



**1. INTRODUCTION**

- 1.1 This disciplinary procedure has been adopted by New Charter Academy (“the Academy”).
- 1.2 This procedure applies to the following Senior Executives:
- The Executive Director;
  - All Second Tier Executives (currently: Academy Director, Finance & Corporate Services Director and Community & Regeneration Director) which term shall include the holders of any other posts so designated from time to time by the Board of Governors (“the Board”) or by the Executive Director..
  - To any other Executive Officer holding a position of seniority and whose post is so designated from time to time by the Board or by the Executive Director. (collectively called the “Senior Executives”).
- 1.3 Senior Executives to whom this process is applicable acknowledge that it is imperative that business confidence within the Academy is not adversely affected and that business continuity is of the utmost importance.
- 1.4 Furthermore, Senior Executives also acknowledge that their performance must be maintained at a very high level if the Academy is to achieve its Business Objectives as determined from time to time.
- 1.5 This disciplinary procedure may, from time to time, be amended by the Board. Written notice of any amendment shall be given to each of the Senior Executives who is subject to the procedure.

**2. PURPOSE**

- 2.1 The purpose of the Academy’s disciplinary procedure is to ensure that employees are treated fairly and in a consistent manner in the event of their failure to meet acceptable standards of conduct, attendance or job performance, or in the event of any other breach of the employee’s terms and conditions of employment.
- 2.2 Subject to paragraph 9.3 the procedure allows for warnings to be given in all but the most serious cases, with the aim of assisting and encouraging the employee to achieve and maintain acceptable standards. In serious cases and in the case of a further disciplinary offence or a failure to achieve acceptable standards after a final warning, the employee may be dismissed, if no other disciplinary penalty would be adequate in the circumstances.

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**3. DISCIPLINARY PROCEDURE**

- 3.1 No disciplinary penalty (whether a warning or a more serious penalty) will be imposed before the employee has been given the opportunity to attend a disciplinary hearing in accordance with section 8 below.
- 3.2 Any disciplinary allegation (whether relating to conduct, attendance or job performance or otherwise) will normally be investigated, in accordance with section 4 below, before the employee is required to attend a disciplinary hearing.

**4. INITIAL INVESTIGATION**

- 4.1 Any disciplinary allegation will normally be investigated as follows:
  - Executive Director – the investigation will be conducted by the Company Secretariat or Internal Audit, or some other senior person appointed by the Chair of the Board
  - 2<sup>nd</sup> Tier Executive (or other executive to whom this process applies under paragraph 1.2) – the investigation will be conducted by the Company Secretariat.
- 4.2 The person(s) carrying out the investigation will normally take advice from Human Resources and the Company Secretary.
- 4.3 The employee may in the course of the investigation be invited to attend for interview but that will not be appropriate in all cases and is not a requirement of the procedure. If the employee is invited to attend for interview, he or she shall also be offered the opportunity to be accompanied by a trade union official or by a working colleague of his or her choice.
- 4.4 A written report will be prepared on the conclusion of the investigation. Any statements taken during the investigation and any documents relied on for the purposes of the report will normally be appended to the report, unless there are exceptional reasons why this should not be done, in which case, full reasons for the non – disclosure will be given.

**5. SUSPENSIONS**

- 5.1 To enable the retention of the Status Quo, to permit an investigation to proceed swiftly and to protect all parties, an employee against whom allegations have been made, concerns raised or who has committed an act of gross misconduct may be suspended immediately on full pay during the whole or any part of any investigation or subsequent disciplinary process (for example so as not to impede the investigation) but suspension shall not be automatic. Any such suspension shall be on a precautionary basis.
- 5.2 An employee may also be suspended (on full pay) for exceptional business or other reasons. In any such case the employee will be notified of the suspension and the reason for it. The suspension will be reviewed at regular intervals.

