THE SOCIETAS TRUST



Disciplinary Policy and Procedure

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Reviewed and Agreed by	The Directors' Board
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The purpose of this policy and procedure is to set out the standards of conduct expected of our colleagues and to ensure that all disciplinary matters are dealt with fairly and consistently. This procedure does not deal with performance or sickness absence.

Any reference to 'the employer' refers to The Societas Trust (The Trust). The 'appropriate level of authority' should be determined according to the Trust's scheme of delegation. This policy applies to employees of the Trust, referred to in this policy as colleagues. The Term 'Trust' is interchangeable with the term 'Academy'.

The policy and procedure apply to all colleagues, regardless of length of service, but does not form part of the contract of employment and can be varied from time to time and in consultation with the recognised trade unions. It should be read in conjunction with the Trust's Formal Meetings and Investigation procedures.
The procedure does not apply once you have left employment with the Trust.

The policy and procedure is also for adoption by local governing boards for application to all colleagues employed in the academy.

1. General Principles

1.1 All managers have a duty to ensure that they and all the colleagues they are responsible for, are aware of, and comply with, the Trust's policies and procedures. Managers are also responsible for making sure that colleagues know when they are not achieving or maintaining the expected standards of conduct or behaviour.

1.2 All colleagues have a responsibility to be aware of and conduct themselves in line with the Trust's policies, the law and maintain acceptable standards of conduct and behaviour. Where relevant, colleagues are asked to adhere to recognised codes of practice. Standards associated with their profession or trade must also be adhered to. Colleagues must also cooperate with disciplinary investigations as required.

1.3 The aim of this policy and procedure is to set out and maintain the required standards of conduct and encourage improvement.

1.4 The Trust is committed to equality and diversity and will make reasonable adjustments to the application of this policy and procedure in line with our equal opportunities commitment.

2. Acceptable Behaviour and Conduct

2.1 The Trust expects all colleagues to meet high standards of behaviour and conduct, including any relevant code of conduct. Examples of the types of expected standards of behaviour are detailed in this policy.

3. Minor Conduct Issues and an Informal Approach

3.1 For minor conduct issues, your line-manager will adopt an informal approach to help, guide or advise you in improving your conduct. Your line-manager will only consider dealing with minor disciplinary breaches through the formal stages of the procedure if your misconduct continues or the misconduct is too serious to be dealt with informally.

3.2 Cases of minor misconduct are usually best dealt with informally and confidentially. A conversation about the concerns and resolutions is often all that is required to improve your conduct. In some cases, your line-manager may decide that additional training, coaching and advice may be what is needed.

3.3 Where a manager has a concern about your conduct, they will organise an informal meeting to discuss the concern. The purpose of any informal meeting is to improve your conduct, to identify and examine any areas of concern and to provide a reasonable opportunity for you to respond. You and your manager must ensure that you understand any future expectations of your conduct and, where appropriate, develop an action plan leading to improvements in your conduct. Although this may result in a note of the discussion and any follow-up correspondence being kept by your manager on your personal file, there will be no note made on your disciplinary record. You will be asked to confirm that you agree that any action plan agreed is achievable and realistic and should raise any concerns that you have about the action plan with your manager.

3.4 Where the behaviour causing concern may be related to an underlying relationship issue, it may be appropriate to consider facilitation, to help resolve the situation rather than progress with disciplinary action.

3.5 If the matter cannot be resolved informally, or the matter is too serious for the informal approach to be applied, then the formal disciplinary process will follow. Although the stages of the disciplinary process will normally be followed sequentially the Trust's Directors may enter the process at any stage depending on the seriousness of the matter.

3.6 No formal disciplinary action will be taken until the allegations have been fully investigated.

4. Link with Other Policies and Procedures

4.1 **Grievance Policy** – Where you submit a complaint during disciplinary proceedings, this will not normally stop the proceedings from progressing. Where you raise a grievance during disciplinary proceedings:

- The disciplinary proceedings may be temporarily suspended in order to deal with the grievance or
- The grievance and disciplinary may be run concurrently where they are related.

4.1.1 Where you assert that disciplinary proceedings being undertaken are unlawfully discriminatory or are motivated by reasons other than misconduct, you can raise a grievance.

