file.

4.6 Appeal

Where a formal sanction is issued under any stage of the formal procedure for Disciplinary you will be informed in writing that you have the right of appeal and be provided with the instructions for submitting an appeal should you decide to exercise

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this right. This applies to a first or final written warning, dismissal with notice or summary dismissal in cases of gross misconduct.

You must submit your appeal in writing within **10 working days** of the date of the letter confirming the outcome of the formal hearing. The letter must include the full reasons for the appeal.

You must send (by email) your appeal letter to the HR contact who has been advising on the case.

Potential grounds for appeal are (this is not an exhaustive list):

- Finding/outcome was unreasonable
- Emergence of new evidence which could have a material effect on the outcome
- Terms of a warning are unreasonable (duration or conditions imposed with the warning)
- Unfair/incorrect application/breach of the Policy which could have had a material effect on the outcome.

The purpose of the appeal is to address the specific issues raised by you in the letter of appeal and to rectify any defects in the original hearing.

You must be invited in writing to attend the appeal meeting. The letter must give you 7 notice of the hearing.

Possible outcomes of an appeal are:

- The appeal is upheld and the original sanction is overturned. This could be the removal of a warning or, in cases of dismissal you would be reinstated.
- The appeal is upheld/partially upheld and the original sanction is reduced. E.g. a final written warning may be reduced to a first written warning or in cases of dismissal you may be reinstated and issued with a first or final written warning instead.
- The appeal is not upheld and the original sanction still stands.

Please note it is not possible to increase the severity of the sanction following an appeal. Following an appeal of a formal stage hearing, there is no further right of internal appeal.

The appeal is not a repeat of the formal stage hearing. A complete re-hearing is only permitted in exceptional circumstances where the Panel chair determines that the submitted grounds of appeal identify:

- there was a significant defect in the procedure
- new evidence has to come to light since the hearing which may have a significant impact on the decision
- there is a dispute about evidence given by one or more witnesses at the original hearing. In these cases, it may be necessary to rehear the witness's evidence at the appeal.

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5. Governance

This policy will be administered by HR and initially will be subject to an annual period of review. Any feedback on the policy should be emailed to HR@hispmat.org.

The policy will next be reviewed in June 2025, unless there is earlier statutory change and/or significant feedback necessitating an earlier review.

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Misconduct Issue - Summarise concerns/issues	
Details of concern/issue (raised in hearing)	
Action/support already put in place	
Level of performance to be achieved	
Actions to be taken (formal/informal support, training, guidance, supervision etc)	

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Appendix One - Misconduct and Gross Misconduct

Misconduct – is an act of either wilful or negligent conduct, behaviour or omission.

Misconduct can be categorised as follows:

- Negligent conduct - careless or reckless behaviour or a failure to act which has a significant adverse impact on a service or an employee.
- Wilful misconduct - lapses of conduct in an employee's approach to their work or unacceptable behaviour towards others. It can also include unacceptable work performance which is deliberate and not simply a lack of competence.

The level of seriousness of each instance of misconduct depends upon the nature of the employee's role, the work environment and whether the misconduct has happened before.

Examples – misconduct (this list is not exhaustive and other forms of misconduct may be managed under the Disciplinary Policy)

- a pattern of lateness or absenteeism/poor time-keeping
- failure to follow the school's sickness notification procedures and certification requirements
- serious infringement of health and safety requirements
- wilful unsatisfactory standards of work
- wilful failure to follow a reasonable management request/instruction
- behaving in an improper, disorderly, unacceptable or unprofessional manner
- use of inappropriate language
- misuse of the Trust's equipment or IT systems – such as revealing passwords to others, loss of data/equipment, excessive or unauthorised use of any IT service for private purposes
- misuse/damage to the Trust's property, assets, equipment or vehicles
- inappropriate use of social networking
- inappropriate use of personal IT facilities and resources
- misconduct at work or outside work (criminal or otherwise) which could discredit the reputation of the Trust
- unauthorised absence and failure to record absence
- improper disclosure of information
- significant breaches of data security policies or data protection standards
- unauthorised disclosure of examination material or unauthorised assistance to pupils prior to or during examinations
- discrimination, harassment, victimisation or bullying, which are not sufficiently serious enough to be categorised as gross misconduct
- other actions and personal behaviour which are incompatible and/or inconsistent with the expectations of staff working with children and young people and/or in breach of the prevailing Keeping Children Safe in Education guidance

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- failure to take prompt and effective action when child protection/ safeguarding concerns come to light
- breach of Trust policies and procedures/code of conduct
- actions inconsistent with the Professional Standards for Teachers or other professional bodies
- conflict between the employee's role within the Trust and any business interests or secondary employment
- failure to disclose any misconduct or alleged misconduct arising from alternative or additional employment outside of the Trust
- assisting others in any of the above activities.

Gross Misconduct

Gross misconduct - is an act of misconduct which is so serious in nature that it fundamentally damages the employment relationship and justifies dismissal without notice.

The level of seriousness of each instance of misconduct depends upon the nature of the employee's role, the work environment and whether the misconduct has happened before.

Examples of gross misconduct (this list is not exhaustive and other forms of gross misconduct may be managed under the Disciplinary Policy)

- serious breaches of workplace rules (which may be the subject of other HISP policies)
- dishonesty, theft, misappropriation, fraud or deliberate falsification of records including financial claims
- fighting, assault or attempted assault on another person, serious acts of violence or threatening behaviour
- bullying, harassment, victimisation or discriminatory behaviour
- serious breaches of health and safety requirements
- convictions for serious criminal offences (including sexual offences)
- failure to self disclose a criminal offence, conviction or caution
- sexual misconduct at work
- unauthorised disclosure of confidential information
- serious unauthorised access or misuse of School information and information systems
- serious inappropriate use of social networking
- consuming alcohol or illegal substances whilst at work, or reporting for work under the influence of alcohol or illegal substances
- serious negligence that causes unacceptable loss, damage or injury
- serious act of insubordination or failure to follow a reasonable management instruction
- any conduct at work or outside of work (criminal or otherwise) which could discredit the reputation of the School or result in a serious breach of trust and confidence

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- wilful or careless loss, damage to, unauthorised removal of or misuse to the School's equipment, property, vehicles, assets, facilities
- serious breach of data security policies or data protection standards
- serious breach of the School's policies and procedures/Code of Conduct and/or the prevailing Keeping Children Safe in Education
- engaging in inappropriate online contact and/or relationships with children, young people or vulnerable adults through social networking sites, text messaging, instant messaging or other IT media
- deliberately accessing and/or downloading (via School resources) and/or possession at School of inappropriate material for example pornographic, offensive or obscene material and/or possession of obscene material containing images of children
- persistent wilful failure to comply with a reasonable instruction from a member of senior management
- serious breach of confidentiality
- other actions and personal behaviour which are incompatible and/or inconsistent with the expectations of staff working with children and young people
- serious actions inconsistent with the Professional Standards for Teachers
- failure to disclose any serious misconduct or alleged misconduct arising from alternative or additional employment outside of the School
- assisting others in any of the above activities.
- consistent and serious failure to take prompt effective action when child protection/safeguarding concerns come to light.