



The Circle Trust Document: **Staff Discipline Policy**

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Approver:	Trustees
Owner:	Human Resources
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Version	Date	Amended by:	Substantive changes:	Purpose
1.0	01.18	Exec Head	New Document	First release
1.1				
1.2				
1.3				

Purpose of the Policy

The Circle Trust's ensures that clear, fair and effective procedures are employed where conduct falls below the standards required and is clear that the main purpose of any disciplinary process is to encourage an employee whose conduct or work is unsatisfactory to improve. This procedure has been drawn up in accordance with the ACAS Code on Disciplinary Practice and Procedures in Employment.

This procedure is applicable to all employees of The Circle Trust, it applies to all employees both teaching and support staff.

1 Introduction

- 1.1 The Circle Trust and our employees have a general duty to behave at all time in a way which preserves a necessary degree of mutual trust and confidence. Cases of minor misconduct are usually more effectively managed informally. If informal advice and guidance does not bring about the necessary improvement, or the misconduct is considered too serious to be classed as minor, formal action may be required as set out in this Policy.
- 1.2 Employees will be told what is expected of them in terms of standards of conduct. [The Circle Trust Staff Code of Conduct Policy here](#)
- 1.3 The Circle Trust is committed to be fair and to ensuring that no-one is treated in any way less favourably on the grounds of personal differences such as race; national, ethnic or social origin; gender (including reassigned gender); sexual orientation; religious belief; age; disability; marital status; caring responsibilities or political or other personal beliefs.
- 1.4 Except in cases of gross misconduct for which dismissal is justified, following due process, the **main purpose of the whole process should be to encourage an employee whose conduct or work is unsatisfactory to improve**. However if dismissal does eventually prove necessary then action taken should withstand legal scrutiny.
- 1.5 No disciplinary action will be taken against an employee until any allegation has been fully investigated.
- 1.6 At all stages of the formal procedure the employee will have the right to be accompanied by a trade union representative or work colleague from the school.
- 1.7 Any disciplinary action taken will depend on the seriousness of the alleged offence, past recorded behaviour of the employee, consequences of the alleged offence and any mitigating circumstances presented by the employee. In serious cases, The Circle Trust reserve the right to issue a Final Written Warning in circumstances where the employee has not received a First Written warning. Employees will not ordinarily be dismissed for a first disciplinary offence, except in the case of gross misconduct.
- 1.8 Employees will be given the right of appeal against formal disciplinary action.

- 1.9 The responsibility for invoking the Disciplinary Procedure and deciding the appropriate level of action rests with the Headteacher/school leader of the school in the first instance.
- 1.10 The mishandling of dismissals can result in legal challenge and possibly severe financial penalties. Therefore our Trust's HR advisor reserves the right to attend and give advice at meetings which are considering disciplinary action.
- 1.11 Should a Headteacher/school leader or Local Advisory Board not follow the advice of our Trust's Human Resource (HR) Advisor in dealing with a disciplinary situation, any costs subsequently arising from this failure will be a first charge on the school's funding.

2 The Aims and Objectives of the Staff Disciplinary Policy

- 2.1 Handling disciplinary matters fairly is important for the efficient management for staff morale and for our Trust and a school's reputation.

3 The management of the Staff Disciplinary Policy

- 3.1 The Trustees have a fundamental role to:

- Review this policy to approve changes
- Be satisfied that any disciplinary procedure is followed as set out in this policy and understood by Headteachers/school leaders and employees
- To form a Staff Disciplinary Appeals Panel if required (made up of 3 Trustees who have no previous knowledge of a case)

- 3.2 The Executive Headteacher will:

- Implement this policy
- Promote and ensure that all Headteachers/school leaders understand and follow the disciplinary procedures as set out in this policy
- Be responsible for initiating disciplinary action and deciding on the appropriate level of action where the alleged misconduct involves a Headteacher
- Seek and follow advice from The Circle Trust HR providers at all stages of any disciplinary process

