



Special Partnership Trust



DISCIPLINARY POLICY AND PROCEDURE

Date Last Reviewed: September 2023

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Special Partnership Trust

1. Introduction

- 1.1 Every member of staff has a role to play in both achieving and sustaining the highest standards of conduct and performance. This Procedure is designed to ensure that employee's conduct meets the standards required of them and to ensure that employees are treated fairly and consistently and in line with relevant legislation. One of its primary aims is to encourage a permanent improvement in the employee's conduct.
- 1.2 This procedure should be read in conjunction with the investigation and suspension guidelines if disciplinary action is to be taken.

2. Policy Statement

- 2.1 The Special Partnership Trust aims to ensure that in complying with both legal requirements, and acting as a reasonable employer, that a fair and equitable process will be adhered to in progressing disciplinary matters. Adopting this approach will:
1. Allow disciplinary matters to be dealt with quickly.
 2. Set standards of conduct at work.
 3. Ensure that employees are aware of the standards expected of them.
 4. Treat all employees on an equal basis.
 5. Maintain good employee relations.
 6. Reduce the likelihood of arbitrary decisions by managers.
 7. Assist the Special Partnership Trust in operating effectively.
 8. Apply appropriate disciplinary measures where needed.

3. Scope of Procedure

- 3.1 The procedure will be applied consistently and equitably in respect of the conduct of all employees of the Special Partnership Trust. This procedure does not form part of any contract of employment or other contract to provide services, and we may amend at any time.
- 3.2 The standards of behaviour contained within this procedure also apply to sub-contractors and people providing services to the Special Partnership Trust, as well as to people on work experience. The procedure relates to disciplinary action and/or dismissal on conduct.
- 3.3 Dismissals for any other reason, for example ill health, redundancy or non-renewal of a fixed term contract are dealt with by way of separate procedures. The procedure does not apply to the management of issues relating to capability alone (to whom a separate procedure applies).
- 3.4 Although the procedure identifies the sanctions to be used its aims are to, wherever possible, facilitate an improvement in conduct.
- 3.5 The procedure recognises the importance of informal intervention aimed at improving/changing conduct. Wherever possible, problems should be resolved through an informal process, once facts have been established. In many situations' informal methods, for example, performance management meetings, coaching or counselling, may prove valuable in bringing about improvements in the employee's conduct before the formal disciplinary procedure is implemented. Such measures shall be documented by mutual agreement, be signed and dated on the individual's personal file but are not to be treated as a formal stage of the Disciplinary Procedure. However, where such action fails or where it is inappropriate, the formal disciplinary procedure will apply.
- 3.6 Line managers have day-to-day responsibility for this procedure and you should refer any questions about this policy to them in the first instance. This procedure is reviewed every three years by the Trust.

4. Standards of Behaviour

- 4.1 These standards are the minimum expected from every employee in order to achieve a safe, efficient, quality standard of service. These standards are not exhaustive but are indicative of those which, if not achieved, will lead to action being taken to rectify the behaviour.
- 4.2 All staff are expected to achieve the following in relation to their conduct:
 1. Individuals will behave in such a manner that the interests and wellbeing of the learner and other staff are respected at all times

2. Individuals will undertake any training that is required of them by statute, or that is identified as being required by the Academy. Furthermore, they will acknowledge any limitations in their knowledge and competence and seek assistance in addressing these limitations.
3. Individuals will always behave in a co-operative and respectful manner with other staff and learners.
4. Individuals will at all times protect the privacy and confidentiality of any information gained by them from, or about, a learner or another member of staff.
5. Staff are expected to attend regularly and on time. Sickness absence should be reported in accordance with the procedure.
6. Staff are expected to be dressed professionally and appropriately.
7. The Special Partnership Trust expects staff who use computers to take care to promote appropriate levels of security – for example, logging off when the computer is unattended, and changing passwords regularly.

5. Procedure

- 5.1 Disciplinary action will not be undertaken until the facts have been established. For issues, which are of a minor nature or where the facts are not in dispute, a fact gathering exercise will take place prior to taking a decision on whether or not to progress to a disciplinary meeting. Minor conduct issues can often be resolved informally and a note of such may be placed on the employee's personnel file however they will be ignored for the purposes of any future disciplinary issues.
- 5.2 In more serious cases, including gross misconduct, it may be necessary to undertake a separate investigation and interviews to decide whether or not to proceed with a disciplinary meeting.
- 5.3 Rights of Representation
 - 5.3.1 Employees may be assisted and accompanied by either a member of a recognised Trade Union of which they are a member, or by a colleague from within the Special Partnership Trust, during disciplinary, meetings and /or appeals. They should be given the opportunity to be accompanied at any meeting in which disciplinary action is contemplated. The representative or union colleague will be able to ask general questions during the meeting.
 - 5.3.2 Disciplinary action will not be taken against accredited representatives of Trade Unions until the circumstances have been notified to a full-time official of the Trade Union, or, if agreed, a senior lay official. It is the responsibility of management to take this action. Accredited Trade union colleagues may also be represented by a full-time officer of their union at formal disciplinary proceedings.

