



DISCIPLINARY POLICY

Mount St Mary's Catholic High School Disciplinary Policy

Adopted by Mount St Marys' Governing Body on 1 September 2021

Signed

A handwritten signature in blue ink, appearing to read 'Joe R. P.', is written over a horizontal line.

Chair of Governors

Review date: September 2027

1. SCOPE OF PROCEDURE

- 1.1 This Disciplinary Policy and Procedure applies to you if you are an employee of the School.
- 1.2 The purpose of the procedure is to give a structure to improve conduct to the standards expected and to facilitate the fair dismissal of those who have not improved or whose conduct is so unacceptable as to warrant dismissal without notice.
- 1.3 The Governors delegate their authority in the manner set out in this procedure.
- 1.4 There may be some occasions where an employee's behaviour could also be described as incapability. This Disciplinary Policy and Procedure and the School's Capability Procedure may be used concurrently whilst the School endeavours to ascertain if the behaviour is misconduct or incapability.
- 1.5 There may be occasions where an employee's conduct could relate to their health. This Disciplinary Policy and Procedure may be used concurrently with the School's Sickness Absence Policy and Procedure. In particular if an employee goes off sick following the use of this Disciplinary Policy and Procedure the School may use its Sickness Absence Policy and Procedure.
- 1.6 There may be occasions when an employee attempts to use the School's Grievance Resolution Policy and Procedure in connection with actions taken under this Disciplinary Policy and Procedure. This shall not lead to any delay or pause in the conduct of any matters under the Disciplinary Policy and Procedure.
- 1.7 There may be occasions where this procedure needs to be modified to comply with the requirements of the School's Child Protection and Safeguarding Policies for example by allowing the Local Authority Designated Officer to offer advice to Governors at appropriate stages.
- 1.8 In this policy "working day" means any day on which you would ordinarily work if you were a full time employee. In other words it will be different for teaching and non-teaching staff but will not be different on the basis of whether an employee is full-time or part-time.

2. INFORMAL ACTION

- 2.1 Your line manager may give you informal warnings at any time about any conduct or performance falling short of the standard expected.
- 2.2 Informal warnings may be recorded in writing and referred to at a later stage to evidence that an informal approach was attempted and the success or failure of such an approach.
- 2.3 Failure to comply with informal action should not on its own be used as justification for issuing a higher form of sanction than would otherwise have been imposed under the formal process.

3. INVESTIGATING, DISCIPLINARY AND APPEAL MANAGERS

<i>Employee Level</i>	<i>Investigating Manager</i>	<i>Disciplinary Manager</i>	<i>Appeal Manager</i>
Headteacher	Chair of Governors or a non-staff Governor (other than the Vice Chair of Governors) nominated by the Chair of Governors	Governors' Disciplinary Panel appointed by the Vice-Chair of Governors	Governors' Appeal Panel appointed by the Vice-Chair of Governors
Other Leadership Spine and School Business Manager	Headteacher	Chair of Governors or a non-staff Governor (other than the Vice Chair of Governors) nominated by the Chair of Governors	Governors' Appeal Panel appointed by the Vice-Chair of Governors
Other Teaching Staff	Member of Leadership Team (other than Headteacher) appointed by the Headteacher	Headteacher OR In cases where there is a real risk of dismissal, the Chair of Governors or a non-staff Governor (other than the Vice-Chair of Governors) nominated by the Chair of Governors	Governors' Appeal Panel appointed by the Chair of Governors
Other Support Staff	A person appointed by the Headteacher	Headteacher OR In cases where there is a real risk of dismissal, the Chair of Governors or a non-staff Governor (other than the Vice-Chair of Governors) nominated by the Chair of Governors	Governors' Appeal Panel appointed by the Chair of Governors

In cases relating to any alleged conduct that would bring the School into disrepute in relation to its religious character the Chair of Governors may act as Investigating Manager regardless of the level of the employee involved and the Disciplinary Manager may be the Governors' Disciplinary Panel.

4. SUSPENSION

- 4.1 In cases where the Investigating Manager considers that it is appropriate the Headteacher or the Chair of Governors may suspend you for a period of up to ten working days.
- 4.2 The Headteacher must inform the Chair of Governors of the suspension or in the event of suspension by the Chair of Governors the Chair must inform the Governing Body (excluding staff Governors).
- 4.3 **This period of suspension must be reviewed by the Chair of Governors every 10 working days.**
- 4.4 **Only the Chair of Governors or the full Governing Body may end the suspension.**
- 4.5 Suspension should ideally be undertaken in person but may be undertaken in writing. If it is undertaken in person it will be confirmed in writing.
- 4.6 ACAS suggests that suspension may whilst investigations are carried out might be appropriate where:
- (a) Relationships have broken down
 - (b) Gross misconduct is alleged
 - (c) There are reasonable concerns that evidence or witnesses could be interfered with
 - (d) There are responsibilities to other parties.