- 3.3 The Local Advisors have a fundamental role to:

- Be satisfied that any disciplinary procedure is followed as set out in this policy and understood by the Headteacher/school leaders and employees
- To form a Staff Disciplinary Panel if required (made up of 3 Local Advisors who have no previous knowledge of a case)

- 3.4 A Headteacher/School Leader with the oversight of Local Advisors will:

- Follow this policy when dealing with disciplinary matters

- Seek and follow advice from The Circle Trust HR providers at all stages of any disciplinary process. Advice must be sought at the earliest opportunity whenever an employee's conduct is giving cause for concern and may result in disciplinary action.
- Promote and ensure [The Circle Trust Staff Code of Conduct here](#) is understood and followed by employees in their school
- The Circle Trust has the overall responsibility for all staff appointments and dismissals in its school. With the exception of the appointment of Heads and Deputies and the dismissal of Heads, where different arrangements apply, it delegates these responsibilities to the Headteacher for their school. Please refer to [The Circle Trust's Recruitment and Selection Policy here](#)

4 Disciplinary Procedure - Informal stage

- 4.1 It is part of the normal management process that employees have brought to their attention the standards of conduct expected by The Circle Trust.
- 4.2 [The Circle Trust Staff Code of Conduct here](#) will be promoted to employees via the school website, in school handbooks and as part of the formal induction process.
- 4.3 Where an employee falls short of these standards, Headteachers/line managers must draw any deficiencies to the attention of employees under their supervision, as this can lessen the possibility of recourse to the formal Disciplinary Procedure.
- 4.4 This type of informal advice and guidance can be done on a one-to-one basis.
- 4.5 Advice and guidance offered by line managers is not part of the formal disciplinary process and no disciplinary sanction can be imposed during this stage.
- 4.6 However, the outcome of advice and guidance given by the line manager should be confirmed in writing to the employee

5 Disciplinary Procedure – Investigation

- 5.1 When an allegation of misconduct arises for which it is not appropriate to give informal advice and guidance (section 4), or when an issue has previously been addressed through giving advice and guidance without the necessary improvement, the Headteacher will initiate an investigation.
- 5.2 The Headteacher must appoint a suitable person to carry out the investigation, this person is known as the Investigating Officer. If the Headteacher considers him or herself the most appropriate person to act as the Investigating Officer they may undertake this role but this then precludes the Headteacher from hearing the disciplinary case. In this instance the Headteacher will alert the Clerk to the Local Advisors to convene, if required, a Staff Disciplinary Panel (made up of 3 Local Advisors who have no previous knowledge of the case to hear the disciplinary case.)

- 5.3 The Investigating Officer should be impartial and not have had any material involvement in the conduct or behaviour that gave rise to the disciplinary allegation.
- 5.4 The Investigating Officer may conduct a fact finding disciplinary investigation meeting with the employee. A note taker should be present. This interview is not a disciplinary hearing and must not develop into one.
- 5.5 The key standard for the Investigating Officer to consider is whether there is enough evidence to suggest that there may be a case to answer at a disciplinary hearing.
- 5.6 The employee can be accompanied by a work colleague or trade union representative at the disciplinary investigation meeting. The Circle Trust will not unreasonably refuse this request, provided that this does not introduce unnecessary and unreasonable delay into the investigation process.
- 5.7 All relevant witnesses must be interviewed and statements taken and signed and dated. The witness statements should be written in full. There is no requirement for this to be done at the same meeting and a full statement may have to be written up and typed after the meeting. The Investigating Officer will note the date, time and place of each observation or incident.
- 5.8 If witnesses are a child or young person, their parents/carer must be advised and if age appropriate their consent obtained. A parent/carer may accompany a child during the interview but must not answer on behalf of the child or comment on their answers. A factual record of the discussion will be agreed to avoid where possible a child or young person being called as a witness at any subsequent hearing.
- 5.9 The witness statement should record what was asked, who was present, the child or young person's responses (in their own words) and the date, time and length of the interview. The child or young person should be reassured that nothing will be held against them for having reported the incident or stating what they saw or heard.
- 5.10 Having taken all the required statements, the Investigating Officer should undertake any further investigation with a view to finding other independent supporting evidence, e.g. documentary evidence, the evidence of contractors or other third parties or CCTV images.
- 5.11 In the case of CCTV images, wherever possible the images of other employees on the footage who are not relevant to the alleged misconduct should be obscured. The circulation of the images should be restricted only to those attending the disciplinary meeting and they should be reminded they are covered by confidentiality provisions.
- 5.12 The investigation report will be made available to both parties concerned prior to the disciplinary meeting (except where The Circle Trust considers in exceptional circumstances that information should remain confidential, e.g. where considered necessary, the identity of witnesses should be kept confidential or where there are child protection considerations).
- 5.13 Once the investigation has been concluded or has reached a stage whereby the Investigating Officer can recommend whether there is a case to answer.

