



Astrea Academy Trust
INSPIRING BEYOND MEASURE

Disciplinary Policy and Procedure

Date	September 2023
Written by	Astrea HR
Consulted with NJCC	October 2017
Adopted	October 2017, reviewed August 2023
Review Date	July 2024, for implementation from September 2024

Contents

1. Introduction Principles and Objectives	1
2. Core Principles.....	1
3. Discipline of an Employee Representative.....	2
4. Safeguarding and Child Protection Issues.....	2
5. Alleged Criminal Offences	3
6. Definitions of misconduct and gross misconduct	3
6.1 Misconduct	3
6.2 Gross Misconduct	4
7. Suspension	5
8. Informal Stage.....	6
9. Formal Procedure	6
9.1 Appointing the Investigating Officer - Academy Based cases.....	6
9.2 Appointing the Investigating Officer - Central Team cases	7
9.3 The role of the Investigating Officer	7
9.4 The investigation.....	8
9.5 Potential investigation outcomes	9
9.6 Support and assistance	9
10. Raising a Grievance during a Disciplinary Investigation	10
11. Notification of a Disciplinary Hearing	10
12. Procedure for a Disciplinary Hearing	11
12.1 Disciplinary Hearing for Academy Based Employees	11
12.2 Disciplinary Hearing for Central Team Employee.....	11
13. Disciplinary Sanctions and Record of Hearings.....	12
13.1 The possible actions arising from a disciplinary Hearing.....	12
13.2 The written notification will include the following information	13
14. Appeals.....	13
14.1 All Academy Staff.....	13
14.2 All Central Staff.....	13
14.3 The Appeal Process	13
14.4 Action available to the Appeal Panel	14

14.5 Notification of decisions made by the Appeal Panel	14
15. Records of warning.....	14
16. Confidentiality	15
17. Review.....	15
Appendix 1 – Procedure for a Disciplinary Hearing	
Appendix 2 – Disciplinary Procedure Appeal Proforma	
Appendix 3 – Procedure for a Disciplinary Appeal Hearing	
Appendix 4 - Examples of Misconduct	
Appendix 5 - Examples of Gross Misconduct	

1. Introduction and Scope of the Policy and Procedure

This Disciplinary Policy and Procedure applies to all academy based and central employees of Astrea Academies Trust (Astrea).

Astrea recognises it has a statutory obligation to adopt formal policies and to establish workplace procedures for managing staff behaviour and conduct. A high standard of staff conduct is essential for the effective and efficient management of academies and the safety and wellbeing of all staff in the Trust. Astrea recognises that a disciplinary policy and procedure promotes positive behaviours and employment relations, as well as demonstrating Astrea's commitment to dealing with conduct in a fair and consistent way. The Astrea Disciplinary Policy and Procedure is written in line with the ACAS code of practice.

At all stages within this policy and procedure, and in accordance with the Equality Act 2010, provision will be made for any reasonable adjustments to accommodate the needs of the individuals attending meetings and Hearings.

This policy and procedure will be applied consistently and fairly to all employees, based on the circumstances of their case. No-one will be treated less favourably on the grounds of their gender, disability, age, race, creed, colour, religion, nationality, ethnic or national origin, Trade Union membership or activity, sexual orientation, gender reassignment, medical condition, marital status or any other protected characteristic. Furthermore, Astrea recognises its responsibility to ensure the implementation of the rules of natural justice as part of this policy and procedure; i.e.

- The employee should know the nature of the allegation(s) against them.
- The employee should have an opportunity to state their case.
- Management should act in good faith.
- A decision maker must give the employee a fair Hearing in advance of the decision being made.
- A decision maker may not be biased or prejudiced.

This policy and procedure is not intended primarily as a means of imposing disciplinary sanctions. Its primary aim is to ensure that employees of Astrea are treated fairly and consistently, ensuring that proper and adequate procedures are observed before any decision is taken.

For the purposes of clarity when this policy and procedure refers to The Principal/Senior Leader this covers both academy and central staff.

All proceedings under this procedure shall be held in private and shall remain confidential.

2. Core Principles

- It is a fundamental principle that disciplinary matters are dealt with at the lowest level possible, appropriate to the disciplinary matter under investigation.
- The procedure should be used primarily to help and encourage employees to improve rather than as a way of imposing a punishment.

- Issues should be raised and dealt with promptly and should not unreasonably delay meetings, decisions or confirmation of those decisions.
- The employee should be informed of any complaint/allegation against them and be provided with as much information as deemed appropriate without compromising the investigation.
- The employee should be provided with an opportunity to state their case before decisions are reached
- Any action taken should be reasonable in the circumstances of the case.
- An employee should not be dismissed for a first disciplinary offence, unless it is a case of Gross Misconduct.
- An employee should be informed of the required standards of behaviour and conduct expected of them.
- Where an employee has been warned before about their conduct or behaviour, it should be made clear at that time that if there is a further instance of misconduct, formal disciplinary action could be taken.
- All meetings held within this procedure will be arranged at a mutually agreed date, time and venue.
- The employee will be given the right to appeal against any formal disciplinary sanction.
- The employee has the right to be accompanied by a Trade Union representative or a work colleague only at any stage during the procedure. It is the employee's responsibility to organise their own representation.
- Where possible, the Hearing Officer (Principal / Senior Leader) should not have had any prior involvement with the investigation. Those conducting an appeal should not have had any prior involvement with the investigation or the disciplinary Hearing.