The NUT in their response to the first draft of this policy also identified that suspension might be necessary for the protection of students, staff or property or where the presence of the person at work would be an obstacle to a proper investigation.

- 4.7 Suspension is a neutral act and is not a disciplinary sanction and you will be receive full pay and benefits during a period of suspension (unless you are otherwise absent from work due to sickness or other leave and have exhausted the pay entitlements connected to your absence).
- 4.8 During a period of suspension the School may require you not:
- 4.8.1 to attend School at any time (except with the prior agreement of the Headteacher or Chair of Governors)
 - 4.8.2 to communicate in any way with parents students governors except:
 - (a) with the prior agreement of the Headteacher/Chair of Governors or
 - (b) where following the investigation you are called to a formal disciplinary meeting, when you may then approach governors parents or students as potential witnesses but this must be done via the Investigating Manager to avoid any breach of the Data Protection Act or confidentiality.

4.8.3 to discuss the fact of your suspension or the fact of or nature of the allegations against you with any member of staff except:

- (a) with the prior agreement of the Headteacher/Chair of Governors;
- (b) for communication with your union representative;
- (c) where you are called to an interview with the Investigating Manager or a disciplinary meeting when you may approach work colleagues for the purposes of identifying a willing work companion but only if you do not have a trade union representative, or
- (d) where you are called to a formal disciplinary meeting you may approach work colleagues as potential witnesses in support of your case.

4.9 During a period of suspension the School may suspend your access to your email account and to the MLE/VLE.

4.10 During a period of suspension the School may take such steps as necessary to cover your lessons or other commitments.

5. FORMAL PROCESS

5.1 Step 1 - Investigation

5.1.1 The Investigating Manager will conduct an investigation into the alleged conduct.

5.1.2 The Investigating Manager may appoint any other person from within the School or externally to assist in the investigation.

5.1.3 The investigation may include a face to face interview with you but this is not mandatory. You may if you wish provide a written statement or response to the Investigating Manager.

5.1.4 You are required to co-operate fully with the Investigating Manager to ensure that the investigation can be completed as swiftly and thoroughly as possible.

5.1.5 The Investigating Manager will produce an Investigation Report setting out evidence and detailed allegations and a recommendation.

5.1.6 You will be sent a copy of the Investigation Report.

5.2 Step 2 – Disciplinary Meeting

5.2.1 If the Investigation Report contains a recommendation that you be subject to a formal disciplinary sanction you shall be required to attend a formal disciplinary meeting with the Disciplinary Manager.

5.2.2 The disciplinary meeting shall take place at least 5 working days after the Investigation Report was sent to you.

5.2.3 The Disciplinary Manager shall consider all the evidence presented and you shall have an opportunity to present evidence in your defence and any evidence in mitigation.

5.2.4 The Disciplinary Manager may adjourn the disciplinary meeting to allow further investigations in the light of your evidence and will reconvene to give you an opportunity to comment on any further evidence produced by further investigations.

5.2.5 The Disciplinary Manager is not required to hear oral evidence and may rely on written evidence.

5.2.6 If the Disciplinary Manager does decide to hear oral evidence, you will be given an opportunity to comment on it either by attending the meeting or by reviewing the notes of that oral evidence after the meeting (if you were not present at the disciplinary meeting).

5.3 **Step 3 - Appeal**

5.3.1 If the Disciplinary Manager decides to impose a formal disciplinary sanction you will have the right to appeal to the Appeal Manager provided that you do so in writing to the Clerk to Governors within 10 working days of the written notification of the Disciplinary Manager's decision.

5.3.2 Your appeal must set out the grounds of appeal in detail. This will enable the Clerk to Governors and Appeal Manager to determine if the appeal is to be by way of a rehearing of the case or by way of a review of the case.

5.3.3 The Appeal meeting will normally take place within 20 working days of your notice of appeal being received by the Clerk to Governors.