The Investigating Officer will present their report to the Headteacher who will determine the next steps. These may include:

- To take no further action
- To deal with the matter informally outside the formal disciplinary process
- To arrange for the matter to be dealt with under the formal disciplinary procedure.

5.14 There is no right of appeal against the Investigating Officer's recommendations.

6 Disciplinary Procedures Precautionary Suspension

- 6.1 In appropriate circumstances (and almost always where the misconduct, if established, would be regarded as gross misconduct), the employee will be suspended from work on full pay whilst the matter is being investigated.
- 6.2 Suspension will normally only be considered where it appears necessary to protect children or young people, staff or property or where the employee's continued presence at work would be an impediment to a proper investigation.
- 6.3 Suspension is a neutral act and The Circle Trust's HR Advisor must be consulted before such action is taken and the Executive Headteacher informed. In a school only the Headteacher may suspend an employee. When a suspension involves a Headteacher, this can only be carried out by the Executive Headteacher.
- 6.4 The period of suspension will be as brief as possible. In all instances of precautionary suspension the need to maintain the suspension must be a matter of continual review by the Headteacher
- 6.5 A senior employee unconnected with the disciplinary action or investigation will be allocated to the staff member on suspension to act as their sole point of contact with the organisation and to keep the employee regularly informed of the progress of the case.

7 Disciplinary Procedures Hearing

- 7.1 After the investigation stage, if a decision is made that there is a case to answer and that the matter should progress to a Disciplinary Hearing, the employee will be informed in writing of the time and place of the hearing and of the right to be accompanied by his/her trade union representative, workplace representative or work colleague.
- 7.2 The employee will be given five working days' notice of the meeting.
- 7.3 The notification of the hearing will contain full information about the alleged misconduct and its possible consequences, to enable the employee and/or his or her representative to prepare his/her case.