4.2 **Supporting Attendance Policy -** Where you are absent due to sickness whilst a disciplinary matter is pending, the supporting attendance policy and procedure will apply as normal. However, those responsible for keeping in touch during your absence would not normally be the same people involved in the handling of your disciplinary matter. Under these arrangements due regard will be had for what is said by Occupational Health and any information you may wish to provide from your GP. The Trust will arrange for you to see Occupational Health as soon as possible for them to assess your health generally and whether you are fit to participate in these procedures. Being absent from work due to sickness will not automatically stop the disciplinary procedure progressing.

5. Formal Disciplinary Process

5.1 Prior to any formal disciplinary decision being made, the following steps will be taken:

- An investigation will be carried out in accordance with the Investigation Procedure. If allegations have been made against you, you will be notified of the nature of the allegations that are to be investigated prior to the investigation meeting. The amount of investigation involved will vary depending on the allegations in question and the circumstances of the case. Investigations will be dealt with as confidentially as is reasonably practicable and sensitively, in line with the Investigations Procedure.

- If following investigation, it is reasonably believed that there are grounds for disciplinary action, you will be required to attend a disciplinary meeting.

  You will be invited to the meeting in writing giving at least 10 working days' notice. The letter will provide written details of the allegations against you and a copy of the evidence will be enclosed.
- You must provide copies of any relevant evidence you intend to refer to, at least 3 working days before the meeting.

- At the meeting, the evidence will be presented, and you will have the opportunity to respond to the allegations and to offer mitigation.

6. Right to be Accompanied

6.1 You have the right to be accompanied by a trade union representative or work colleague at any meeting as part of the investigatory or formal disciplinary procedure.

6.2 The trade union representative or work colleague can address the meeting, to put and sum up your case, respond on your behalf to any views expressed at the meeting and confer with you during the meeting. They may also request an adjournment and ask questions of anyone present. The trade union representative or work colleague does not, however, have the right to answer questions on your behalf, address the meeting if you do not wish it or prevent the employer from explaining their case. Other than confirming that all parties have the same documentation it would not normally be necessary to read out the content of the documentation.

6.3 Under this procedure, you do not have the right to be accompanied by anyone else (such as a spouse, partner or other family member, or legal representative).

6.4 However, it would not normally be reasonable for you to insist on being accompanied by a trade union representative or work colleague whose presence might in the opinion of the employer prejudice the meeting nor might it be reasonable for you to ask to be accompanied by a work colleague from a remote geographical location if someone suitable and willing was available on site.

6.5 Where appropriate, eligible colleagues, for example those with disabilities or language difficulties, may have the attendance of a supporter or interpreter.

7. Suspension

7.1 Depending on the circumstances, you may be suspended from work on full pay during the investigation. Suspension on full pay is not a disciplinary penalty or a presumption that the allegations will be upheld. See also the Trust's Investigation Procedure.

8. Action against Trade Union Representatives

8.1 Whilst normal disciplinary standards apply to a TU representative's conduct as a colleague, the relevant full-time official should be notified of any action (including suspension) that the Trust proposes to take. All reasonable efforts must be taken to ensure that disciplinary action is not taken against a TU representative until the relevant full-time official has had an opportunity to be present at any stage of the formal procedure.

9. Criminal Offences

9.1 Certain criminal offences may affect your suitability to continue in your role with the Trust or damage the Trust's reputation. If you are subject to a criminal investigation you must immediately inform the headteacher.. The Trust will not treat notification about criminal proceedings, or a conviction (including bind-over's and cautions), as an automatic reason for dismissal or for any other form of disciplinary action being taken. We will decide what action to take, if any, after we have reviewed the matter. The main consideration should be whether the conviction is one that makes you unsuitable for your job or could affect the Trust's reputation.

9.2 If you are subject to a criminal investigation, the Trust will determine to what extent it needs to conduct its own investigation before deciding whether to proceed to formal disciplinary action. The Trust will not usually wait for the outcome of any prosecution before deciding what action to take. No decision to impose a disciplinary sanction or dismiss may be taken prior to giving you the opportunity to make representations at a disciplinary hearing.