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- 5.3 A decision to suspend an employee (other than the Executive Director) who reports directly to the Executive Director shall be taken by the Executive Director (or the person for the time being carrying out the duties of that office). A decision to suspend any other Senior Executive shall be taken by that officer's supervising or line manager (or in their absence by an officer of similar rank). A decision to suspend the Executive Director shall be taken by the Chair of the Board.
- 5.4 Although any suspension will initially be on full pay, the suspension may be changed to one without pay if the employee fails to assist in any investigation, or fails to attend a disciplinary hearing without having given a reasonable excuse, or who repeatedly fails to attend any similar meeting after reasonable notice to do so. Where an employee claims to be physically or mentally unfit to attend a disciplinary hearing, his or her absence may be treated as sick leave instead of suspension on full pay.

**6. PERSONS WHO MAY CONSIDER A DISCIPLINARY MATTER (THE "RELEVANT OFFICER")**

Academy Personnel	The Relevant Officer
i) Executive Director	The Chair of the Board of Academy Directors or one other Director of the Board
ii) 2 <sup>nd</sup> Tier Executive	The Executive Director or in a situation where the Executive Director is conflicted then the Chair of the Board may appoint a senior member of the management group of the New Charter sponsor or such a senior member of any other sponsor or two 2 <sup>nd</sup> tier officers appointed from the Academy.
iii) Senior Executive	as for 2 <sup>nd</sup> Tier Executives

**7. CONCLUSION OF INVESTIGATION**

- 7.1 When the investigation is complete, the Chair of the Board or the Relevant Officer must consider whether disciplinary action is to be instigated. If the Chair of the Board or the Relevant Officer considers that the allegation has no substance or that the matter is not sufficiently serious to warrant any disciplinary action, s/he will discuss the matter with the employee privately and will inform the employee that no formal disciplinary action will be taken. Where appropriate s/he will suggest, recommend or direct any areas for improvement and any means of assisting the employee to achieve acceptable standards.
- 7.2 S/he may specify standards of conduct or performance to be achieved and maintained by the employee during a specified period at the end of which the employee's conduct or performance will be reviewed. In those circumstances the employee will be told whether or not the Academy would consider taking formal disciplinary action (or implementing some other relevant procedure) if the employee fails to achieve and maintain the required standards during that period.

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- 7.3 If the Chair of the Board, or the Relevant Officer considers that the allegation has sufficient substance to warrant a disciplinary hearing the matter will then be dealt with in accordance with section 7 below.
- 7.4 All references in this section and in section 7 to the Chair of the Board, to the Executive Director, to the Relevant Officer or to the relevant supervising or line manager shall include the person for the time being acting in whichever of those capacities is relevant and also any person appointed by any of those persons to act on his or her behalf.

**8. DISCIPLINARY HEARING**

- 8.1 If the Chair of the Board or the Relevant Officer considers disciplinary action to be appropriate then this section shall apply. The Chair of the Board, or the Relevant Officer must send or cause to be sent to the employee a clear written statement of the alleged conduct or performance or other matters, characteristics or circumstances which lead her/him to contemplate the dismissal of or other disciplinary action against the employee. The written statement will normally be accompanied by a copy of the investigation report and any statements or other documents appended thereto, unless there are exceptional reasons why this should not be done.
- 8.2 The employee will also be required (in writing) to attend a formal disciplinary hearing to respond to the allegation(s) and generally to discuss the matter. The letter or other document sent to the employee will also notify him or her of his or her right to be accompanied by a trade union official or by a working colleague of his or her choice who may also address the disciplinary panel. The employee will be requested to give the Academy at least 24 hours notice that he or she will be accompanied, identifying the person who will be attending.
- 8.3 The statement mentioned in 8.1 above may or may not be sent to the employee at the same time. The employee will, however, be given at least five days' notice of the disciplinary hearing (unless the employee agrees to accept shorter notice) and the written statement mentioned in 8.1 above will also normally be sent to the employee at least five days before the disciplinary hearing (unless there are exceptional circumstances in which this is not possible).
- 8.4 A disciplinary hearing will be heard by the person/s referred to in paragraph 6 above; the "Relevant Officer".
- 8.5 It shall be the responsibility of the person/people hearing the disciplinary to make findings of fact and to find whether any disciplinary allegations have been substantiated. Where it is the Executive Director who is facing disciplinary allegations, it shall also be their responsibility (if all or any of the allegations are found to have been substantiated) to decide on the appropriate sanction in accordance with section 9 below.
- 8.6 The findings and/or decision may be announced on the day of the disciplinary hearing or they may be reserved and subsequently communicated in writing. If the findings and decision are not made and communicated at the conclusion of the hearing, no further evidence shall be received or considered

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unless the disciplinary hearing is reconvened and the employee is given the opportunity to comment on and respond to that further evidence.