- 7.4 Copies of any written evidence, which may include any witness statements, will be included with the notification.
- 7.5 Where an employee's representative cannot attend on the date proposed, the employee is entitled to postpone the date of the hearing to a date which is reasonable and falls within 5 working days of the original date.
- 7.6 The Headteacher or a Staff Disciplinary Committee (made up of three Local Advisors who have had no previous knowledge of the case) will hear the case.
- 7.7 A HR Advisor will attend the hearing ex-officio to advise the Headteacher or a Staff Disciplinary Committee.
- 7.8 The Investigating Officer will attend the hearing. A note taker will also be present.
- 7.9 In all cases the disciplinary hearing should be convened as soon as is reasonably practical after the completion of the investigation. Ideally this should be within ten working days of the end of the investigation.
- 7.10 At the meeting the Headteacher or the Chair of the Staff Disciplinary Committee will introduce everyone present and explain the complaint against the employee. The Investigating Officer will go through the evidence that has been gathered. The employee will then be allowed to set out their case and answer any allegations made. The employee will be given a reasonable opportunity to ask questions, present evidence and call relevant witnesses. S/he will also be given an opportunity to raise points about any information provided by witnesses. Where either the Investigating Officer or the employee intends to call witnesses, they must have given advance notice that they intend to do so. Please Refer to The Circle Trust's Conduct of Disciplinary Hearings [here](#)
- 7.11 The Circle Trust reserves the right to refuse the employee to call an unrestricted number of witnesses.
- 7.12 Should new information come to light, the meeting should be adjourned and, if necessary, a further investigation undertaken.
- 7.13 During the final adjournment, all of the facts of the case should be weighed up carefully by the Headteacher or a Staff Disciplinary Committee before any decision is taken on how to deal with the matter and what sanction (if any) should be applied.
- 7.14 In employment law, the standard of proof to be used in deciding whether the employee committed the act of misconduct is "on the balance of probabilities"

8 Disciplinary Procedures – Right of Appeal

- 8.1 The employee must be advised in writing of the Disciplinary Hearing outcome and the right of appeal.

- 8.2 The letter should be sent within five working days of the hearing and the employee should be given five working days from receipt of the letter in which to appeal.
- 8.3 The appeal must be in writing and give the grounds for the appeal.
- 8.4 The employee should specify if the grounds relate to the facts of the matter, the level of sanction imposed or the way the procedure was followed.
- 8.5 Appeals will be dealt with as promptly as possible.
- 8.6 The appeal will be heard by the Executive Headteacher or a Staff Disciplinary Appeals Committee (made up of 3 Trustees who have no previous knowledge of the case). The Executive Headteacher must not have been directly involved in the original disciplinary investigation or disciplinary meeting.
- 8.7 They will normally be conducted by way of a review of the decision to apply a sanction and the level of sanction imposed, but may, at the discretion of The Executive Headteacher or a Staff Disciplinary Appeals Committee (made up of 3 Trustees who have no previous knowledge of the case) hearing the appeal, proceed as a full re-hearing of the case.
- 8.8 The employee will be invited to attend an appeals meeting.
- 8.9 The employee has the right to be accompanied by a work colleague or trade union representative under those circumstances described above.
- 8.10 The employee will be notified in writing of the outcome of the appeal as soon possible, but no later than five working days after the completion of the appeals process.

9 Disciplinary procedures – Levels of disciplinary action if an allegation is upheld

9.1 Formal Verbal Warning

- 9.1.1 The employee will be advised that this is the first stage of the formal disciplinary procedure or that the allegation did not warrant the imposition of a stronger penalty. S/he should also be advised that if further misconduct occurs or the misconduct is more serious, a written warning will be given to the employee.
- 9.1.2 This formal verbal warning will be confirmed in writing. The written confirmation will give details of the complaint, the improvement required and the timescale.
- 9.1.3 The formal verbal warning will be kept on the employee's file, but will be spent and disregarded for disciplinary purposes after 26 calendar weeks of satisfactory conduct.
- 9.1.4 The employee will be advised that this is the first stage of the formal disciplinary procedure. S/he should also be advised that if further misconduct occurs or the misconduct is more serious, a written warning will be given to the employee.

9.2 Formal Written Warning

- 9.2.1 This written warning will give details of the complaint, the improvement required and the timescale.
- 9.2.2 The written warning will be kept on the employee's file, but will be spent and disregarded for disciplinary purposes after 12 months of satisfactory conduct.

9.3 Final Written Warning

- 9.3.1 If there is repeated misconduct or the misconduct is sufficiently serious to warrant only one written warning but is not sufficiently serious to justify dismissal a final written warning will be given.
- 9.3.2 A final written warning will be kept on the employee's file, but will be spent and disregarded for disciplinary purposes after 52 calendar weeks of satisfactory conduct.

