



BIRMINGHAM CITY UNIVERSITY ACADEMIES TRUST

DISCIPLINARY PROCEDURE

1. Introduction

- 1.1 The Trust provides a service to many different types of client, including students, government departments, research councils and commercial organisations. It is important that all staff maintain a high standard of behaviour in order to safeguard the quality of that service and the reputation of the Trust.
- 1.2 Good working relationships with staff are an essential ingredient for success. The need for disciplinary action should be rare and the Trust will always consider the need for giving advice and counselling to staff to improve conduct and performance. Disciplinary procedures are not primarily designed to act as a penalty. The aim is to provide an incentive for improvement by discussion and positive action where performance or conduct falls short of accepted standards.
- 1.3 Where disciplinary action is considered necessary, the measures taken will depend on the gravity of the alleged offence. The Trust will ensure that it fully complies with the Code of Practice in respect of Disciplinary and Grievance Procedures, details of which can be found in Annex One. In most instances these measures will be taken sequentially, as set out in paragraphs 3 to 5 below. However, in exceptional circumstances it may be necessary to omit some of the earlier stages.
- 1.4 In accordance with the provisions of Article 9.4, the disciplinary procedures will not be used to prevent staff of the Trust having freedom within the law to question and test received wisdom and to put forward new ideas or controversial or unpopular opinions.

2. Principles

Points 3 to 5 set out the various levels and stages of the disciplinary procedure. This paragraph outlines the general principles which apply throughout.

- 2.1 It is the responsibility of the Manager initiating the procedure to:
 - 2.1.1 Specify the nature of your alleged offence;
 - 2.1.2 Ascertain the facts surrounding your alleged offence;
 - 2.1.3 Ensure that you understand the procedure and the implications associated with it;

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- 2.1.4 Arrange an interview to provide a full and fair opportunity for you to make representations in your defence and to challenge the validity of any evidence presented against you;
 - 2.1.5 Ensure that you are given adequate notice of the interview to enable you to prepare;
 - 2.1.6 Ensure that you are informed of any decision reached including any diary note made and are aware of your right of appeal;
 - 2.1.7 Where a warning has been issued, ensure that you are fully aware of the steps you need to take to expunge the warning and to meet with you during the currency of the warning to review your progress.
- 2.2 At all stages you have a right to be accompanied, advised or represented by a friend, colleague or trade union official.
- 2.3 If you are subject to disciplinary proceedings, you have the right to seek advice and guidance from the Human Resources Department. If you wish to receive this advice you should approach the Director of Human Resources who will designate a member of staff from their department with no knowledge of the case, to provide you with advice and assistance.
- 2.4 All disciplinary proceedings are strictly confidential.

3. Procedure

3.1 Investigation

- 3.1.1 Prior to any formal disciplinary hearing, an investigation will be undertaken.
- 3.1.2 The relevant member of staff's manager, in consultation with a member of the Human Resources Department, shall appoint an appropriate person, not immediately involved in the case, to investigate the relevant facts of the situation.
- 3.1.3 The purpose of carrying out an investigation is to find out if there is a disciplinary case to answer. The objective will be to determine the following:
 - Establish the nature of the allegations and the evidence to substantiate them;
 - Give the member of staff the opportunity to state their case.
- 3.1.4 The investigation manager, supported by a member of the Human Resources Department, will report to the manager on the evidence; the manager will then decide if there are grounds for holding a disciplinary interview.
- 3.1.5 Investigations will be conducted objectively. A member of the Human Resources Department will assist in ensuring that matters are handled fairly and reasonably and in compliance with current legislation and Trust procedures.

3.2 Procedure

3.2.1 Where, upon completion of an investigation, there are reasonable grounds to believe that an employee has committed an act of misconduct, the member of staff will be invited to attend a disciplinary hearing before an appropriate manager, who will have had no involvement with the investigation, with the exception of instigating the investigation.

3.2.2 In the event of a disciplinary hearing taking place the Trust will:

- Provide the member of staff with a minimum of 5 days advance notice of the hearing.
- Advise the member of staff of the purpose of the hearing and that it will be held under the Trust's disciplinary procedure.
- Give the employee written details of the nature of their alleged misconduct; and
- Provide to the member all relevant information, which should include statements taken from any witnesses that the Trust intends to rely upon against the employee, at the same time as the notification of the hearing.
- Where the member of staff is unable to attend a disciplinary hearing and provides a good reason for failing to attend, the hearing will be adjourned to another day. The Trust will comply with the above in respect of giving notice of the rearranged hearing, unless there are special circumstances mitigating against it at the time. If the member of staff is unable to attend the rearranged hearing, the rearranged hearing will take place in the member of staff's absence.
- Staff are entitled to be accompanied, advised or represented by a friend, colleague or trade union official who may attend in such circumstances and will be allowed the opportunity to present the member of staff's case.
- The member of staff will also be allowed to make written submissions in advance of any hearing if they so wish. The timescale for submission will be identified in the letter confirming the arrangements for the hearing.
- In the event that the release of any witness statement may place staff at risk, then the statements obtained will be withheld and the member of staff will be advised of the reason for the decision to withhold the document.