5.3.3 Legal representation is not acceptable on either side at any stage within this procedure.

5.3.4 If your companion is unavailable at the time a hearing is scheduled and will not be available for more than 5 working days afterwards, we may ask you to choose someone else.

5.4 Suspension

5.4.1 The Special Partnership Trust reserves the right to suspend an employee from work at any stage of the procedure. However, suspension does not in itself constitute disciplinary action nor is it a presumption of guilt or imply that a decision has been made.

5.4.2 If there is an allegation which is considered to affect the wellbeing of students, the Designated Safeguarding Officer should be informed and should confirm whether suspension is necessary.

5.4.3 Suspension will be on usual contractual pay, terms and conditions.

5.4.4 Suspension will be for no longer than is necessary to investigate the allegations and arrangements will be confirmed in writing. During the suspension the employee should not contact colleagues or visit the workplace unless prior permission has been given by the Trust.

6. Criminal Allegations

6.1 Where your conduct is the subject of a criminal investigation, charge or conviction we will investigate the facts before deciding whether to take formal disciplinary action.

6.2 We will not usually wait for the outcome of any prosecution before deciding what action, if any, to take. Where you are unable or have been advised not to attend a disciplinary hearing or say anything about a pending criminal matter, we may have to take a decision based on the available evidence.

6.3 A criminal investigation, charge or conviction relating to conduct outside work may be treated as a disciplinary matter if we consider that it is relevant to your employment.

7. Confidentiality

7.1 The Trust's aim is to deal with disciplinary matters sensitively and with due respect for the privacy of any individuals involved. All employees must treat as

confidential any information communicated to them in connection with an investigation or disciplinary matter.

- 7.2 You, and anyone accompanying you (including witnesses), must not make electronic recordings of any meetings or hearings conducted under this procedure, whether these meetings or hearings are conducted in person, by telephone, or using remote working platforms or technologies.
- 7.3 You will normally be told the names of any witnesses whose evidence is relevant to disciplinary proceedings against you, unless we believe that a witness's identity should remain confidential.

8. Investigation

- 8.1 It is important that an investigation of the facts of the case is undertaken before any disciplinary action is taken and the purpose of an investigation is to establish a fair and balanced view of the facts before deciding whether to proceed with a disciplinary hearing. Every attempt will be made to conclude an investigation as quickly as is reasonably possible - particularly in the case of an individual who is suspended whilst the investigation is carried out - although the need for thorough consideration of all the relevant facts is paramount.
- 8.2 Employees do not normally have the right to bring a companion to an investigative interview. However, the Trust may allow a companion if it helps the employee to overcome any disability, or any difficulty in understanding English.
- 8.3 Employees must co-operate fully and promptly in any investigation. This will include informing the Trust of the names of any relevant witnesses, disclosing any relevant documents and attending investigative interviews if required.
- 8.4 All statements taken as part of the investigation should – unless circumstances are exceptional - be signed and dated by the individual concerned in order to ensure accuracy.
- 8.5 It is the role of the appointed investigating officer, who would not be involved in any subsequent disciplinary meeting – with advice from the Special Partnership Trust HR Advisor – to decide whether or not there is a prima facie case (i.e., on face value, there is a case) to answer and to agree appropriate action – which may include arranging training or recommending a disciplinary meeting. The outcome of this meeting will be notified to the individual in writing. A disciplinary meeting cannot be convened until this investigation has concluded except for a matter of a minor nature or where the facts are not in dispute.
- 8.6 All documentation that was collated as part of the investigation will be shared with the individual, their representative and the panel (unless it is mutually agreed that a particular document should be excluded or there are exceptional circumstances

warranting its non-disclosure). However, disciplinary decision-making will be based on the evidence specifically referred to and presented within the meeting.

- 8.7 In extreme circumstances, e.g., bullying and harassment allegations, consideration will be given to anonymity.

9. Disciplinary Action

- 9.1 The procedure is designed to be a series of progressive warnings to employees and to incorporate at each stage the opportunity to improve conduct.