9.4 Dismissal

- 9.4.1 If the misconduct continues or gross misconduct occurs the employee may be dismissed.
- 9.4.2 If gross misconduct occurs, dismissal will be summary dismissal without notice or payment in lieu of notice.
- 9.4.3 In all cases, any notice of dismissal will commence immediately.
- 9.4.4 Any appeal will be held as soon as is practicable and normally within the notice period.
- 9.4.5 Should the appeal be successful the reinstatement would be from the original date of dismissal in order to avoid any break in service and loss of salary and other service benefits.

9.5 Notification to the NCTL

- 9.5.1 The Circle Trust will be required to report cases to the National College for Teaching and Leadership <https://www.gov.uk/guidance/teacher-misconduct-referring-a-case> where a teacher is dismissed on grounds of misconduct. The Circle Trust is also required to report relevant cases where a teacher resigns before disciplinary action can be taken.

9.6 Demotion or transfer

- 9.6.1 The penalty of demotion or transfer will only be used in those circumstances where The Circle Trust believes punishment of dismissal is too harsh, but where it is regarded that the misconduct is likely to render adequate performance of the employee's existing job unlikely in the future.
- 9.6.2 By mutual agreement, either demotion or transfer may also be considered at any stage in the disciplinary procedure.

10 Disciplinary Procedures - Types of Misconduct

10.1 The examples given below are not an exhaustive list and are designed to provide an indication of the action which may be taken if efforts to manage the situation through the informal advice and guidance stage have been ineffective.

- Allegations of harassment or bullying will always be a serious matter and could, if upheld, result in a final written warning or dismissal.
- Continued lateness, unauthorised absence, failure to notify sickness absence, absence from place of work without permission if upheld, result in a written or final written warning.
- A failure to improve and continued unsatisfactory conduct when an employee is already in receipt of a warning, if upheld, result in a final written warning or dismissal.
- Theft, fraud, malicious damage to the school or another employee's property, physical assault at work, breach of major safety rules, discriminatory behaviour, disclosure of confidential information, incapacity or misconduct as a result of being under the influence of drink or illegal drugs, racial or sexual or personal harassment and gross insubordination, gross negligence, conduct seriously prejudicial to the good reputation of The Circle Trust, if upheld, result in dismissal.

11 Disciplinary Procedures – Employee's rights

11.1 Employees subject to disciplinary action have the right to be accompanied by either a work colleague or trade union representative (known as the accompanying person) of their choice at the disciplinary or appeal stage.

11.2 Trade union representative means any employee who is also a trade union official or an official of a trade union who is not an employee of The Circle Trust, but who has been certified by their union as being competent to accompany an employee.

11.3 The accompanying person has the right to:

- Confer with the employee before and during the disciplinary investigation meeting and subsequent disciplinary/appeals meetings, including before the employee answers any questions.
- Respond on behalf of the employee to any views expressed at the disciplinary investigation meeting and disciplinary/appeals meeting.
- Put forward the employee's position in opening and closing statements made at the disciplinary/appeals meeting which sums up the employee's case.
- The companion should also be allowed to question any witness who is providing evidence for the disciplinary meeting.

The accompanying person does not have the right to:

- Answer any questions put directly to the employee conducting the disciplinary investigation meeting or disciplinary/appeals meeting
- Address the meeting if the employee does not wish it
- Prevent the employee from explaining their case or answer any questions.
- The Circle Trust reserves the right to refuse a request for a companion which it does not consider reasonable. It would not be considered reasonable, for example, for an employee to insist on being accompanied by a companion from a remote geographical location if someone suitable and willing was available from a nearby location, or whose presence would be prejudicial to the hearing.

11.4 [The Circle Trust's Grievance Policy here](#) should not be used for appeals against disciplinary decisions, because that is provided for at the appeals stage of the disciplinary procedure.