9.3 If we have reasonable grounds to suspect that the potential misconduct involves fraud, systems abuse, theft, or any financial irregularity, the Trust may notify the internal auditors and/or the police as soon as possible. Where appropriate your access to any affected systems will be temporarily removed to support the investigation.

10. The Disciplinary Meeting

10.1 You must make all reasonable efforts to attend a disciplinary meeting. If you or your trade union representative or work colleague is unable to attend a meeting you may propose a new date of no more than 5 working days from the date of the original date.

10.2 The manager will respond sensitively when a delay is required, for example, it may arise for a reason related to a disability or emergency involving dependants. The Trust may arrange another meeting date within 5 working days of the date of the original meeting, if you fail to attend through circumstances outside of your control.

10.3 If you do not attend the meeting without good reason, it will be re-arranged within 5 working days of the date of the original meeting, but if you do not attend the rearranged meeting, a decision may be made in your absence. You may submit a written statement to be taken into consideration.

10.4 Where you are persistently unable or unwilling to attend the meeting without good cause the manager may make a decision on the evidence available.

10.5 The disciplinary meeting will be conducted by the Deciding Manager / Panel Chair[1] who will be an appropriate level of management or have the required authority.

10.6 The Deciding Manager / Panel Chair[1] will explain the allegations against you and the evidence will be presented in support of those allegations. You will have the opportunity to respond to the allegations, which will include the presentation of your own evidence if you wish. You may request that a witness(es) attend the meeting where they have witnessed events pertaining to the allegations made against you. Where a witness is required to attend the Deciding Manager / Panel Chair[1] will invite them in writing.

10.7 Notes of formal meetings will be given to you for your information and copies of notes, letters and action plans should be retained by the line-manager.

11. Disciplinary Sanctions

11.1 **Stage 1 – First written warning**

A first written warning may be issued by the Deciding Manager / Panel Chair[1] and will usually be appropriate for a first act of misconduct where there are no previous warnings and where any agreed adjustments and other support has

[1] In academies the disciplinary meeting will be conducted by a Panel of Governors

been made or provided. The warning will remain active for 6 months and it should be disregarded for disciplinary purposes after this period.

11.2 **Stage 2 – Final written warning**
A final written warning may be issued by the Deciding Manager / Panel Chair[1] in the following circumstances:

- where there has been a further act of misconduct while an existing warning is in effect; or

- the seriousness of the misconduct is sufficient to warrant such a warning, even though no previous warning may have been issued.

11.2.1 The warning will remain active for 12 months and it will be disregarded for disciplinary purposes after this period.

11.3 **Stage 3 – Dismissal**
Only an appropriate level of authority in line with the Trust's scheme of delegation can take a decision to dismiss. You may be dismissed in the following circumstances:

- where, within the duration of the final written warning, the necessary improvement in behaviour has not been achieved and any agreed adjustment and other support that has been made or provided has not brought about the required improvement in your conduct or behaviour. This would be with notice or payment in lieu of notice; or

- where there has been a further act of misconduct while an existing warning is in effect; or

- where it is reasonably believed that you have committed an act of serious or gross misconduct. Gross misconduct will usually result in summary dismissal without notice and without pay in lieu of notice. Examples of gross misconduct are detailed in the policy.

11.3.1 The Deciding Manager / Panel Chair[1] may at their discretion consider alternatives to dismissal. Examples of such alternatives may include a change of role, compulsory training etc. If such an alternative is agreed, it may also be accompanied by a final written warning.

12. Warnings

12.1 Where a warning is issued, this will be confirmed to you in writing within 5 working days of the meeting. The warning will state the misconduct that led to

the warning, the action or improvement required by you, the duration of the warning and the likely consequences of the action of improvement not being taken and/or any further misconduct. You will also be advised of the right of appeal and the person to whom an appeal should be made.

12.2 Where an employee is absent from work for 20 days or more, regardless of the reason for absence, whilst a Stage 1 or Stage 2 disciplinary warning is in force, that warning will be suspended for the period of absence. Once the employee returns, the warning will recommence and continue for the remaining active period.