- First Written Warning
- Final Written Warning
- Dismissal

However, it may be necessary in certain circumstances involving serious or gross misconduct, or where an employee is still within their probationary period for the procedure to be adapted and to move immediately to a Final Written Warning or to consider Dismissal. Managers may, in certain circumstances, wish to consider supplementary action/redeployment.

- 9.2 If the investigation suggests there is a case to answer, the employee will be invited to a disciplinary hearing and will be sent:

- a summary of the allegations
- a copy of all documentation that was collated as part of the investigation (unless it is mutually agreed that a particular document should be excluded or there are exceptional circumstances warranting its non-disclosure), which should include the names of any witnesses to be called by management.
- notification of the time and date of any disciplinary meeting
- notification of the right to be accompanied

- 9.3 Where there is a possibility that the hearing will result in a final written warning or dismissal the above should be given to the employee, wherever possible, in advance of the scheduled meeting.

- 9.4 Names of witnesses to be called on behalf of the employee, and any documentation to be referred to at the meeting, should wherever possible be supplied to management at least 5 days prior to the date of the meeting.

- 9.5 Attempts to find a date and time for the disciplinary meeting which is convenient for all parties will be made. If the date for the meeting turns out to be inconvenient then the employee or the employee's representative should notify the HR Advisor in writing immediately and a new meeting will be arranged. Employees must make every effort to attend the hearing, and failure to attend without good reason may be treated as misconduct in itself.



- 9.6 If an employee fails to attend a disciplinary meeting without reasonable excuse or persistently fails to attend, the disciplinary meeting may proceed in that employee's absence.
- 9.7 In the event of a decision to dismiss relating to the harm or risk of harm to children or vulnerable adults the Special Partnership Trust has an obligation and reserves the right to refer the employee to the Disclosure and Barring Service. This will only be actioned after the process has been concluded including an appeal stage should the employee invoke this right.

10. **Disciplinary Meeting**

- 10.1 At the disciplinary meeting the employee will have the right to be accompanied by a union representative or colleague. The name of the companion should be given to the Trust at least 5 days before the Hearing.
- 10.2 The purpose of the meeting is to give the employee the opportunity to present their version of events and any points the employee would like the disciplinary panel/disciplining manager to take into account, including mitigating factors.
- 10.3 The hearing will be chaired by a [senior] manager. The Investigating Officer and a member of the HR Department may also be present.
- 10.4 At the disciplinary hearing we will go through the allegations against the employee and the evidence that has been gathered. The employee will be able to respond and present any evidence of their own. The companion may make representations to the Trust and ask questions, but should not answer questions on the employee's behalf. The employee may confer privately with their companion at any time during the hearing.

The employee may ask relevant witnesses to appear at the hearing, provided they give the Trust sufficient advance notice to arrange their attendance. The employee will be given the opportunity to respond to any information given by a witness. However, will not normally be permitted to cross-examine witnesses unless, in exceptional circumstances, the Trust decides that a fair hearing could not be held otherwise.

The Trust may adjourn the disciplinary hearing if it needs to carry out any further investigations such as re-interviewing witnesses in the light of any new points the employee has raised at the hearing. The employee will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.

The outcome will be confirmed in writing within 2 calendar weeks of the hearing.

Disciplinary penalties

11.1 Employees will be notified of the length of time during which their warning will remain live. After the live period, the warning will remain permanently on the employee's personnel file but will be disregarded in deciding the outcome of future disciplinary proceedings.

11.2 Unless circumstances are exceptional, warnings should cease to be "live" following the specified period of satisfactory conduct and should be disregarded for future disciplinary purposes. In exceptional circumstances, there may be occasions where an employee's conduct is satisfactory throughout the period the warning is in force only to lapse very soon thereafter. Where a pattern emerges and there is evidence of similar offences, the employee's disciplinary record should be borne in mind in deciding how long any current warning should last. In such circumstances, it may be appropriate to extend the time scales indicated.

11.3 Warnings will generally remain "live" on an employee's record for the following periods of time;

First written warning – 26 weeks
Final written warning – 52 weeks

The outcome of the hearing will be recorded in a letter on the employee's personnel file. The letter will detail:

- The reason that the warning was issued together with a summary of the employee's and his / her representative's comments.
- The improvements required and the period over which they are expected.
- Any action necessary by management to assist achievement of improved conduct, for example, attendance on a training course.
- That any further act of misconduct or a failure to achieve the required level of conduct may result in further disciplinary action.
- The period of time the warning will remain on file.
- The fact that the employee chose to be accompanied at the hearing and by whom or, if appropriate, the fact that they chose not to be accompanied.
- A copy of this letter will be sent to both the individual and their representative if one was present at the hearing and the HR Advisor.