If, without good cause, the employee is unable or unwilling to attend a disciplinary Hearing that has been organised on two separate occasions, the matter will be heard in their absence and a decision made based on all the evidence available. In these instances, employees are encouraged to present written representations.

3. Discipline of an Employee Representative

In the case where disciplinary action is being considered against an employee who is a Trade Union representative, the normal disciplinary procedure will be followed. However, in accordance with the ACAS Code of Conduct, the Principal will discuss the case with the regional Trade Union official of the relevant union of any potential proceedings against a Trade Union representative before any action is taken.

4. Safeguarding and Child Protection Issues

If a complaint against an employee relates to a child protection issue an academy or trust representative, or the Investigating Officer must contact the Local Authority's Designated Officer (LADO) at the outset, to discuss how to proceed. The outcome may be that an allegations strategy meeting is required and the LADO will convene this meeting if this is the case.

If the allegation is substantiated and the employee is dismissed or the Academy / Trust ceases to use the person's services, or the person resigns or otherwise ceases to provide his/her services, the LADO should discuss with the academy whether a referral should be made for consideration as to the individual being barred from, or have conditions imposed in respect of, working with children. Legal advice may be sought.

No disciplinary records relating to the safety and welfare of children and young people will be withdrawn from an employee's personal file for holders of posts covered by the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975. Whilst the warning will remain on file, it is not 'live' and would only be taken into account if relevant and reasonable to do so in the context of the responsibility for the protection of children.

The Academy will refer to the relevant external agency those serious misconduct cases relating to registered teachers, which do not raise issues relating to the safety and welfare of children and young people, who are dismissed through this procedure or where the proceedings would have led to dismissal had the employee not resigned. Legal advice may be sought.

Where grounds for dismissal relate to issues relating to the safety and welfare of children and young people these will be referred by the academy to the Disclosure and Barring Service (DBS) and the National College for Teaching and Leadership (NCTL).

5. Alleged Criminal Offences

If an employee is charged with, or convicted of a criminal offence, this should not normally in itself be reason for disciplinary action. Consideration must be given to what effect the charge or conviction has on the employee's suitability to do the job and their relationship with the Academy and work colleagues. The disciplinary procedure will only be instigated where there are reasonable grounds for believing that the nature of the activities is sufficiently serious to have an adverse effect on the ability of, or confidence in, the employee to carry out his/her duties properly, bringing Astrea into disrepute, the breaking down of the employment contract due to a lack of trust and confidence, and for any other substantial reason. This may also apply to the disqualification by association legislation.

Where an employee is alleged to have committed a criminal offence and Police investigations are underway, disciplinary proceedings can be taken and a decision implemented in accordance with this procedure before Police investigations are completed. This must however, be handled carefully and in accordance with Police instructions so as not to interfere in the police investigation.

The Academy will normally wish the Police to independently prosecute offenders where financial impropriety at work is discovered, in addition to whatever disciplinary action is felt appropriate.

6. Definitions of Misconduct and Gross Misconduct

6.1 Misconduct

This is a breach of discipline on its own is not sufficiently serious to warrant dismissal, but will warrant action being taken under this procedure. In cases where misconduct takes place and live warnings for this or another type of misconduct are still in force, then unless mitigating circumstances are proven, the employee may be dismissed.

Examples of misconduct are outlined below. This list is not intended to be exhaustive or exclusive and there may be other incidents or misconduct of a similar gravity that arise. Further examples can be found at Appendix 4.

- Poor timekeeping.
- Failure to observe reasonable instructions.
- Failure in Duty of Care towards pupils and employees.
- Failure in protecting the Health, Safety and Wellbeing of pupils and employees.
- Minor instances of neglect of duties and responsibilities.
- Wilful failure to cooperate or follow reasonable instructions with Astrea employees.
- Deliberate minor breaches of Astrea policies and procedures.
- Misuse of Astrea facilities (e.g. telephone and internet, including social networking sites).
- Failure to eradicate a repeat pattern of unacceptable behaviour.
- Breaches of safety regulations and safer working practices.

6.2 Gross Misconduct

This is a grave breach of discipline which may be serious enough to end the employment contract between Astrea and the employee making any further working relationship and trust impossible.

Gross Misconduct can lead to dismissal or a final written warning, even in cases of first incidents of Gross Misconduct.

Examples of Gross Misconduct are outlined below. The list is not intended to be exhaustive or exclusive and there may be other incidents of Gross Misconduct of a similar gravity which could result in dismissal. Further examples can be found at Appendix 5.

