



**THE BAY
LEARNING TRUST**

Disciplinary Policy (Trainees)

The Bay Learning Trust
The Lodge
Ripley St Thomas
Ashton Road
Lancaster
LA1 4RR

t 01524 581872

e admin@baylearningtrust.com

website baylearningtrust.com

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DISCIPLINARY POLICY

1 SCOPE AND PURPOSE

1.1 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.

1.2 This policy must be read in conjunction with the **Code of Conduct**, which sets out the standards to be expected of each trainee.

1.3 The Trust delegate their authority in the manner set out in this procedure.

1.4 There may be some occasions where a trainee's behaviour could also be described as Cause for Concern. This Disciplinary Policy and the SCITT's Cause for Concern Policy may be used concurrently whilst the SCITT ascertains if the behaviour is misconduct or cause for concern.

1.5 There may be occasions where a trainee's conduct could relate to their health. This Disciplinary Policy may be used concurrently with the SCITT's Attendance Policy. In particular, if a trainee is then absent from training following the use of this Disciplinary Policy, the SCITT will apply the provisions of its Attendance Policy to manage the absence.

1.6 There may be occasions when an employee attempts to use the Trust's Grievance Policy in connection with actions taken under this Disciplinary Policy. This shall not lead to any delay or pause in the conduct of any matters being considered under the Disciplinary Policy.

1.7 There may be occasions where this procedure needs to be modified, for example to comply with any requirements in relation to pupil safeguarding. The Director of the SCITT will be consulted on any such proposed changes.

1.8 This policy does not form part of any trainee's contract and it may be amended at any time. Any proposed changes will normally be the subject of consultation with the Trust and its Boards.

1.9 In this policy, references to personnel/bodies are to the personnel/bodies present within the Trust at which the particular trainee reading or exercising the policy is engaged.

2. WHO IS COVERED BY THIS POLICY?

2.1 This policy covers all trainees on full-time and part-time programmes.

3. WHO IS RESPONSIBLE FOR THE POLICY?

3.1 The Trust has overall responsibility for the effective operation of this policy and for ensuring compliance with the relevant statutory framework. The Trust has delegated day-to-day responsibility for operating the policy to the Chief Executive and to the SCITT Director.

3.2 The Senior Leadership Team of the SCITT has a specific responsibility to ensure the fair application of this policy.

4. DEFINITIONS

4.1 In this policy, working day means any day on which a trainee would ordinarily work if they were a full-time employee. In other words, it will not be different on the basis of whether a trainee is full-time or part-time.

5. INFORMAL ACTION

5.1 Where appropriate, the SCITT will try and deal with matters on an informal basis. It is often the case that minor issues of conduct can be resolved informally between a trainee and their tutor and in many cases this will be the appropriate way to address any concerns.

5.2 A trainee's tutor may give him/her management instructions or informal warnings at any time about the possible consequences of any further misconduct where it falls short of the standard expected.

5.3 Instructions, guidance and 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.

5.4 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.

5.5 It is also possible for the parties to agree an outcome to a formal process and sanction prior to a formal disciplinary meeting being held. Any such agreement will be recorded in writing.

6. INVESTIGATING, DISCIPLINARY AND APPEAL MANAGERS

6.1 The personnel responsible for each stage of this policy depends on the role the relevant employee/trainee performs.

6.2 The following table describes the normal course of action although this may be subject to change depending on the circumstances of the individual case.

Employee Level	Investigating Manager	Disciplinary Manager	Appeal Manager
Executive Headteacher/ Headteacher	Chief Executive Officer	Trust Disciplinary Panel	Director Appeal Panel
Other Leadership Employees and Academy Business Managers'	Executive Headteacher/Headteacher	Chief Executive or a non-staff Director nominated by the Chief Executive	Director Appeal Panel
Other Teaching Staff	Member of Leadership Team other than Executive Headteacher/Headteacher	Executive Headteacher/ Headteacher	Chief Executive
Other Support Staff	Member of Leadership Team other than Executive Headteacher/Headteacher	Executive Headteacher/ Headteacher	Chief Executive
Trainee	Deputy Director of SCITT	Director of SCITT	Chief Executive

7. SUSPENSION

7.1 In cases where it is justified, after a preliminary investigation, the SCITT Director or the Chief Executive Officer may suspend a trainee for a reasonable period of time. This is a neutral act.

7.2 The Director must inform the Chief Executive Officer of the suspension or in the event of suspension by the Chief Executive Officer they must inform the Trust Board, excluding any staff governors or Directors as appropriate.