- 8.7 In any disciplinary hearing where an allegation has been substantiated, the employee and his representative shall be given the opportunity to put forward any mitigating circumstances which shall then be taken into account. The person responsible for deciding on the disciplinary sanction shall not decide to dismiss the employee without first considering whether some lesser sanction would be adequate.
- 8.8 The disciplinary hearing may at any stage (whether before during or after the disciplinary hearing) take advice from Human Resources and, as appropriate, the Company Secretary, but it shall remain the person's responsibility to make all findings of fact.
- 8.9 A disciplinary hearing may be postponed if the employee applies for a postponement on reasonable grounds or if there is some other good reason for the postponement. A new date for the disciplinary hearing shall be fixed and at least five days notice of the new date shall be given to the employee (unless the employee agrees to accept shorter notice). A disciplinary hearing may proceed in the employee's absence in the following circumstances:
  - if the employee fails to attend and has not applied on reasonable grounds for a postponement
  - if the employee has indicated that s/he does not propose to attend
  - if the employee is unable to attend and there appears to be no reasonable prospect that he or she will be able to attend an adjourned hearing in the near future.

**9. DISCIPLINARY SANCTIONS**

- 9.1 The disciplinary sanctions for offences falling short of gross misconduct will normally be as follows (but subject to paragraphs 9.2 and 9.3 below):
  - **An oral warning** is likely to be appropriate for minor offences or minor failures in performance or attendance. The employee will be told that a further offence or failure to improve will lead to further disciplinary action. A note of the oral warning will be placed on the employee's personal file and the warning will normally remain operative for 6 months.
  - **A formal written warning** is likely to be appropriate for more serious offences or failures or the repetition of earlier minor offences or failures in performance or attendance. The written warning will set out the precise nature of the offence or failure, the improvement required and over what period. It will state that a further offence or failure to improve will lead to further disciplinary action. It will normally remain operative for 12 months.
  - **A final written warning** is likely to be appropriate for serious offences or failures, which fall short of gross misconduct but warrant only one written warning, or the repetition of earlier offences or a failure to improve in performance or attendance after a formal written warning. The final written warning will set out the precise nature of the offence or failure, the improvement required and over what period. It will state that a further

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offence or failure to improve will lead to further disciplinary action, which could result in dismissal. It will normally remain operative for 12 months.

- 9.2 An employee may be dismissed during the first six months of his or her employment without having previously being given an oral, written or final written warning, even if the employee's offence or failure in performance or attendance is only minor. Furthermore, the promotion of an employee to Senior Executive level may be for a probationary period not exceeding six months and during that probationary period the employee may be required to revert to his or her previous level if his or her conduct, performance or attendance is unsatisfactory whether or not he or she has first been given an oral, written or final written warning.
- 9.3 There may from time to time be circumstances in which it is necessary to terminate a Senior Executive's employment even though his or her conduct would not normally justify dismissal. Such circumstances would include a loss of confidence in the Senior Executive by the Board, the Executive Director, other staff, regulatory authorities or other bodies or individuals to the extent that the trading position, finances, reputation, labour relations or other interests of the Academy would be put at risk by his or her continuance in office. A decision to dismiss in such circumstances shall not be made except in accordance with the disciplinary procedure mentioned in section 8 above. The provisions of this paragraph 9.3 shall not override any contractual term for notice.
- 9.4 Dismissal is likely to be appropriate if the case is one of:
- Gross misconduct
  - A further offence (or continued failure to improve in performance or attendance) after a final written warning;
  - In circumstances outlined in 9.3 above.
- 9.5 If the case is one of gross misconduct the employee may be dismissed without notice or pay in lieu of notice.
- 9.6 Before any decision is taken to dismiss an employee (whether for gross misconduct after a final written warning or in accordance with Paragraph 9.3) consideration will be given to lesser sanctions in the light of any mitigating factors or other relevant circumstances. These may include one or more of the following:
- transfer to another post
  - demotion
  - loss of pay increments for a specified period
  - a financial penalty to be deducted from pay (so long as that deduction is in accordance with Part II of the Employment Rights Act 1996)
  - Suspension from duty without pay for a specified period up to a maximum of one month
- 9.7 Examples of matters amounting to gross misconduct are set out in the Appendix to this procedure. Those examples are not intended to be an exclusive list.