- Theft or Fraud.
- Serious safeguarding concerns.
- Falsifying expense/overtime claims, or any other claims that results in financial mismanagement.
- Falsification or concealment of work records.
- Serious breaches of relevant professional Codes of Conduct.
- Refusal to register with mandatory professional bodies (including persistent failure).
- Failure in Duty of Care to protect pupils or young adults by placing them at significant risk.
- Physical violence against any child or adult.
- Bullying, abusing or threatening behaviour towards pupils and/or adults.
- Unlawful discrimination or harassment.
- Serious and deliberate damage to property.
- Wilful refusal to follow reasonable instructions.
- Serious incapability at work brought on by alcohol or illegal drugs.
- Consuming alcohol or illegal drugs whilst on duty in all capacities, including residential activities.
- Serious abuse of the Astrea e-Safety Policy (e.g. in relation to accessing pornographic internet sites, social media sites, or sending and receiving offensive or obscene material).
- Bringing Astrea into disrepute.
- Serious misuse of Astrea facilities (e.g. telephone and the internet, including social networking sites).
- Causing loss, damage or injury through serious negligence.
- Indecent behaviour, offensive behaviour or sexual harassment.
- Unauthorised absence.

7. Suspension

In certain cases, a period of suspension from work may be considered whilst a case is being investigated and or before a disciplinary Hearing is held. During any period of suspension, the employee remains in employment and will be on full pay, including associated contractual benefits, without prejudice to the outcome of the investigation.

Astrea HR must be consulted in all cases before a decision to suspend is taken.

Suspension with pay should only be imposed after careful consideration and should be reviewed to ensure it is not unnecessarily protracted. In all cases, the employee should be advised to seek assistance from their Trade Union.

Examples in which suspension may be considered include:

- Where there are sound reasons to believe pupils / employees / property are at risk.
- Where it is believed that the continued presence of the employee might prejudice enquiries or influence witnesses.
- There are reasonable grounds for concern that evidence has been tampered with, destroyed or witnesses pressurised before the Hearing.
- Where the allegations are so serious that dismissal for Gross Misconduct is possible.

Where suspension is being considered, an interview with the employee should take place as soon as possible. In child protection cases, the LADO must be contacted in accordance with local child protection procedures. If criminal activity has been alleged to have taken place, then the Police will also be contacted.

An employee has a right to be represented at a meeting whereby they will be informed of a suspension by a Trade Union representative or work colleague. However, in certain circumstances Astrea may decide to suspend without the Trade Union Representative being present, for instance in cases of unavailability of the Trade Union Representative. Where a Trade Union Representative is not available, the employee will be offered the opportunity to be accompanied by a work colleague of their choice. All steps will be taken to suspend in person. However, in exceptional circumstances an employee maybe contacted over the telephone in circumstances where this is appropriate advice will be given to the employee, including to contact their Trade Union.

The employee will receive written confirmation of the suspension. This confirmation will include the reasons for the suspension, the date from which the suspension will operate and details of any restrictions relating to their suspension. The employee will be provided with an information contact during the period of their suspension. The role of the contact is to provide information regarding the progress of the investigation. Whilst suspended the employee is to make no contact with any other employee, email and phone account access will also be temporarily suspended.

Suspension is a neutral act and not an assumption of guilt and is not considered a disciplinary sanction.

Astrea will review the necessity for the suspension throughout the investigation and the employee will be notified of either the continuing need for the suspension or the lifting of the suspension after each review.

8. Informal Stage

The day to day supervision of employees is part of the normal managerial process. It is important therefore that the immediate line manager clarifies with employees the duties to be performed and the standards expected. In most cases, the line manager is the Principal / Senior Leader.

The Principal / Senior Leader should first assess if the possible disciplinary matter can be dealt with informally if the level of misconduct is at a low level. This approach can lead to resolving problems quickly and confidentially. If this is done, there is likely to be less need to progress the formal procedures.

If an immediate line manager has a concern about an employee's conduct, it should be brought to the attention of the employee at the earliest possible opportunity. Where such a meeting takes place, the line manager / Principal/ Senior Leader should explain at the meeting with the employee the area(s) of concern and give the employee the opportunity to respond.

It is important that the line manager / Principal / Senior Leader tries to establish if there are any mitigating circumstances that may have contributed to the employees conduct. The line manager / Principal / Senior Leader should deal with the employee in a fair and equitable manner but at the same time ensure that the employee is in no doubt as to the conduct required.

This informal approach is considered as being outside the formal disciplinary procedures but there will be situations where matters are more serious or where an informal approach has been tried but is not successful. In these cases, the matter will be progressed to the formal disciplinary procedure.

The Principal / Senior Leader will initiate the disciplinary procedure in the following circumstances:

- Where the Principal / Senior Leader has assessed that the matter cannot be dealt with informally.
- Where the employee has been given a previous warning for behaviour of a similar nature.
- Where the allegation is of a 'child protection' nature; if deemed appropriate following consultation with the Local Authority Designated Officer (LADO).

The Principal / Senior Leader is advised to consult with the Astrea HR team before appointing an Investigating Officer to investigate the allegations using the formal Disciplinary Policy and Procedure.

Where there are concerns about the conduct of the Principal / Senior Leader, an Astrea Director must determine the most appropriate person to be appointed as the nominated person / Investigating Officer to deal with the matter.