7.3 This period of suspension must be reviewed by the Chief Executive Officer, as appropriate, at intermittent intervals and must be no longer than is required, depending on the circumstances.

7.4 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. Where practicable, the trainee will be entitled to be accompanied by a representative but their non-availability will not delay a suspension meeting.

7.5 Suspension may be justified in cases where:

7.5.1 Relationships have broken down.

7.5.2 Gross misconduct is alleged.

7.5.3 There are reasonable concerns that evidence or witnesses could be interfered with.

7.5.4 There are responsibilities to other parties.

7.5.5 To protect pupils or property.

7.6 Suspension is not an assumption of guilt and is not considered a disciplinary sanction. It does not imply that any decision has already been made about the allegations. A trainee will not receive the bursary payments (if entitled) during the period of suspension. The trainee will also receive details of a named contact during any period of suspension.

8.7 During a period of suspension the SCITT/ Trust may require a trainee not:

8.7.1 to attend the Trust or a school at any time; or

8.7.2 to communicate with colleagues, parents, pupils and governors the fact of their suspension or the fact of or nature of the allegations against him/her except:

8.7.2.1 with the prior agreement of the SCITT Director

8.7.2.2 where following the investigation, a trainee is called to a formal disciplinary meeting when he/she may then approach governors, parents or pupils as potential witnesses but this must be done via the Investigating Manager to avoid any breach of the Data Protection Act or confidentiality.

8.7.2.3 where he/she is called to an interview with the Investigating Manager or a disciplinary meeting when he/she may approach colleagues for the purposes of identifying a willing work companion but only if he/she does not have a trade union representative.

8.8 During a period of suspension the SCITT/ Trust may suspend a trainee's access to his/her email account/intranet.

8.9 During a period of suspension, the SCITT/ Trust may take such steps as necessary to cover a trainee's lessons or other commitments.

9. FORMAL PROCESS

9.1 Step 1 - Investigation

9.1.1 The Investigating Manager will conduct an investigation into the alleged conduct. The purpose of an investigation is for the SCITT/ Trust to establish a fair and balanced view of the facts relating to any disciplinary allegations against a trainee, before any decision is taken to proceed with a disciplinary hearing. The extent of the investigation required will depend on the nature of the allegations and will vary from case to case.

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

9.1.3 The investigation may include a face-to-face interview with a trainee, but these are not mandatory. Investigative interviews are solely for the purpose of fact-finding and no decision on disciplinary action will be taken until after a disciplinary hearing has been held. A trainee may, if he/she wishes, provide a written statement or response to the Investigating Manager instead.

9.1.4 A trainee is required to co-operate fully and promptly with the Investigating Manager to ensure that the investigation can be completed as swiftly and thoroughly as possible.

9.1.5 The Investigating Manager will normally produce an Investigation Report setting out evidence and detailed allegations and a recommendation on whether there is a potential disciplinary case to answer.

9.1.6 A trainee will be sent a copy of the Investigation Report.

9.1.7 The Investigating Manager may be required to attend a formal disciplinary meeting to present the findings of their investigation.

9.2 Step 2 – Disciplinary Meeting

9.2.1 If the Investigation Manager recommends that the matter should proceed to a formal disciplinary meeting, the employee shall be required to attend a formal disciplinary meeting with the Disciplinary Manager.

9.2.2 The disciplinary meeting shall take place at least 5 working days after the disciplinary invitation and hearing papers were sent at the same time to the trainee.

9.2.3 The Disciplinary Manager shall consider all the evidence presented and the trainee shall have an opportunity to present evidence in his/her defence and any evidence in mitigation.

9.2.4 The Disciplinary Manager may adjourn the disciplinary meeting to allow further investigations in the light of the trainee's evidence and may reconvene if appropriate to give him/her an opportunity to comment on any further evidence produced by further investigations.

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

9.2.6 If the Disciplinary Manager does decide to hear oral witness evidence, the trainee will be given an opportunity to comment on it during the meeting.

9.3 Step 3 - Appeal

9.3.1 If the Disciplinary Manager decides to impose a formal disciplinary sanction, the trainee will have the right to appeal to the Appeal Manager provided that he/she does so in writing to the Disciplinary Manager within 5 working days of the written notification of the disciplinary decision.

9.3.2 An appeal must set out the grounds of appeal in detail. This will enable the 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.

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

9.3.4 The Appeal meeting will normally take place within 20 working days of the notice of appeal being received by the Disciplinary Manager.