11.4 **Stage 1: first written warning.** A first written warning will usually be appropriate for a first act of misconduct where there are no other active written warnings on the employee's disciplinary record.

11.5 **Stage 2: final written warning:** A final written warning will usually be appropriate for:

(a)misconduct where there is already an active written warning on the employee's record; or

(b) misconduct that the Trust consider sufficiently serious to warrant a final written warning even though there are no other active warnings on the employee's record.

- 11.6 **Stage 3: dismissal:** Dismissal will usually only be appropriate for:
- (a) any misconduct during the probationary period;
 - (b) further misconduct where there is an active final written warning on the employee's record; or
 - (c) any gross misconduct regardless of whether there are active warnings on the employee's record. Gross misconduct will usually result in immediate dismissal without notice or payment in lieu of notice (summary dismissal). Examples of gross misconduct are set out below.

Gross Misconduct

- 11.7 Gross misconduct occurs where a member of staff acts in a way which is incompatible with the faithful discharge of their duty to the employer. The misconduct must be gross or grave, seen in the light of all the circumstances of the case and so serious that it goes to the root of the contract of employment and makes the staff member's continued employment incompatible with the best interests of the Special Partnership Trust.

The following standards are examples of those that, if not achieved, may lead to summary dismissal, following investigation for a first breach:

- Violent Conduct, physical or verbal, towards staff, students or any other stakeholder. Any serious insubordination or deliberate rudeness is unacceptable. Intimidating or threatening behaviour verbally therefore is outside this expectation, as is actual assault.
- Discrimination, in breach of the Equal Opportunities Policy, in relation to age, gender, race, religion/belief, sexual orientation or related to socio economic factors clearly undermines the dignity of the person and would be grounds for disciplinary action against the individual.
- Any serious breach of respect for Staff and Learners.
- Improper relationships with learners, colleagues or other Special Partnership Trust employees.
- Failure to declare a pecuniary interest including employment with a competitor or potential competitor without prior written consent of the Headteacher.
- Confidentiality: Subject to the Public Interest Disclosure Act 1998, the Special Partnership Trust expects all staff to maintain confidentiality and to adhere to the requirements of the staff code of conduct
- Honesty: Staff are expected to treat Special Partnership Trust and members of the public's and fellow colleague's property with honesty and respect. Behaviour including actual or attempted theft on Special Partnership Trust or associated premises, whether on or off duty, including unauthorised borrowing of any item of property provided by the Academy/Special Partnership Trust.
- Fraud including deliberate falsification of records is unacceptable. Any person who dishonestly makes a false representation to make a gain for himself or another or dishonestly fails to disclose to another person, information which he is under a legal



duty to disclose, or commits fraud by abuse of position, including any offence as defined in the Fraud Act 2006

- Negligence; this is particularly serious where it results or could result in injury or malicious damage to persons or damage to property.
Corruption: This includes failure to declare a pecuniary interest in contracts.
- Bribery - Giving or receiving a financial or other advantage in connection with the improper performance of a position of trust, or a function that is expected to be performed impartially or in good faith.' (Bribery Act 2010)
- Conduct Outside: Criminal offences outside employment, where the offence is relevant to the nature of the employment, affects the ability of an employee to carry out duties, is likely to bring the Special Partnership Trust into disrepute, or undermines the Special Partnership Trust and confidence which exists between employer and employee. Also, a failure to inform your manager if you are arrested. (NB it is a requirement to declare all enquiries, but action will only be taken by management if relevant to employment).
- Failure to undertake mandatory training that is a requirement for your role.
- Data Protection Act 1998; disclosure of confidential information will therefore be treated very seriously; for example:
 1. Personal information relating to other staff members
 2. The Special Partnership Trust's financial affairs including costings, budgets, turnover or other financial information and confidential policy documents
 3. Any Special Partnership Trust business plans and contract arrangements (whether or not in the case of documents they are marked as confidential)
- Being unfit for duty due to the influence of alcohol and/or non-prescribed drugs/illegal drugs. Any employee reporting for duty smelling of alcohol or showing signs of substance abuse (in the reasonable view of the individual's manager) will be suspended from duty.
- Breach of procedures and standing orders brought to the attention of employees eg. by notice of training, and which could lead to injury to persons, damage to property or damage to public confidence in the services the Special Partnership Trust provides. This also includes any breach of any other policies e.g. No Smoking, Health and Safety policies - especially where this may lead to injury to self, other persons or damage to property.
- Health & Safety: Failure to comply with statutory requirements of health and safety. There is a responsibility to report accidents involving yourself and others through appropriate procedures, and to pay due care and attention to the safety of yourself and others.
- Making or initiating public statements likely to lead to a lowering of public confidence in the Special Partnership Trust including seeking to use the media to raise issues which should properly be handled internally. Nothing in this statement is intended to restrict staff from raising legitimate concerns in the public interests although these must be raised in the first instance with the Headteacher/Deputy Headteacher who will provide advice.