9. Formal Procedure

9.1 Appointing the Investigating Officer - Academy Based Cases

In the case of a Support or Teaching employee being investigated:

The Investigating Officer will be: A member of the academy senior leadership team. In certain circumstances the Investigating Officer can be a member of another academy's senior leadership team, or an appropriate member of the Astrea Central Team. Astrea HR will provide support as required.

In the case of an Assistant Principal being investigated:

The Investigating Officer will normally be: The academy Deputy Principal. In certain circumstances the Investigating Officer can be a Deputy Principal of another academy, or an appropriate member of the Astrea Central Team. Astrea HR will support as required.

In the case of a Deputy Principal being investigated:

The Investigating Officer will normally be: The academy Principal. In certain circumstances the Investigating Officer can be a Principal from another academy. Astrea HR will support as required.

In cases where the conduct of the Principal is the subject of the investigation:

The Investigating Officer will normally be: An Executive Principal or an appropriate member of the Astrea Central Team. Astrea HR will support as required.

9.2 Appointing the Investigating Officer - Central Team

Cases In the case of a Central Astrea employee being

investigated:

The Investigating Officer will normally be: An appropriate member of the Central Team, supported by HR as required.

The Investigating Officer should verbally advise the employee of the allegation(s) made against them and advise them that an Investigating Officer has been appointed to investigate the allegation(s) and that the Investigating Officer will be writing to the employee to invite them to an initial investigating meeting.

In all cases, if a member of staff has any concerns regarding the appropriateness of the chosen Investigating Officer they should raise these at the commencement of the investigation and, if required, throughout the process.

9.3 The Role of the Investigating Officer

The Investigating Officer should be a person with no involvement whatsoever in the matter under investigation. This person should, wherever possible, be a senior employee to the employee who is being investigated.

The Investigating Officer's brief is to establish the facts of the case by gathering information. This can be in the form of witness statements, interviews, CCTV footage, and through obtaining other relevant documents.

Where the matter under investigation involves an allegation(s) of physical/sexual abuse and the Police or child protection agencies are involved, Astrea's investigation may have to be held in abeyance until the

external investigation has been completed. Advice should be sought from Astrea HR.

All investigations will be undertaken in the strictest of confidence. The employee and any other individuals interviewed as part of this process will be advised to treat the investigation as such.

Where Astrea would always support the notion that the HR function supports the Investigating Officer in some cases the Investigating Officer may carry out the investigation with varying degrees of HR support, dependent on the case circumstances, and the Investigating Officer's experience.

9.4 The Investigation

As part of the investigation, a meeting should be arranged with the employee as soon as possible, giving a minimum of five working days' notice in writing to the employee, who will also be advised that they may be accompanied by a Trade Union representative or a colleague of their choice, excluding family members and solicitors.

Where the employer is notified of the employee's chosen representative in advance, every effort will be made to arrange the meeting at a mutually convenient time.

A note taker will be provided for the Hearing. Notes will be distributed as soon as possible following the meeting with the staff member being provided with the opportunity to make amendments to these notes.

At the meeting, the Investigating Officer should present the allegation(s) to the employee and ask any questions that are relevant to the investigation. The employee will be invited to respond in full and to any other information submitted by the Investigating Officer.

At any point during the meeting the employee or the Investigating Officer may request a short adjournment to consult their representative.

If new allegations emerge during the course of the investigation, it may be necessary to re-interview the employee or witness in seeking to establish the facts.

The investigation should be conducted as soon as possible. Every attempt should be made to complete the investigation in a timely manner and to expedite the process. The employee under investigation will be given regular information as to how the investigation is progressing.

As part of the investigation, the Investigating Officer will determine whether there is a case to answer and a written report should be prepared of the facts of the case which will include a list of every individual who has been interviewed, together with records of interviews, and any other evidence, and an indication of the proposed next steps. These will be made available to all parties should a disciplinary Hearing ensue.

After the investigative process has been completed and the Investigating Officer has consulted with the appropriate Astrea HR Representative, the employee must be informed as soon as possible in writing of the decision taken by the Investigating Officer. This will take the form of one of the following:

- An invitation to a disciplinary Hearing should it be deemed that there is a case to answer.
- A management advice letter.
- Other training and advice as necessary.
- Or a letter to confirm that the investigation is closed and no further action will be taken.

In making the decision the Investigating Officer should consider the following:

- The likelihood of the issue reoccurring.
- The impact of a Hearing on the employee's confidence in themselves and the academy.
- Whether staff training, advice and changing academy practice would provide more confidence that the issue would not reoccur.
- The impact that issuing disciplinary warnings can have on employees' willingness to report near misses.

9.5 Potential Investigation Outcomes

a) Take no further action under the disciplinary procedure.

Where the outcome is not to refer the matter to a disciplinary Hearing, there should be a meeting with the employee to advise them of this decision in person. The employee will also receive written confirmation of this decision.

If the employee has been suspended and it is not intended to proceed with any form of disciplinary action, the suspension should be lifted immediately by the Principal / Senior Leader. The Principal / Senior Leader should meet the employee to discuss their return to work.

b) A management advice letter.

This should state that, although the allegation has some foundation, the employee will receive advice and (if appropriate) training and that the matter does not merit a Hearing in this instance. The letter could list mitigation that led to the decision and warn that a repeat could result in further disciplinary action.

c) Other training and advice.

