

**Wellspring Academy Trust
Disciplinary Policy**

Date Approved by Board:

17 May 2017

Responsible Department:

Human Resources

Contents Page

1.0	Introduction	Page 2
2.0	Scope	Page 2
3.0	Principles	Page 2
4.0	Sickness Absence/Raising a Grievance	Page 2
5.0	Safeguarding	Page 3
6.0	Initial Assessment	Page 3
7.0	Early Intervention/Informal Action	Page 3
8.0	Suspension	Page 4
9.0	Formal Action	Page 4
10.0	Disciplinary Hearing	Page 4
11.0	Right of Appeal	Page 5
12.0	Referrals	Page 5

Appendix 1 Process and Protocol at Formal Disciplinary Hearings and Appeals

Appendix 2 Template Disciplinary letters

Appendix 3 Examples of Gross Misconduct/ Misconduct

Appendix 4 Disciplinary Flowchart

1.0 Introduction

Wherever possible matters of misconduct should be dealt with informally to encourage the employee to learn from their mistakes and improve their conduct. Employees should be supported to meet the standards and expectations of the Academy/ Trust.

2.0 Scope

- 2.1 This policy applies to all employees of the Wellspring Academy Trust (the Trust) including those employed by Academies within the Trust.
- 2.2 This policy provides a structure for all employees to achieve and maintain high standards of conduct, to encourage improvement where necessary and to ensure fairness, equity and consistency in the management of employee issues to attain the required standard.

3.0 Principles

- 3.1 This policy applies to all employees, with the exception of staff within their Probationary Period for whom conduct issues will be dealt with under the relevant Probationary Policy.
- 3.2 Separate policies exist for dealing with underperformance and ill health issues.
- 3.3 The policy will apply to conduct outside of the work place, including but not limited to criminal charges, cautions or convictions where this may have a bearing on the employees' employment, or where this, in the judgement of the Line Manager, breaches good professional conduct.
- 3.4 No disciplinary action will be taken against an employee until the case has been investigated. This may be the collation of evidence for use at a Disciplinary Hearing.
- 3.5 All employees have the right of appeal against any formal disciplinary sanction.
- 3.6 The Equality Act 2010 requires public bodies, in carrying out their functions, to have due regard to the need to:
 - Eliminate discrimination and other conduct that is prohibited by the Act;
 - Advance equality of opportunity between people who share a protected characteristic and people who do not share it;
 - Foster good relations across all characteristics – between people who share a protected characteristic and people who do not share it.

In the development of this policy due regard has been given to achieving these objectives.

4.0 Sickness Absence/Raising a Grievance

- 4.1 If an employee becomes unfit for work during the disciplinary process, they should make every effort to attend management investigation meetings or subsequent hearings. It is recognised this can be a difficult time for the employee and all parties should be mindful that

if matters are dealt with promptly, this could alleviate some stress felt by the employee during the process. A counselling support referral should be considered.

- 4.2 Should the employee fail to attend any meeting the process will continue regardless and a Disciplinary Hearing will be convened based on the information to date.
- 4.3 If during the course of the disciplinary process, an employee raises a grievance (including dignity at work issues) the grievance case will be addressed separately but will not delay or stop the disciplinary case from proceeding. The grievance investigation may progress alongside the disciplinary case and culminate in one hearing, especially where the matters are judged to be linked.

5.0 Safeguarding

- 5.1 Should it be determined the alleged conduct relates to safeguarding of children or vulnerable adults, the relevant guidance must be followed and an immediate referral made to either the Local Authority Designated Officer (LADO) or the Adult Safeguarding Designated Service Officer.