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**10. APPEALS**

- 10.1 An employee who is dissatisfied with a decision imposing a disciplinary sanction (whether dismissal or a lesser sanction) may appeal in writing to the Company Secretary. The appeal must be submitted within ten working days after the employee has received the written statement of the disciplinary decision.
- 10.2 Every appeal shall be heard only by persons who have not been involved in or party to the disciplinary decision which is the subject of the appeal.
- 10.3 The appeal panel will normally be constituted as follows:
  - if the appeal is by the Executive Director – three members of the Board not involved in the procedure thus far
  - if the appeal is by a another officer to which this process is deemed to apply – three members of the Board not involved in the procedure thus far.
- 10.4 Paragraphs 8.2 and 8.9 above shall apply to an appeal hearing in the same way as to a disciplinary hearing but with the necessary modification to the first sentence of paragraph 8.2. and 8.9 The employee shall be given at least five days' notice of the appeal hearing (unless the employee agrees to accept shorter notice).
- 10.5 If the notice of appeal has not stated the grounds of the appeal then the employee shall be requested to state those grounds in writing before the appeal hearing takes place.
- 10.6 The appeal panel may take advice from Human Resources and as appropriate the Company Secretary either before, during or after the appeal hearing, but it shall be the panel's own responsibility to decide the appeal.
- 10.7 The appeal panel will review both the findings, disciplinary decision and sanction which are the subject of the appeal. The appeal panel will have the power to set aside or reduce the sanction but not to increase it.
- 10.8 Any decision of the appeal panel may be made by a majority. The person appointed to chair the panel will have both an ordinary vote and, in the case of equality of votes, a casting vote.
- 10.9 The decision of the appeal panel may be given to the employee at the conclusion of the appeal hearing and will in any event be given or confirmed to the employee in writing. That decision will be final.

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**APPENDIX**

**Examples of gross misconduct (normally resulting in summary dismissal)  
This list is not exhaustive**

Gross negligence resulting in serious loss, damage or injury  
Assault or attempted assault  
Malicious damage to property or theft.  
Theft or fraud or attempted theft or fraud  
Deliberate or reckless disregard of duties or instructions  
Deliberate and serious breach of confidentiality relating to the Academy, its customers or employees.  
Use of confidential information obtained in the employment for personal purposes.  
Falsification of the Academy's records or other material relevant to the employment.  
Conduct violating common decency, whether or not occurring at work.  
Deliberately viewing or downloading or transmitting obscene or pornographic words or images or any other material breach of the Academy's policy relating to electronic communications  
Sexual, racial or other harassment.  
Conviction for a serious criminal offence.  
Attending work under the influence of drink or drugs.  
Failure to follow Academy procedures concerning the handling of money or other valuables.  
Bringing the organisation into material disrepute  
Breach of Confidence  
Any material financial or managerial irregularity.  
Material failure to comply with an instruction, Executive or Board decision  
Material failure in respect of regulatory, contractual stakeholder requirements  
Material breach of any organisation rules, regulations, policies, procedures or Executive or Board decisions.  
Any matter referred to in paragraph 8.3 may also be considered as being tantamount to gross misconduct because of the potential or actual consequential effects as more particularly set out in that paragraph.

Note: "Material" shall mean having the potential to detrimentally affect or actually detrimentally affecting the business of the Academy or any part of the Academy or the Academy's relationship with its stakeholders which include: Regulators, suppliers or internal relationships within the organisation, Central Government or government agencies, Funders, Sponsors, Parents, other employees etc. **(This list is not intended to be exhaustive)**

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