It is good practice for the institution to learn from risks, near misses and incidents and respond in a positive way by reviewing policies and practices, issuing advice and offering appropriate training.

d) Convene a disciplinary Hearing.

If a disciplinary Hearing has been recommended, the Investigating Officer's report will be made available to all parties in the investigation pack prior to the disciplinary Hearing. This will be sent out with the disciplinary Hearing invite letter a minimum of ten working days before the Hearing.

e) Management advice/mentoring is needed, and/or additional training is required. This solution can be applied in parallel with outcome a, and b.

9.6 Support and Assistance

The Principal / Senior Leader should ensure the opportunity for support throughout the investigation and disciplinary process. This could be used to give appropriate guidance, support and reassurance and to

help rebuild, where necessary, an employee's confidence. Any support of this nature will be provided by an appropriate person who is not involved in the process.

10. Raising a Grievance During a Disciplinary Investigation

Where an employee under investigation raises a grievance during a disciplinary process that is not directly related to the disciplinary process, the disciplinary process may, after consideration of the grievance, continue. Where the grievance and disciplinary cases are related it may be appropriate to deal with both issues concurrently, or to temporarily adjourn the disciplinary process. A discussion will therefore take place between the relevant parties, HR and the employee (normally through their Trade Union representative or directly if they are not represented) about whether or not the disciplinary procedure should be adjourned so that the grievance issues can be dealt with separately under the Astrea Grievance Procedure or not.

Adjournment of the disciplinary procedure would normally take place when:

- The grievance relates to a conflict of interest that the investigator is alleged to have.
- Bias is alleged in the conduct of the disciplinary meeting.
- There is an allegation that management have been selective in the evidence they have supplied to the investigator.
- There is possible discrimination.

It should be noted that this is not an exhaustive list.

11. Notification of a Disciplinary Hearing

If the Investigating Officer is satisfied that the alleged misconduct warrants a Hearing, they will inform the employee and a disciplinary Hearing will be arranged. The employee will be notified in writing of the following:

- The date, time and venue of the Hearing – with at least ten working days' notice.
- The names of the panel members.
- The specific nature of the allegation/s.
- The employee's statutory right to be accompanied by either a work colleague or Trade Union representative.
- The requirement for all parties to provide names and status of any witnesses to be called at the same time as any documentary evidence at least two days before the Hearing.
- All supporting documents to be used as evidence by management, including a copy of the investigation report at the time of being invited to the Hearing.
- The possible/likely outcome of the Hearing if the allegations are considered proven i.e. warnings, dismissal etc.
- A copy of the Disciplinary Policy and Procedure.

Where the Hearing date is postponed at the request of the employee or their representative, only one further Hearing date will be arranged. The alternative date should be within five working days of the original Hearing date. In the event of the employee being unable to attend the second date arranged, the Principal / Senior Leader may go ahead with the Hearing in the employee's absence based on the evidence available. The employee would have the option of written representation in their absence. Where the reasons for the employee's inability to attend relate to a disability, careful consideration will be given as

to whether a third Hearing date should be arranged or whether any other reasonable adjustments can be considered.

12. Procedure for a Disciplinary Hearing (Appendix 1)

The Disciplinary Hearing will be carried out by the following personnel:

12.1 Disciplinary Hearing for Academy Based Employees

Support Staff and Teaching Staff:

The panel for the Hearing will be: The Principal of the academy, and one member of the Local Governing Body (LGB). In certain circumstances the panel can be made up of the Principal from another academy or an appropriate member of the Astrea Central Team. The panel will be advised by a member of the HR department.

Assistant Principal:

The chair of the Hearing will be: The Principal and one member of the LGB. The panel will be advised by a member of the HR department.

The Vice/Deputy Principal:

The panel for the Hearing will be: An appropriate member from the Astrea Central Team or the Principal if they were not involved in the investigation, or an Executive Principal and one member of the LGB. In certain circumstances the panel can be made up of the Principal from another academy. The panel will be advised by a member of the HR department.

The Principal:

The panel for the Hearing will be: A Director from the Central Team or an Executive Principal and one member of the LGB. The panel will be advised by a member of the HR department.

This is for guidance. If other suitable personnel take up any part of the investigation or Hearing process all members will be made aware of who is involved at each stage.

12.2 Disciplinary Hearing for a Central Team Employee

The panel for the Hearing will be: two appropriate members of the Central Team; the panel will be advised by HR.

A procedure for the Disciplinary Hearing is included at Appendix 1.

All mobile phones and recording devices must be switched off at all times within the Hearing. No recording will be allowed unless agreed by all parties before the Hearing begins.

Minutes will be taken by a suitable person arranged by the academy/Astrea. Copies of all minutes should be circulated to all parties as soon after the Hearing as possible.

Once the panel's heard the case and they are satisfied that all relevant evidence has been heard, they will consider all the facts of the case, whether these constitute unacceptable conduct and what the level of sanction should be, if any. When the panel are making a decision, they must consider the principles of natural justice and objectivity in considering the evidence. All parties other than the panel and the HR Adviser shall withdraw when the consideration of evidence is undertaken.