6.0 Initial Assessment

- 6.1 When an initial allegation arises, a determination must be made on whether:
 - The allegation of misconduct is unfounded and no further action is required.
 - The allegation of misconduct is minor and can be dealt with through informal action.
 - The evidence of misconduct supports moving directly to a hearing where the employee can present their case without the need for an investigatory meeting.
 - A formal investigatory meeting(s) into the allegation of misconduct is required.
 - The allegation of misconduct is so severe, the employee should be suspended from work and a formal investigation is required.
 - The allegation is vexatious and malicious which could result in disciplinary action against the perpetrator.

7.0 Early Intervention/Informal Action

- 7.1 An informal conversation between the Line Manager and the employee may suffice when the misconduct is minor.
- 7.2 The employee should be advised that if misconduct re-occurs, formal action may be instigated.
- 7.3 A note of the discussion, including agreed action points and the expected standards of behaviour, should be signed by both parties and placed on the employees' personal file.

8.0 Suspension

- 8.1 Before any suspension is undertaken, the Line Manager should, where possible consult with the HR Business Partner.
- 8.2 Suspension is not automatic. Alternative options should be explored whilst an investigation takes place, such as a temporary transfer to alternate duties/location, providing the employee can be supervised.
- 8.3 In appropriate circumstances, established through a thorough assessment, the employee may be suspended without prejudice as a precautionary measure.
- 8.4 The suspension will be on full pay, whilst a formal investigation is undertaken.
- 8.5 If the employee falls sick whilst suspended, the normal sick pay arrangements will apply and the process will continue.
- 8.6 During the suspension meeting, the employee can be offered personal support by a work colleague or a member of the Trade Union provided this does not delay the meeting.
- 8.7 Suspension will be reviewed regularly and the employee will be notified if there are any changes in the circumstances.

9.0 Formal Action

- 9.1 When an allegation of misconduct arises and it is inappropriate to be dealt with informally, or if the matter has already been dealt with informally without the required improvement (cumulative), formal action will be considered.
- 9.2 Except in circumstances where the existing evidence precludes the need for a separate investigation meeting, an Investigating Officer will be appointed to investigate the facts.
- 9.3 The remit of the Investigating Officer will be to gather evidence whilst maintaining an unbiased position.
- 9.4 Management investigation meetings will take place with the employee and any appropriate witnesses identified by the fact-finding process.
- 9.5 The employee will have the right to be accompanied at this meeting. (See **Appendix 1 - Section1**).
- 9.6 All evidence will be disclosed during the investigation meeting and made available to the panel at any subsequent Disciplinary Hearing.
- 9.7 At the conclusion of the investigation, the Investigating Officer will determine whether the matter should progress to a hearing or whether informal action is an appropriate remedy.

10.0 Disciplinary Hearing

- 10.1 The decision to progress to a formal hearing will be confirmed in writing (**Appendix 2 – letter 6**). Please refer to **Appendix 1** for Process and Protocol at Formal Disciplinary Meetings, Hearings and Appeals.

10.2 The hearing will be conducted in line with the Trust's Hearings and Appeals Panels - Terms of Reference.

11.0 Right of Appeal

11.1 Employees have the right of appeal against any formal disciplinary sanction within 5 working days of receiving their confirmation letter, providing they set out in writing the specific grounds and reasons for the appeal and (where appropriate) provide supporting evidence.

11.2 Appeals will be to the next level of management/Board/Trust member as stated in the Wellspring Academy Trusts' Hearings and Appeals - Terms of Reference.

11.3 The Appeal Hearing will focus on the employees' grounds and reasons for appeal, the employees' supporting evidence and the outcome letter from the person who heard the initial Disciplinary Hearing. Please refer to **Appendix 1** for the process to be followed at an Appeal Hearing.

11.4 The person hearing the appeal can confirm, reduce, increase, or revoke the original outcome. The outcome of the Appeal Hearing will be confirmed in writing (**Appendix 2 – letter 11**) and will be final.

12.0 Referrals

12.1 Where appropriate it may be necessary to inform the employees professional body of any dismissal e.g. NCTL and to make a referral to the Disclosure and Barring Service for safeguarding matters.