11.5 Employees should note that if they choose to resign after being notified that they are subject to disciplinary proceedings, those proceedings may continue in any event up to and including the end of their employment, and they will normally be required to co-operate with the conduct of those proceedings and to attend any meetings.

12 Disciplinary procedures – Dates of meetings and adjournment of meetings

12.1 The Circle Trust is committed to ensure that all steps and stages of the disciplinary procedure are completed without unreasonable delay.

12.2 The date and time of meetings should be arranged so that all parties whose attendance is necessary can attend for the matter to be dealt with properly.

12.3 The employee should take all reasonable steps to attend.

12.4 However, The Circle Trust reserves the right to fix the date and time of a disciplinary Meeting and appeals meeting where it believes fair and reasonable notice has been given to the employee and his/her accompanying person.

12.5 The meeting may be postponed where one of the required parties is unable to attend due to a genuine unexpected reason.

12.6 Should a second meeting be arranged, and the employee fails to attend without good reason, the meeting may be held in the employee's absence and a decision reached on the information available. Where a meeting is to take place in the absence of the employee the HR Advisor must be consulted before the meeting commences.

Special circumstances will be taken into account, e.g. the employee's serious illness.

12.7 The employee may be required to attend Occupational Health in order that the Occupational Health Advisor may determine whether the member of staff is fit to attend the management meeting

13 Disciplinary procedures - Disciplinary Action against a Headteacher or Executive Headteacher or Trade Union Representative

13.1 A disciplinary action against a Headteacher will not be initiated without the involvement of The Circle Trust. At The Executive Headteachers request a Senior Leader such as a Director of School Improvement or a HR Director will undertake the role with regard to the investigation and any subsequent disciplinary proceedings. If the Executive Headteacher considers his or herself best placed to be the Investigating Officer they then preclude themselves from hearing a disciplinary hearing.

13.2 Should a disciplinary hearing be required this will be heard by the Executive Headteacher or a Disciplinary Panel made up of 3 Local Advisors who have had no prior knowledge of the case.

13.3 Any subsequent appeal disciplinary hearing would be heard by an Appeals Disciplinary Panel made up of 3 Trustees who have had no prior knowledge of the case.

13.4 Disciplinary Action against the Executive Headteacher will not be initiated without the involvement of the Chair of Trustees. The HR Director will undertake the role with regards to the investigation and any subsequent disciplinary proceedings.

13.5 Should a disciplinary hearing be required this will be heard by Disciplinary Panel made up of 3 Trustee who have had no prior knowledge of the case.

13.6 Any subsequent appeal disciplinary hearing would be heard by an Appeals Disciplinary Panel made up of 3 different Trustees who have had no prior knowledge of the case.

13.7 Disciplinary Action Against Trade Union Representatives

13.8 No disciplinary action or formal warning should be applied to a TU representative until the circumstances of the case have been discussed with a full-time official of the union concerned, with the employee's agreement. Although an investigatory interview and suspension are not disciplinary actions, management should still consult with the full- time official as soon as possible. Headteacher should contact the HR Advisor before taking any action in such circumstances.

14 Disciplinary procedures – Confidentiality

14.1 Disciplinary proceedings are confidential between the manager, member of staff, their TU representative or a workplace colleague for professional advice or support.

14.2 Any information made available during the proceedings must not be shared with anyone except those directly involved.

14.3 Any breach of confidentiality may result in disciplinary action being taken against those involved.

15 Disciplinary procedures – Timescales

15.1 The Circle Trust aims to deal with disciplinary matters as quickly as possible

15.2 Investigation meeting (if required) as soon as possible after the allegation is made but no later than 10 working days of the alleged incident

15.3 Disciplinary Hearing will be usually arranged within 10 working days of the completion of the investigations. 5 working days' notice must be given.

15.4 Outcome letter following the disciplinary hearing must be given within 5 working days

15.5 Appeals to be submitted within 5 working days of the outcome letter