13 Appeals

13.1 Where disciplinary action has been taken, if you are dissatisfied with that decision, you can appeal. Your appeal must be in writing and set out the grounds of your appeal in line with the list below and include all the information you wish to rely on at the appeal meeting. You must send your appeal to the Deciding Manager / Panel Chair[1] within 5 working days of the date you received the letter notifying you of the disciplinary decision. The action taken at the disciplinary meeting will remain in force pending the outcome of the appeal. You must be appealing against either:

- the finding that you were found to have committed the alleged act (or acts) of misconduct where the evidence did not support this finding;
- the severity of the disciplinary sanction imposed considering the nature of the misconduct and the mitigating circumstances;
- the fact that you don't feel the correct procedure was followed;
- the fact that new evidence that was not considered in the disciplinary meeting has come to light that may change the outcome;
- the sanction is inconsistent with how others have been treated;
- there was unlawful discrimination in the handling of the disciplinary.

13.2 You will be invited to the appeal meeting in writing in accordance with the Formal Meetings Procedure. You will be given 10 working days' notice of the appeal meeting. You have the right to be accompanied at the appeal meeting by your trade union representative or work colleague.

13.3 You must provide copies of any relevant evidence you intend to refer to, at least 3 working days before the meeting.

13.4 The outcome of the appeal may be to overturn or confirm the original decision or apply a different, but not more serious sanction. You will be advised of the appeal outcome, which will usually be confirmed in writing within 5 working days of the appeal meeting. There is no further right of appeal.

13.5 You are not entitled to raise a further complaint under the Trust's Grievance Policy (or any of the Trust's complaints procedures) in relation to the same grounds of appeal.

14. Effective Date

14.1 This policy and procedure was adopted by the Trust after consultation with the JCNC.

14.2 The Chief Executive Officer, or delegated person, will periodically review this procedure following changes in employment law and in consultation with theJCNC.

15. Examples of Standards of Behaviour

15.1 The following are examples of the behaviour expected by The Societas Trust of all its colleagues, although the list is not exhaustive:

- You should attend work punctually and regularly, in line with operational requirements;
- You should carry out reasonable requests/instructions from your managers promptly and efficiently, and to the required standard;
- Time off must be approved in advance by the appropriate level of authority, usually your manager and be in line with your contract of employment;
- You must follow the procedures outlined in the Supporting Attendance at Work policy when notifying the academy of your sickness absence;
- You must comply with all the Trust's policies and procedures;
- You must adhere to professional body and statutory guidelines, as appropriate, and act professionally at all times;
- In your own interests, and in the interests of the Trust as a whole, you should bring serious breaches of the Trust's policies and/or procedures to the attention of management.

16. Examples of Gross Misconduct

16.1 The following are examples of gross misconduct, but this list is not exhaustive:

- Theft or unauthorised removal of property, fraud, falsification of the Trust's records or any other dishonesty;
- Actual or threatened violence or bullying behaviour;
- Deliberate or serious damage to the Trust's property or that of a colleague, customer, contractor or authorised visitor;
- Serious negligence which does or could result in loss, damage or injury;
- Deliberately accessing, copying or distributing pornographic, offensive, obscene or professionally inappropriate material on the internet or paper media;
- Being under the influence of alcohol, drugs or other similar substances at work which may give reasonable grounds to suspect your ability to undertake your duties or being in possession of illegal or intoxicating drugs on site;
- Refusal to obey reasonable instructions or any other act of serious insubordination;
- Any action or behaviour which brings the Trust into serious disrepute;
- Serious breach of health and safety rules;
- Unauthorised disclosure of confidential information – excluding disclosures made under the confidential reporting policy;
- Acceptance of bribes or other secret payments;
- Harassment or any act of discrimination towards any one you meet because of your work;
- Sexual harassment of colleagues, pupils, parents/carers or any third parties towards anyone you meet during the course of your work
- Convictions relating to activities outside work, but which have a significant and direct bearing on your employment and duties with the Trust and its reputation;
- Misrepresenting at any time, including at your appointment with the Trust, any previous positions you have held, your qualifications, date of birth, declaration of health, or a failure to disclose a criminal offence or pending criminal action subject to the provisions of the Rehabilitation of Offenders Act 1974.