13. Disciplinary Sanctions and Record of Hearings

13.1 The possible actions arising from a disciplinary Hearing

No further action – All allegations and documentation will be removed from the employee's file and removed from the record. This will be confirmed in writing.

Management advice - This should state that, although the allegation has some foundation, the employee will receive advice and (if appropriate) training and that the matter does not merit a disciplinary sanction. The letter could list mitigation that led to the decision and warn that a repeat could result in further disciplinary action.

First warning – This can be used for more minor breaches of conduct. The employee should be notified that they have a right of appeal and that a record of the warning will be kept on file but disregarded for disciplinary purposes after six months subject to continuous satisfactory conduct during this period.

Written warning – This is used where an employee has been found to have committed an act(s) of misconduct. This written warning will set out the nature of the misconduct/reasons for the warning. The employee will be notified that the warning constitutes part of the formal disciplinary process and the consequences of any further misconduct of a similar nature, could be a further disciplinary action, up to and including dismissal during the life of the warning. The employee should be notified that they have a right of appeal and that a record of the warning will be kept on file but disregarded for disciplinary purposes after nine months subject to continuous satisfactory conduct during this period.

Final written warning – This warning will be given where misconduct is not sufficient to justify dismissal, but is sufficiently serious that it warrants a warning for gross misconduct. A final written warning may also be issued where there is still a failure to improve following a previous written warning/s. The employee should be notified that they have a right of appeal and that a record of the warning will be kept on file but disregarded for disciplinary purposes after 12-months subject to continuous satisfactory conduct during this period.

Dismissal – In cases of dismissal, the employee shall be given such notice as required under their employment contract to terminate their employment, except in cases of Gross Misconduct where the employment contract will be terminated without notice – summary dismissal. An employee can also be dismissed if they still have previous live disciplinary sanctions on their file. The employee should be notified that they have a right of appeal.

In addition and where appropriate, there are a number of supplementary sanctions that the panel may consider to accompany a written warning, a final written warning or dismissal. Such sanctions may include, for example, the necessity to attend specified training, redeployment, and demotion where appropriate.

In exceptional circumstances and employee may agree to accept a first warning without following the formal disciplinary procedure in circumstances where there is an admittance that breaches have been committed. This will be confirmed in writing, without the need to investigate or hold a Hearing.

13.2 The written notification will include the following information

- The outcome of the Hearing.
- In cases which are deemed proven, the exact nature of the misconduct proven.
- The basis of their decision.
- The disciplinary sanction, if any, being applied and, where appropriate, how long this will remain live.
- Notification of the likely consequences of further proven misconduct.
- Information about the employee's right of appeal, including how they should make it and to whom.

14. Appeals

Appeal Panels will be made up of the following personnel:

14.1 All Academy Staff

Appeal Panel: Where appropriate it will be one Principal from another academy, or one Executive Principal, or one member of the senior Central Team staff and one member of the Local Governing Body, with HR advising.

14.2 All Central Staff

Appeal Panel: two members of the senior Central Team staff, with HR support.

14.3 The Appeal Process

An employee can appeal against any formal disciplinary action. The appeal pro forma must be completed and sent to the HR Representative who was present at the Disciplinary Hearing, within ten working days of receipt of the decision letter clearly outlining the grounds of appeal. The Appeal pro forma can be found at Appendix 2.

An appeal Hearing is not a re-Hearing of the original disciplinary Hearing. The appeal needs to be based on specific reasoning as to why the employee believes that the original Hearing was unfair.

The Disciplinary Hearing panel members may be invited by either side to attend the Appeal Hearing as a witness.

The employee will be informed of the scheduled Hearing date in writing, providing at least five working days' notice of the date of the Appeal Hearing. Where possible, every effort will be made to arrange this Hearing date with the employee's Trade Union representative, where applicable, in advance.

The written notification will include the following information:

- The date, time and venue of the appeal Hearing.
- A copy of the notes from the disciplinary Hearing.
- Any new evidence and/or new witnesses to be presented/in attendance at the appeal Hearing.
- The employee's right to accompaniment by either a work colleague or Trade Union representative.
- All parties' ability to produce any documents in evidence or references/testimonials at least five working days before the Hearing takes place.
- A copy of the completed appeal pro forma as lodged by the employee.

The appeal panel will also receive copies of the above.

Copies of the investigation pack will not be resent to those who were present at the Hearing.

The Appeal Panel is responsible for ensuring a note taker is present at the Hearing to take formal notes. The Appeal Hearing procedure can be found at Appendix 3.

14.4 Action available to the Appeal Panel

The Appeal Panel may decide to:

- Confirm the original decision.
- Uphold the grounds of appeal.
- Substitute a lesser penalty.

The decision of the Appeal Panel is final and presents the end of the internal process.

Copies of the notes will be circulated to all parties as soon as practicable after the Hearing.

14.5 Notification of decisions made by the Appeal Panel

Wherever possible, the Appeal Panel will convey their decision verbally and this decision will be confirmed to the employee, in writing, not later than five working days after the Hearing. This letter will also confirm that this decision is final and there is no further right of internal appeal.