5.3.4 The Appeal Manager may not impose a more severe sanction than that imposed by the Disciplinary Manager.

5.3.5 The Appeal Manager may consider any new evidence produced by you not available to the Disciplinary Manager.

5.3.6 The Appeal Manager may only consider new evidence produced by the Disciplinary Manager if it touches upon your credibility in relation to evidence you have already given or if it rebuts any new evidence produced by you or any assertions made by you in your grounds of appeal.

5.3.7 If the Appeal Manager considers that any new evidence from whatever source would warrant a more severe sanction the Appeal Manager shall refer the matter to the original Disciplinary Manager for consideration and the Disciplinary Manager may impose a more severe sanction. If there was an appeal against such an

increased sanction, it would be heard (where possible) by a different Appeal Manager.

5.3.8 The Appeal Manager is not required to hear oral evidence and may rely on written evidence.

5.3.9 If the Appeal Manager does decide to hear oral evidence, you will be given an opportunity to comment on it either by attending the meeting or by reviewing the notes of that oral evidence after the meeting (if you were not present at the disciplinary meeting).

6. FORMAL SANCTIONS

The Disciplinary Manager may impose the following sanctions:

6.1 A First Written Warning

6.1.1 A First Written Warning will remain live for **12** months from the date that the Disciplinary Manager's written decision was sent to you.

6.1.2 For a first disciplinary offence (ignoring any informal action), a First Written Warning would be the normal response.

6.2 A Final Written Warning

6.2.1 A Final Written Warning will remain live for **24** months from the date that the Disciplinary Manager's written decision was sent to you.

6.2.2 A Final Written Warning would normally be given for a second disciplinary offence committed or discovered during the currency of a live First Written Warning (even if that First Written Warning related to a different type of misconduct)

6.2.3 A Final Written Warning could be given for serious misconduct regardless of previous disciplinary history if the conduct is sufficiently serious.

6.3 Dismissal on notice

6.3.1 Dismissal on contractual notice would be given for a disciplinary offence (other than an act of gross misconduct) committed or discovered during the currency of a live Final Written Warning (even if the Final Written Warning related to a different type of misconduct).

6.3.2 For the avoidance of doubt the notice commences immediately and does not await the outcome of any appeal.

6.3.3 If your contract contains a payment in lieu of notice clause the School may exercise that clause to bring your contract to an end with immediate effect.

6.4 Dismissal without notice or compensation

6.4.1 Dismissal without notice or compensation (also known as Summary Dismissal) will only occur if you have committed an act of gross misconduct or otherwise have destroyed the trust and confidence required between the employee and the School.

6.4.2 For the avoidance of doubt the dismissal takes effect immediately and does not await the outcome of any appeal.

6.4.3 The following is a **non-exhaustive** list of matters which the School considers may amount to gross misconduct:

- (a) Conduct incompatible with or prejudicial to the religious character of the School or the precepts or tenets of the Catholic Church
- (b) Conduct that is likely to bring the School or the Church into disrepute
- (c) Conduct giving rise to any Child Protection issue
- (d) A serious breach of any relevant code of conduct or professional standards
- (e) Theft of any property
- (f) Malicious or wilful damage to any property
- (g) Falsifying any documents whether for personal gain or not
- (h) Ordering any goods or services on behalf of the School from a supplier in which you or a relative have a personal interest (whether financial or not) without declaring that interest and without the permission of the Governors' Finance Committee
- (i) Dishonesty
- (j) Violence to any person
- (k) Unlawfully restraining a student
- (l) Abusive threatening or offensive language or behaviour to any person
- (m) Unlawful discrimination or harassment
- (n) Bullying
- (o) Deliberate refusal to carry out a lawful and safe instruction
- (p) Absence from work without leave or reasonable explanation
- (q) Disclosing the contents of any live examination paper or assessment in advance to any student or parent
- (r) Concealing any actual or attempted cheating by any student or colleague
- (s) Attending work or undertaking duties whilst under the influence of alcohol or unlawful drugs
- (t) Misuse of the School's ICT (including internet and email access) to view or distribute obscene, pornographic, defamatory or otherwise unacceptable material
- (u) Supplying your personal contact details to a student without express authorisation from the Headteacher
- (v) Interacting with a student online out of school hours other than through the Managed Learning Environment

- (w) Making any sexual or romantic contact with any student whatever the age of the student
- (x) Breaching the confidentiality or data protection obligations surrounding a student
- (y) Covert recording of any meetings without the knowledge or consent of all persons present
- (z) Serious breach of health and safety procedures
- (aa) Serious negligence (whether or not leading to any actual loss)
- (bb) Criminal activity during the course of employment
- (cc) Making a false malicious or vexatious allegation against the School, a parent, student, colleague or governor

6.5 Voluntary demotion as an alternative to higher formal sanction

6.5.1 There may a situation where the Disciplinary Manager considers that a recent promotion or job change has been a contributory factor in your misconduct.