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

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

9.3.7 The Appeal Manager may only consider new evidence produced by the Disciplinary Manager if it touches upon the trainee's credibility in relation to evidence he/she has already given or if it rebuts any new evidence produced by the trainee or any assertions made by him/her in the grounds of appeal.

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

9.3.9 If the Appeal Manager does decide to hear oral witness evidence, the trainee will be given an opportunity to comment on it during the meeting.

9.3.10 The trainee will be informed in writing of the Appeal Manager's decision as soon as possible, and usually within 10 days of any appeal meeting. There is no further right of appeal.

10. FORMAL SANCTIONS

The Disciplinary Manager may impose the following sanctions:

10.1 A Verbal Warning

10.1.1 A Verbal Warning will remain live for 6 months from the date that the Disciplinary Manager's written decision was sent to the trainee.

10.1.2 For a first disciplinary offence (ignoring any informal action), a Verbal Warning would be the normal response.

10.1.3 Once the Verbal Warning has expired, it will be removed from a trainee's formal record (with the exception of any issues relating to safeguarding) and disregarded in deciding the outcome of any future formal procedure.

10.2 A First Written Warning

10.2.1 A First Written Warning will remain live for the duration of training from the date that the Disciplinary Manager's written decision was sent to the trainee.

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

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

10.3 Final Written Warning

10.3.1 A Final Written Warning will remain live for the duration of training from the date that the Disciplinary Manager's written decision was sent to the trainee.

10.3.2 A Final Written Warning would normally be given for a third 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).

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

10.4 Dismissal on notice

10.4.1 Dismissal with due 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).

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

10.4.3 The SCITT/ Trust will inform relevant bodies as required.

10.5 Dismissal without notice or compensation

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

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

10.5.3 Appendix 2 contains a **non-exhaustive** list of matters which the Trust considers may amount to gross misconduct.

11. DIRECTOR PANELS

11.1 Director Disciplinary and Appeal Panels shall comprise two/three non-staff Governors or Directors not previously involved in the matter.

11.2 In the event that there are insufficient numbers of Governors or Directors available to participate in a Panel, the Chair of Directors may appoint associate members to solely participate in the appropriate Panel.

12. RIGHT TO BE ACCOMPANIED

12.1 If a trainee is the subject of disciplinary allegations leading to a disciplinary interview by the Investigation Manager or a meeting with the Disciplinary Manager or Appeal Manager he/she may be accompanied at such interview or meeting by a companion who must be either a willing colleague not involved in the substance of the allegations against the trainee or an accredited trade union representative. A Trade Union representative is anyone appearing on the certification officers list of a Trade Union.

12.2 The employee must let the relevant Manager know who his/her companion will be at least one working day before the interview or meeting.

12.3 If the employee has any particular need, for example, a disability which causes him/her a substantial disadvantage, adjustments may be made to the procedure to allow him/her to participate and in limited circumstances this may include allowing the trainee to be accompanied by someone other than is listed in clause 12.1.

12.4 The companion can address the meeting in order to:

12.4.1 put forward the trainee's case

12.4.2 sum up the trainee's case

12.4.3 respond on behalf of the trainee to any view expressed at the interview meeting.

12.5 The companion can confer with the trainee during the interview meeting.

12.6 The companion has no right to answer questions on the trainee's behalf, or to address the interview meeting if the trainee does not wish it, or to prevent the trainee from explaining his/her case.

12.7 Where the trainee has identified a companion to the relevant Manager and the 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 may postpone the interview meeting provided that the trainee has

suggested an alternative date within 5 working days of the original date set by the Trust, to a date or time agreed were possible with the companion provided that it is reasonable.

13. TIMING OF MEETINGS

13.1 Meetings under this procedure may:

13.1.1 need to be held when a trainee is timetabled to teach

13.1.2 exceptionally be held during planning preparation and administration time if this does not impact on lesson preparation

13.1.3 be held after the end of the Academy day however meetings will be held during the Academy day where possible.

13.1.4 not be held on days on which a trainee would not ordinarily work.

13.2 Meetings may take place in the absence of a trainee, in the event he/she does not attend or is not able to attend a scheduled meeting and it is considered appropriate by the Trust to do so in the relevant circumstances.

14. VENUE FOR MEETINGS

14.1 If the allegations are sensitive, the relevant Manager may hold the interview or meeting off the Trust or Academy site.

