




The LETTA Trust

Disciplinary Procedure

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| Reviewed by: | TB Resources | Signed: |  |



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1. Introduction

The LETTA Trust expects all its employees to be role models to the children in our schools and within the communities we serve. As such, we conduct ourselves in a professional manner at all times.

The Disciplinary Procedure forms a key part of the contract of employment between employees and the Trust. The confidentiality clause applies to all employees involved in the disciplinary process. This procedure applies to all LETTA Trust employees with more than 26 weeks' service (and not subject to a probationary period).

Cases involving poor performance caused by ill-health or lack of capability are dealt with under separate procedures.

For general rules of conduct, please refer to the Staff Code of Conduct. Appendix A includes misconduct and gross misconduct lists for information. These lists are neither exhaustive nor exclusive.

2. Purpose

We aim to provide the highest quality educational provision to the pupils in our schools. We do this by working together in teams. Strong working relationships are key, and the disciplinary procedure should:

- improve conduct by advice and correction rather than by disciplinary measures. It is a corrective rather than a punitive process
- provide a fair method of dealing with alleged breaches in standards of conduct
- ensure acceptable standards of conduct at work
- clarify the rights and responsibilities of employees under the procedure's provisions

Substantiated allegations of gross misconduct may lead to summary dismissal or a determination to dismiss where there is no entitlement to statutory notice.

The Trust Board is responsible for ensuring that a fair and consistent procedure is in place to manage staff discipline. Headteachers are responsible for implementing this procedure within their schools.

3. Equality considerations

It is important that we apply the procedure in a fair manner at all times. The Trust opposes discrimination against employees of any kind.



We are committed to ensuring a safe and respectful working environment, free from harassment, bullying, and discrimination. Employers are required to take proactive measures to prevent sexual harassment. This includes ensuring staff are aware of their rights and responsibilities, providing appropriate training, and taking immediate action in response to concerns raised.

4. Informal action

Less serious breaches of conduct or first breaches of some types of misconduct can be handled informally by talking to the employee. This involves drawing to the employee's attention the unsatisfactory conduct. Then, explaining to the employee the conduct that is required and allowing the employee a reasonable period for improvement.

When managing misconduct, we consider whether the employee is facing any personal difficulties, and if this is the case, we seek advice from the Occupational Health advisor. If mental illness, alcohol or substance misuse is suspected, we also seek advice from Occupational Health.

In some cases, an external mediator is used to resolve conflict in the workplace. Notes of mediation are taken and retained. If the issue cannot be dealt with informally, formal procedures will begin, and the employee will be informed of this by their line manager.

5. Disciplinary sanctions

The following formal stages of disciplinary action can be taken for breaches of conduct (see Appendix A: Disciplinary rules).

Warnings are progressive from First to Final except for:

- cases of gross misconduct (which may result in summary dismissal)
- cases which are less serious than gross misconduct but warrant a Final Warning, regardless of prior formal warnings

| Disciplinary action | Authority to issue | Duration of warning on personal file |
|-------------------------------|--------------------|--------------------------------------|
| Oral or first written warning | Headteacher | 9 months |
| Second written warning | Headteacher | 12 months |
| Final warning | Headteacher | 18 months |
| Dismissal | Disciplinary panel | - |

During the term of a disciplinary warning, further misconduct may occur. Where this results in a formal hearing and a further warning, the duration period for both warnings must expire before cancellation takes place. For example, where a second written warning is issued to



an employee who has an outstanding first written warning, the period of the second warning (12 months) is added to the remaining period of the first warning.

The total period would have to expire before cancellation of both warnings takes place. An employee must be held accountable for further misconduct if an existing warning is in place at the time the new alleged offence was committed, irrespective of when the offence comes to light or if the Hearing is arranged once the current warning(s) have expired. Upon expiry, we remove all disciplinary warnings from an employee's personnel file.

An employee with a final written warning on file who is alleged to have committed a further occurrence of misconduct must be treated as if the allegation were of gross misconduct. This is because if the allegation is substantiated, we would dismiss the employee. Letters to the employee will include a warning of dismissal (in the same way as allegations of gross misconduct).

5.1 Warnings without a hearing

Where the investigation substantiates an allegation of misconduct, the employee (or their Trade Union representative) can formally request the issuing of a First Written Warning without the need for a hearing. If the headteacher agrees that the sanction is appropriate, they may give a first written warning to remain on the employee's record for 9 months from the date of issue.

It is only appropriate for issues which would warrant a first written warning. If the headteacher judges that it is not a minor incident of misconduct or if the employee has current warnings on file, the matter must be dealt with at a full disciplinary hearing.

6. Disciplinary investigations

6.1 The investigating officer (IO)

The headteacher or CEO appoints the investigating officer. Where the headteacher carries out the investigation, any disciplinary hearing must be heard by the CEO and trustees/members of the local governing board (LGB). The headteacher will only investigate in exceptional circumstances. Advice must be sought from the HR Manager before an investigation begins.