6.5.2 The Disciplinary Manager may offer you the option of taking a voluntary demotion as an alternative to a higher formal sanction.

7. **GOVERNORS' PANELS**

7.1 Governors' Disciplinary and Appeal Panels shall comprise three non-staff governors not previously involved in the matter and shall not comprise the Chair of Governors or Vice-Chair of Governors.

7.2 In the event that there are insufficient numbers of Governors available to participate in a Panel, the Chair of Governors or Vice-Chair of Governors as appropriate may appoint associate members to solely participate in the appropriate Panel on the recommendation of the Diocesan Schools Commission.

8. **COMPANION**

8.1 If you are the subject of disciplinary allegations leading to a disciplinary interview by the Investigation Manager or a meeting with the Disciplinary Manager or Appeal Manager you may be accompanied at such interview or meeting by a companion who must be either be a willing work colleague not involved in the substance of the allegations against you or an accredited trade union representative of a union recognised by the School.

8.2 You must let the relevant Manager know who your companion will be at least one working day before the interview or meeting.

8.3 If you have any particular need, for example, a disability, you can also be accompanied by a suitable helper.

- 8.4 Your companion can address the meeting in order to:
- (a) put your case
 - (b) sum up your case
 - (c) respond on your behalf to any view expressed at the interview meeting.
- 8.5 Your companion can also confer with you during the interview meeting.
- 8.6 Your companion has no right to answer questions on your behalf, or to address the interview meeting if you do not wish it, or to prevent you from explaining your case.
- 8.7 Where you have identified your companion to the relevant Manager and your companion has confirmed in writing to the relevant Manager that they cannot attend the date or time set for the interview meeting, the relevant Manager will postpone the interview meeting for no more than five working days from the date set by the School to a date or time agreed with your companion provided that it is reasonable.

9. TIMING OF INTERVIEW MEETINGS

Interview or meetings under this procedure may:

- 9.1 need to be held when you were timetabled to teach
- 9.2 exceptionally be held during planning preparation and administration time if this does not impact on lesson preparation
- 9.3 be held after the end of the School day
- 9.4 not be held on days on which you would not ordinarily work.

10. VENUE FOR INTERVIEWS OR MEETINGS

If the allegations are sensitive the relevant Manager may hold the interview or meeting off the School site.

11. ASSISTANCE

- 11.1 In any case concerning the religious character of the School, the Diocesan Schools Commission must be notified immediately the School becomes aware of the allegations and it may be represented at any interview or meeting to advise the Interviewing Manager, Disciplinary Manager or Appeal Manager.
- 11.2 In all cases involving any disciplinary sanction in relation to the Headteacher or to a person on the Leadership Spine or to potential or actual dismissal of any other member of staff the Diocesan Schools Commission (and for maintained Schools, the Local Authority) may send a representative to advise the Disciplinary Manager or Appeal Manager.

12. TRADE UNION OFFICERS

The School notes and adopts the ACAS Code of Practice's statement "Where disciplinary action is being considered against an employee who is a trade union representative the normal disciplinary procedure should be followed. Depending on the circumstances, however, it is advisable to discuss the matter at an early stage with an official employed by the union, after obtaining the employee's agreement."

13. REFERRALS

13.1 Where a teacher is dismissed for serious misconduct (or may have been dismissed for serious misconduct if the teacher had not resigned) the School must consider whether to refer the circumstances to the Teaching Agency under section 141D of the Education Act 2002 which came into force on 1 April 2012.

The Teaching Agency website link is:

<http://www.education.gov.uk/schools/leadership/teachermisconduct/b00203674/referring>

13.2 Where a person working within the School (whether a teacher or not) is dismissed or would have been dismissed if they had not resigned) because that person committed conduct:

- (d) which endangered a child or was likely to endanger a child
- (e) which if repeated against or in relation to a child, would endanger that child or would be likely to endanger him
- (f) involving sexual material relating to children (including possession of such material)
- (g) involving sexually explicit images depicting violence against human beings (including possession of such images)
- (h) of a sexual nature involving a child

the School must refer that person to the Independent Safeguarding Authority under section 35 of the Safeguarding Vulnerable Groups Act 2006.

The ISA online guidance is here:

<http://www.isa.homeoffice.gov.uk/Default.aspx?page=379>