15. CRIMINAL OFFENCES

15.1 If a trainee is charged with, or convicted of, a criminal offence (outside of employment) this will not normally in itself be considered a reason for disciplinary action. In such circumstances, the facts of the case would be clarified through a formal investigation and then consideration would be given as to whether the matter warrants formal disciplinary proceedings, having taken into account whether the alleged incident, act, or behaviour affects a trainee's suitability for their training and/or the reputation of the SCITT/Trust. In the case of trainees the content and effect of the Teachers Standards will be taken into account when deciding whether, or not, the matter may warrant formal disciplinary sanctions.

16. REFERRAL

16.1 Where a trainee is dismissed for serious misconduct (or may have been dismissed for serious misconduct if the teacher had not resigned) the SCITT/Trust must consider whether to refer the circumstances

to the Department of Education or the Teaching Regulation Authority under section 141D of the Education Act 2002, which came into force on 1 April 2012

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

16.2.1 which endangered a child or was likely to endanger a child

16.2.2 which if repeated against or in relation to a child, would endanger that child or would be likely to endanger him

16.2.3 involving sexual material relating to children (including possession of such material)

16.2.4 involving sexually explicit images depicting violence against human beings (including possession of such images of a sexual nature involving a child)

16.3 The Trust must refer that person to the Disclosure and Barring Service under section 35 of the Safeguarding Vulnerable Groups Act 2006.

Appendix 1

Disciplinary Hearing Procedure

1. The trainee and his/her representative and the manager and/or other person presenting the case shall attend the hearing simultaneously to present their respective cases.
2. The Disciplinary Manager will perform the necessary introductions. They may be accompanied throughout by the Trust's appointed HR Adviser
3. The Investigating Manager will present the findings of the investigation and may call witnesses.
4. The trainee and/or the trainee's representative may put appropriate questions to the Investigation Manager regarding the investigation.
5. The trainee and/or the employee's representative will present the trainee's case and may call witnesses.
6. If a witness gives evidence orally at the disciplinary hearing the other party may put appropriate questions to it (with the exception of child witnesses).
7. The Disciplinary Manager may ask questions of the Investigation Manager, any witnesses or the trainee at any point during the hearing.
8. The trainee and/or the employee's representative will have an opportunity to sum up the trainee's case.
9. The hearing will then be adjourned for the Disciplinary Manager to deliberate, review the evidence and make a decision on the outcome.

Appeal Hearing Procedure

1. The trainee and his/her representative presenting the appeal and the Investigation Manager and/or other person shall attend the hearing simultaneously to present their respective cases.
2. The Appeal Manager will perform the necessary introductions. They may be accompanied throughout by the Trust's appointed HR Adviser.
3. The trainee and his/her representative will present their appeal and may call witnesses.
4. The Investigation Manager or other person may put appropriate questions to the trainee regarding the appeal.
5. The Investigation Manager or other person will present the response to the appeal and may call witnesses.

6. The trainee and his/her representative may put appropriate questions to the Investigation Manager and/or other person regarding their response.
7. If a witness gives evidence orally at the disciplinary hearing the other party may put appropriate questions to it (with the exception of child witnesses).
8. The Appeal Manager may ask questions of the Investigation Manager and/or Disciplinary Manager, any witnesses or the trainee at any point during the hearing.
9. The Investigation Manager or other person, followed by the trainee and/or the trainee's representative will have an opportunity to sum up their respective cases.
10. The hearing will then be adjourned for the Appeal Manager to deliberate, review the evidence and make a decision on the outcome.

Appendix 2 - non-exhaustive list of matters which the Trust considers may amount to gross misconduct

1. Breach of conditions of employment as defined in the Contract of Employment issued relating to the character and the Trust;
2. Serious acts of insubordination;
3. Serious breaches of Financial regulations or other operational regulations;
4. Gross negligence in the performance of duties;
5. Theft from the Trust, its employees or members of the public or other acts of dishonesty;
6. Serious breach of duty concerning the handling of confidential information; Serious breach of health and safety rules;
7. Failure to provide safe working environment for children and young people;
8. Serious breaches of the Trust's policies and procedures around safeguarding, including the inappropriate use of social media
9. Serious acts of chastisement towards students, in direct contravention of the Trust policies regarding the management of student behaviour;
10. Taking drugs or alcohol on Trust premises for other than medical reasons;
11. Buying, selling or offering drugs on Trust premises;
12. Offering alcohol to students;
13. Fraud;
14. Falsification of information, for example, qualifications or other relevant personal details in seeking and obtaining employment or promotion; information contained in time sheets, overtime claims, invoices, accounts, records or medical certificates;
15. Fighting, violent, offensive, abusive or indecent behaviour;
16. Unlawful acts of discrimination within the workplace;
17. Serious breaches of confidence (subject to the Public Interest (Disclosure) Act 1998).