All members of staff acting in the capacity of an Investigating Officer will receive the relevant training and support. Investigations will normally be carried out by the immediate line manager. If this is neither practical nor appropriate, another investigating officer will be chosen. Alternatives to the line manager could include an employee of equal or more senior status within the Trust or from a partner school. Advice should be sought from the Trust's HR Manager on the appropriateness of the investigating officer. Where the investigation is of a safeguarding nature the school's DSL will not take on the role of Investigating Officer.

Where an external investigation is required or desirable, the CEO will commission an investigator. A list of independent external investigators is held by the Trust's HR Manager.

6.2 The investigation



The case must be thoroughly investigated, clearly written up and supported by evidence. Care must be taken to avoid assumptions or stereotypical attitudes prejudicing decisions. The investigating officer will investigate the alleged misconduct. They will get balanced evidence of innocence as well as guilt and any evidence of mitigation. The investigating officer may appoint any other person to assist in the investigation.

The investigation may include a face-to-face interview with the employee. This is not mandatory. The employee may provide a written statement or response to the investigating officer.

The employee has to cooperate with the investigation to ensure that it is completed as swiftly and as thoroughly as possible.

If pupils are interviewed as part of the investigation, the employee's union representative or work colleague may attend to observe the interview to ensure impartiality. They may not ask questions. The investigating officer should invite the pupil's parents to attend. This provision does not require an observer at any meeting where a disciplinary allegation is initially made by a pupil.

Any investigation involving school staff will take place within the working days for those staff. Timetabling should take into account school closure periods.

The investigating officer will produce an investigation report setting out:

- evidence gathered
- a decision that either:
 - there should not be a formal disciplinary meeting to consider imposing a formal disciplinary sanction
 - there should be a formal disciplinary meeting to consider imposing a formal disciplinary sanction

If a disciplinary meeting is required:

- the specific allegations to be considered at the meeting
- a statement about whether dismissal may or may not be an appropriate sanction at the end of the disciplinary meeting, subject to mitigation

The investigation report and its supporting documentation are confidential documents.

If the decision is that there is a formal disciplinary meeting, the employee will receive the investigation report. This includes all supporting documentation and witness statements.

If the decision is not to have a formal disciplinary meeting, the investigation report, supporting documentation and witness statements will not be shared.



6.3 Timescales for investigations

We must investigate all allegations and complaints against employees. This is particularly important in cases of potential gross misconduct. The Investigating Officer will need reasonable time off normal duties to carry out the investigation.

The Investigating Officer should finish the report within 20 working days from the time they begin the investigation. This applies to allegations of misconduct and other instances where fact-finding is relatively straightforward. For allegations of gross misconduct or more complex cases, the investigation process should take no longer than 30 working days (unless agreed in advance). Where an investigation is likely to take longer (through unexpected delays or school closure periods), all parties must be kept informed.

6.4 Allegations against headteachers

Where allegations of misconduct involve headteachers, the CEO or designated trustees, replace the headteacher in initiating any action. In this case, the powers for suspension also rest with the CEO and/or the Trustees. Investigations of allegations against Headteachers will be carried out by a nominated Trustee or an external investigating officer.

7. Disciplinary hearings

The person who has commissioned the investigation will send the employee a letter with the date, time and place of the disciplinary hearing. The employee will also get a copy of the investigating officer's report and all relevant documentation. The employee will have 5 working days' notice to provide copies of any written evidence to be presented at the hearing.

The date of the hearing will be postponed by up to 5 working days if the employee's representative is unable to attend on the specified date. If the employee's representative will not be available for more than 5 working days afterwards, the employee may be asked to choose someone else.

Employees must take all reasonable steps to attend a hearing. Failure to attend without good reason may be treated as misconduct in itself. If an employee fails to attend without good reason or is persistently unable to do so (for example, for health reasons), a decision may have to be taken regarding the sanction based on the available evidence without the employee being present. If an employee is unable to attend for good reason, they may present a written submission to the hearing. They can also request that their chosen companion represent them at the hearing in their absence. Separate advice should be sought in respect of employees absent from work due to pregnancy or maternity leave.

A disciplinary hearing will be arranged if the results of the investigation state that there are reasonable grounds to suggest misconduct or gross misconduct. The hearing will be within 4 working weeks of completion of the investigation. Reasons for a delay in convening a hearing will be communicated to all parties.



In all cases where dismissal may result, the Trust's HR Advisor will attend the hearing. The employee will have 5 working days' notice of a hearing for misconduct and 10 working days' notice for gross misconduct. Notice periods cover working days on either side of school holidays.

7.1 Composition of the panel

The headteacher can hear allegations of misconduct. If this is not appropriate, a disciplinary panel will hear the case. Where the allegations are of gross misconduct or other misconduct which could result in the dismissal of the employee, a disciplinary panel will hear the case.