3.3 Disciplinary Hearing

3.3.1 A disciplinary hearing will be conducted by an appropriate manager, together with a representative from the Human Resources Department ("the panel"). Any member of management responsible for the investigation of the disciplinary offence shall not be a member of the panel, save to the extent that such a manager may present any supporting facts and material to the disciplinary hearing. The member of staff will be entitled to be given a full explanation of the case against them and be informed of the content of any statements provided by witnesses, as indicated above.

3.3.2 The member of staff will also be entitled to state their case in response to the Trust's case and put forward an explanation of their conduct and any mitigating factors.

- 3.3.3 The Trust may adjourn the disciplinary proceedings if it appears necessary or desirable to do so, including for the purpose of gathering further information. The member of staff will be informed of the period of an adjournment. If further information is gathered, the member of staff will be allowed a reasonable period of time, together with their friend, colleague or trade union official, to consider the new information prior to the reconvening of the disciplinary proceedings.
- 3.3.4 As soon as possible after the conclusion of the disciplinary proceedings, the panel will convey the decision in writing to the member of staff, which will include what disciplinary action, if any, is to be taken. The employee will be notified of their right to appeal under this procedure in the event that disciplinary action is taken.
- 3.3.5 A record of the disciplinary hearing will be taken and the full transcript will be provided to the member of staff.

4. Disciplinary Outcomes

4.1 Informal Oral Warning

- 4.1.1 If any aspect of your conduct or performance is giving cause for concern, it is the responsibility of the person to whom you immediately report to establish the facts and to decide on the action that should be taken. It may well be that, in the light of the circumstances all that is necessary is to discuss the matter informally with you and to provide advice about the standards required in the future.
- 4.1.2 This informal oral warning is not recorded in your personal file, although your Manager may make a “diary note” of the circumstances and the advice that has been given.

4.2. Formal Oral Warning

- 4.2.1 A formal oral warning is the first stage of the formal disciplinary procedure. It can be issued after the circumstances have been investigated and after you have had an opportunity to discuss the matter and present your views.
- 4.2.2 A note will be placed on your personal file giving the date that the warning was given and the reason for it. You will be given a copy of that note. The note will remain on file for a period of one year, after which, if your performance has been satisfactory, it will be removed. Following the expiry of such warnings, a record of the disciplinary action will be retained by the Trust as it may be necessary to refer to in the event of future disciplinary action being taken.

4.3 Written Warnings

- 4.3.1 Written warnings can only be issued by senior members of staff who have been authorised for that purpose by the Trust Board. The normal sequence is for an oral warning, then a first written warning, then a final written warning. In cases of serious misconduct this sequence may be overridden.
- 4.3.2 If you do receive a written warning, you will be asked to sign a copy to acknowledge receipt. A first written warning will be active for limited purposes for one year. A final

written warning will be active for limited purposes for two years. Written warnings will be removed from your file after that time if your performance has been satisfactory.

4.4 Dismissal

- 4.4.1 The Trust Board is empowered to dismiss members of staff of the Trust for disciplinary offences. This authority may be delegated to appropriate senior colleagues within the Trust. If circumstances arise such that consideration has to be given to your dismissal, you will be informed in writing before any hearing takes place. If a decision to dismiss for reason of misconduct is taken, you will be informed in writing of your rights of appeal against the decision. Such an appeal may be made to an Appeal Committee of the Trust and an Employment Tribunal. Should dismissal take place for reasons other than misconduct, appeals will be to the Chair of the Trust.

4.5 Suspension

- 4.5.1 The Trust Board is authorised to suspend from duty, with pay, any member of staff of the Trust for alleged misconduct or other good and urgent cause. Suspension will normally be used only in cases of alleged serious or gross misconduct, pending a disciplinary hearing.

5. Appeals

- 5.1 You may appeal against any disciplinary decision taken against you. For example, on the grounds that there was a material irregularity or there were mitigating circumstances that could not have been known at the time the decision was taken. The appeal will be heard by a senior member of staff designated by the Trust for this purpose. The senior member of staff will not have had any previous association with the case.
- 5.2 If you wish to appeal you should write to the Trust Board Secretary within seven days of being informed of the disciplinary decision stating the reasons why you wish to appeal.
- 5.3 If you wish to appeal against any suspension you should refer to paragraph 8 of the Individual Grievance Procedure.
- 5.4 You may appeal to the Trust Board against a decision to dismiss you on the grounds of misconduct. In the case of an appeal against a decision to dismiss on the grounds of misconduct, the dismissal shall not take effect until the appeal has been determined. You should submit your appeal in writing to the Trust Board Secretary within five days of the decision to dismiss being taken. Your appeal will be heard by an Appeals Committee of the Trust constituted for this purpose.