- Social Networking: Inappropriate postings on social networking sites and especially where this leads to a lowering of public confidence in the Special Partnership Trust is unacceptable.
- Breaches of the Special Partnership Trust’s Security Policy or misuse of I.T. facilities, for example:
 1. Excessive use of the Internet / E-mail for personal reasons where it impacts on an individual’s day to day work and continues to do so.
 2. Inappropriate use of E-mail or the Internet – eg. for harassment or pornography.
 3. Obtaining and using an inappropriate level of password access (eg. by “hacking” into a computer).
 4. Using unauthorised applications software.

- 11.8** Alternatives to dismissal. In some cases the Trust may at its discretion consider alternatives to dismissal. These will usually be accompanied by a final written warning. Examples include:
- (a) Demotion.
 - (b) Transfer to another department or job.
 - (c) A period of suspension without pay.
 - (d) Loss of seniority.
 - (e) Reduction in pay.
 - (f) Loss of future pay increment or bonus.
 - (g) Loss of overtime.

12. Appeals

12.1 Requesting an Appeal Meeting

Where a disciplinary warning has been issued, supplementary action has been taken, or an employee has been dismissed, the employee will have an entitlement to appeal against the decision. The member of staff must request such an appeal, in writing, stating the grounds of the appeal, to the Headteacher within 5 days of notification of the disciplinary action

12.2 The appeal hearing may be a complete re-hearing of the matter or it may be a review of the fairness of the original decision in the light of the procedure that was followed and any new information that may have come to light. This will be at the Trust’s discretion depending on the circumstances of the employee’s case. In any event the appeal will be dealt with as impartially as possible.

12.3 If the employee is appealing against dismissal, the date on which dismissal takes effect will not be delayed pending the outcome of the appeal. However, if the appeal is successful the employee will be reinstated with no loss of continuity or pay.



- 12.4 If the employee raises any new matters in the appeal, the Trust may need to carry out further investigation. If any new information comes to light the Trust will provide the employee with a summary including, where appropriate, copies of additional relevant documents and witness statements. The employee will have a reasonable opportunity to consider this information before the hearing, and they or their companion may comment on any new evidence arising during the appeal before any decision is taken.
- 12.5 the Trust will give the employee written notice of the date, time and place of the appeal hearing. This will normally be two to seven days after the employee receives the written notice.
- 12.6 The employee may be accompanied by a union representative or colleague acting in a personal capacity at the hearing.
- 12.7 the Trust may adjourn the appeal hearing if it needs to carry out any further investigations in the light of any new points the employee has raised at the hearing. The employee will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.
- 12.8 Following the appeal hearing the Trust may:
- (a) confirm the original decision;
 - (b) revoke the original decision; or
 - (c) substitute a different penalty.
- 12.9 The Trust will inform the employee in writing of its final decision as soon as possible, usually within two weeks of the appeal hearing. Where possible it will also explain this to the employee in person. There will be no further right of appeal.

13. Police Enquiries

- 13.1 If an employee is arrested, charged or summoned for questioning in relation to any alleged offence, they must inform their manager in writing as soon as reasonably possible. This includes employees whose job involves driving, who must inform their manager in writing if charged with a driving offence. Failure to do so will be considered as misconduct and appropriate disciplinary action may be taken. Any action taken after notification will be dependent upon the relationship of the alleged offence to the duties undertaken. Advice can be obtained from the Special Partnership Trust HR Advisor.
- 13.2 If an employee is subject to an investigation by the police for alleged offences, which are relevant to the nature of the employee's employment, the Special Partnership Trust will be entitled to pursue its own parallel enquiries but these will not hinder the police enquiry.
- 13.3 Investigation and disciplinary action under this procedure will not necessarily await or be dependent upon the outcome of police enquiries or legal proceedings. Where at

the request of the Police an investigation is halted the timescale will commence at the resumption of the investigation.

- 13.4 Disciplinary action may be taken if the alleged conduct has, on the balance of probabilities, occurred and is relevant to the nature of the employee's employment, affects their ability to carry out their duties, is likely to bring the Special Partnership Trust into disrepute, or undermines the Special Partnership Trust and confidence between employer and employee.