15. Record of Warnings

A copy of the warning will be held on the personal file of the employee concerned for:

- First Warning – six months
- Written Warning – nine months
- Final Written Warning – 12 months

In cases of Gross Misconduct where a final written warning has been issued for safeguarding reasons, and in the opinion of the Principal / Senior Leader, the misconduct is so serious that it cannot be disregarded for future disciplinary or managerial purposes.

Where no action is to be taken against the employee, no record of the investigation will be kept on the employee's personal file. However, it would be kept in a confidential file within the Astrea HR confidential files in accordance with the periods specified under the Data Protection Act.

Where a formal sanction has been issued, a record should be kept on the employee's personal file until such time as the warning has expired. However, where disciplinary sanctions relate to the safety and wellbeing of children and young people, records will be retained on the employee's personal file permanently.

In accordance with The Education (Teachers) Regulations 1993, where a person is dismissed from relevant employment on grounds of their misconduct (whether or not they are convicted of a criminal offence) or they would have been dismissed, or dismissal was being considered, but for their resignation, the employer shall report the facts of the case to the institutions described in Section 4 of this policy.

16. Confidentiality

All investigations and any subsequent disciplinary/appeal Hearings will be dealt with in the strictest of confidence. All parties involved in these investigations and proceedings must ensure they maintain, as appropriate, the confidentiality of the process within and outside of Astrea Academy Trust.

All information gathered throughout the procedure will be retained on a confidential and secure basis. It will be kept as confidential as practically possible to ensure a fair and thorough investigation.

The issues raised under this procedure are often particularly sensitive, it is therefore essential that any record or information relating to, is held and destroyed in accordance with the provisions of the Data Protection Act 1998.

Information will be retained by the Human Resources Department. All of the documentation is subject to the above legislation.

Any breach of confidentiality will result in the application of this Disciplinary Policy and Procedure.

17. Review

This policy will be reviewed every three years, or when there are changes to relevant legislation.

Appendix 1 – Procedure for a Disciplinary Hearing

NB: This Procedure can be varied by agreement by both parties, for example where mitigation is the body of the main case.

1. Preliminaries

- Introductions, identification of panel members, employee, representative, HR support, note taker.
- Where witnesses are called, they are only present for the period of questioning. As the Investigating Officer will not form part of the Hearing all parties after reviewing the investigation pack may wish to call the Investigating Officer as a witness to answer specific questions. The Investigating Officer will not present the case.
- Notification to all present to switch off mobile phones and other electronic devices for the duration of the Hearing including any adjournments. Where participants leave the room for adjournments/deliberations, they must take all personal belongings with them.

The investigation pack will be referred to throughout the Hearing.

1. Employee's Case

- Employee/representative presents his/her case by giving an account of the incident(s) that has led to the allegations being made.
- The Panel has the opportunity to ask questions of the employee/representative and any witnesses that have been called.
- Employee/representative builds their case by stating key facts, drawing the Panel's attention to the facts around their key arguments.
- Further questions if necessary from the Panel/HR support.
- Further questions if necessary from all parties.
- Present any mitigating factors.
- Witnesses may be called as long as all attendees are aware of the intention to call witnesses by no later than 2 days before the Hearing.

2. Panel's Opportunity

- The Panel asks any further questions that have not already been asked. Further witnesses may also be called by either party.
- Employee/representative have the opportunity to question the Panel and witnesses.

3. Summing Up

- The Panel has the opportunity to sum up their understanding of the case.
- The employee/representative has the opportunity to sum up their case. A closing statement may be read out at this stage.

- Before the adjournment all parties should be satisfied that there are no further points of clarification needed.
- It should be agreed by all parties that the timing is right to adjourn, allowing the Panel time to make their decision.

4. Adjournment and deliberation of whether misconduct has taken place.

- The employee/representative, and note taker to withdraw.
- Panel to consider the facts presented to them and to determine whether no acts of misconduct, misconduct, or gross misconduct has taken place.
- A decision will be made by the Panel.

5. Hearing reconvened following the adjournment.

- The Panel verbally states their decision. The right to appeal the decision should there be any sanction imposed is verbally communicated. The decision will be confirmed in writing within five working days of the date of the Hearing, including the right to appeal.
- The Hearing may also be adjourned at the deliberation stage in order to allow for further investigation if the Panel feels that there are points that require clarification. If this is the case, a mutually agreeable date will be agreed by all parties to reconvene.

Appendix 2 – Disciplinary Procedure Appeal Proforma

Name:	Trade Union:.....
Post title:.....	Union Representative Name and Contact details:
Date of Hearing:.....	
Decision:.....	
Date letter issued:.....Date letter received:.....	
The grounds for my appeal are (Please refer to the Appeals section of the policy for the various grounds of appeal):	
Continue on a separate sheet if necessary. Please ensure that additional sheets are signed, numbered and dated.	
Signed:..... Date:.....	
Please return this pro-forma within five working days of receipt of the decision letter to: The HR Representative who was present at the Hearing. Insert address and email contact Time limits for the appeal with be strictly observed.	

Appendix 3 – Procedure for a Disciplinary Appeal Hearing

1. Preliminaries

- Introductions, identification of Panel members, employee, representative, HR support, note taker.
- Explanation by the Panel of the Appeal Hearing process.
- Where witnesses are called, they are only present for the period of questioning. The Disciplinary Hearing Panel and the Investigating Officer will not be formally attending the Hearing. However, both parties are able to call the Investigating Officer and/or the Disciplinary Hearing Panel to answer specific questions or to clarify any details.
- Notification to all present to switch off mobile phones and other electronic devices for the duration of the Hearing including any adjournments. Where participants leave the room for adjournments/deliberations, they must take all personal belongings with them.

2. Running order

- Employee/representative to put his/her case and call witnesses where required.
- Panel members to have the opportunity to ask questions of the employee/representative/witnesses.
- Employee/representative to sum up their case for appeal (no new evidence should be submitted at this point).
- Employee/representative to withdraw taking all personal belongings with them.
- Appeal Panel to consider the facts presented to them and reach a determination which they will relay to all parties verbally (wherever possible) this will be confirmed in writing within five working days of the Appeal Hearing.
- The Appeal Hearing may also be adjourned at the deliberation stage in order to allow for further investigation if the Panel feels that there are points that need clarification. An opportunity may be given to re-examine the evidence/witnesses.
- The decision of the Appeal Panel is final.

Appendix 4 - Examples of Misconduct

Examples of misconduct are outlined below. This list is not intended to be exhaustive or exclusive and there may be other incidents or misconduct of a similar gravity that arise.

- Misuse of school and /or Astrea facilities such as internet and email.
- Poor time keeping.
- Unauthorised absences from work. Persistent and frequent absenteeism and failure to follow notification procedures.
- Failure to follow reasonable management instructions.
- Failure to improve faults of a similar nature, that build into a pattern of unacceptable behaviour, performance or attitude.
- Deliberately undermining the achievement of the team, academy or Astrea goals.
- Wilful failure to adapt to changing technologies, methods and patterns of work (as distinct from inability to adapt which is dealt with under the capability procedure).
- Insubordination – i.e. failure to comply with reasonable management instructions.
- Wilful neglect of duty.
- Breaches of safety regulations and safe working practices.
- Petty theft or embezzlement whilst at work.
- Deliberately falsifying work records.
- Being unfit for duty through drink or drugs (other than those which have been medically prescribed).
- Sexual misconduct at work including indecent behaviour, offensive behaviour or sexual harassment.
- Discrimination against pupils, employees or members of the public on grounds of their colour, race, disability, ethnic origins, sex, sexual orientation, age, marital status or religious beliefs.
- Fighting, physical assault or threatening behaviour towards a pupil, fellow employee or member of the public.
- Bullying, abusing or threatening behaviour towards pupils and other employees.
- Wilful damage to or concealment of official records.
- Improper disclosure of written or verbal information which is clearly identifiable as confidential.
- Knowingly aiding and abetting a disciplinary offence.
- Knowingly making false or malicious statements about other employees or members of the LGB/MAT Board or Trust.
- Deliberate failure to report evidence or suspicion of any impropriety or breach of procedure on the part of another employee.
- Wilful non-compliance with Data Protection principles.
- Smoking on academy/Trust premises.

Appendix 5 - Examples of Gross Misconduct

Examples of misconduct are outlined below. This list is not intended to be exhaustive or exclusive and there may be other incidents or misconduct of a similar gravity that arise.

- Dishonest, including theft, fraud or deliberate falsification of records or acceptance of bribes.
- Stealing from the academy, members of staff, pupils or the public.
- False claims for expenses or overtime.
- Other offences of dishonesty.
- Substantiated allegations in relation to child protection issues.
- Harassment or abuse of any person, whether or not an employee, on grounds of race, gender, sexual orientation, religious belief, disability, marital status, age, gender reassignment or ethnic origin, or deliberate discrimination on such grounds.
- Deliberately misusing, damaging academy or Astrea property.
- Providing false information to support an application for employment, this includes, but is not limited to falsification of qualifications necessary for the post.
- Serious insubordination or wilful disobedience, including serious act(s) or persistent repetition of a failure to comply with a reasonable instruction.
- Physical violence or bullying against other employees, pupils or members of the public.
- Misuse of the academy's / Astrea's property or name, or bringing the school or trust into disrepute.
- Deliberate and or inappropriate use of school's or trust's computer equipment/software; including deliberately accessing internet sites containing pornographic, offensive or obscene material.
- Inability to perform duties or improper conduct as a result of being under the influence of alcohol or drugs (other than those which have been medically prescribed).
- Corrupt or improper practice for private gain.
- Causing loss, damage or injury through serious negligence.
- A serious breach of health and safety rules.
- A serious breach of trust and confidence.
- Breach of any professional code of conduct applicable to the job which could bring the profession or Astrea into disrepute.
- Misuse of official position for personal gain.
- Relevant criminal offences. However, criminal offences should not be treated as automatic reasons for dismissal regardless of whether the offences are relevant to the individual's employment. The main consideration should be whether the offence is one that makes the individual unsuitable for this type of work. Employees should not be dismissed solely because a charge against them is pending or because they are remanded in custody.
- Engaging in other employment during the employee's contracted working hours for the academy/Trust.