The disciplinary panel will usually comprise the headteacher (who will chair the hearing) and the CEO or a trustee/member of the Local Governing Board. Appeals against decisions made by the disciplinary panel must be considered by an appeal committee, which consists of 2 trustees who have had no prior involvement in the case.

In cases of gross misconduct, the clerk to the Trust Board must attend to take minutes of proceedings. It is their role to minute the significant points of the hearing and the decision of the panel. They do not produce a verbatim record.

8. Conducting the hearing

At the hearing, all parties present will have an opportunity to ask questions. They may challenge the reports/evidence submitted and question all witnesses. See Appendix 2 for the disciplinary hearing structure.

The panel should inform the employee of the decision of the hearing immediately. If there is an adjournment to clarify any facts, this time frame can change. The Chair, hearing the allegation, will confirm the decision in writing within **10 working days**. The letter must also confirm the individual's right of appeal.

9. Outcome of disciplinary process

Where possible, a decision will be given verbally at the end of the hearing to the employee. If a longer adjournment is required, the hearing will be concluded, and arrangements made to notify the employee (in person or by telephone) of the outcome within 5 working days.

In either case, the outcome will be confirmed in writing to the employee, along with the right of appeal, within 10 working days of the hearing.

The outcome of the hearing can be one of the following:

- allegation not proven
- revert back to informal management processes;
- written warning (remaining on file for 6-12 months)
- final written warning (remaining on file for 18 months)



- summary dismissal without notice (immediate, without pay in lieu)
- dismissal with notice (remaining on file for the duration of the notice period)

The last option is only applicable where an allegation of misconduct, not amounting to gross misconduct, has been proven and there is a final written warning in effect, with dismissal being the next level of disciplinary sanction.

Where an existing warning is already in place, the level of sanction imposed on a new occasion will be the same or higher than the one already in effect.

10. Appeals procedure

Employees have the right of appeal against all formal disciplinary action. In submitting an appeal, employees are asking the Trust Board disciplinary appeal panel to consider the fairness and reasonableness of any disciplinary measures taken at the original hearing.

Appeals against disciplinary action will only be considered on one or more of the following grounds:

- The **procedure** – the grounds of appeal should detail how procedural irregularities prejudiced the disciplinary decision
- The **facts** – the grounds of appeal should detail how the facts do not support the decision or were disregarded, misinterpreted or considered not relevant. They should also detail any new evidence to be considered
- The **decision** – the grounds of the appeal should state how the act(s) of misconduct did not justify the level of disciplinary action taken, or the act was one of misconduct rather than gross misconduct

Appeals must be registered with the Chair of the Trust Board within 10 days of the date of the letter confirming the disciplinary decision. Appeals received after this period will not be heard.

The appeal will concentrate on the area(s) of dispute only and will not be a re-run of the whole disciplinary hearing. It is important that the employee (or their representative) is explicit about the grounds for appeal. They must provide clear and specific reasons in writing. Written notice of appeal must include reference to any new facts the appellant intends to raise at the appeal.

Employees must present any new evidence which was unavailable at the time of submission of the appeal documentation at least 3 working days before the appeal hearing. This is so that managers have an opportunity to respond.

We will organise appeals as soon as possible, and the appellant will have 5 working days' notice of the time and venue of the appeal hearing.

The result of the appeal and the reasons for the decision will be conveyed to the appellant



immediately after the hearing. The Chair of the appeal panel will confirm the decision in writing within 5 working days.

There will be no further right of appeal.

11. Employee representation

Employees have a right to be accompanied by a trade union representative or a work colleague at all formal stages of this procedure. We will inform the employee of this right in advance of meetings and give them reasonable time to contact a representative. If the employee's chosen companion is not available at the time of the meeting, it will be rescheduled to accommodate the availability of the companion, as long as a reasonable alternative date is offered within 5 working days of the originally proposed date.

Unless required to attend as witnesses, people who are not in the employment of the Trust cannot take part in any part of the process. In particular, employees cannot ask solicitors or legal practitioners to represent them.

Employees are responsible for arranging their representation. They may not choose someone who may prejudice the fairness of the disciplinary process or who may have a conflict of interest. Where disciplinary allegations involve a trade union representative, no action should be taken until the case can be discussed with a senior trade union representative. In cases of alleged gross misconduct by a representative of a recognised professional association or trade union, the representative may be suspended on full pay until such consultations can take place.

12. Suspension

Authority to suspend begins at the headteacher level. The headteacher, the CEO and the trustees have the right to suspend an employee. Suspension is on full contractual pay. It includes suspension from all duties where, in their opinion, exclusion from the school is required.

Suspension for alleged misconduct should only occur:

- where the suspected offence may amount to gross misconduct
- in a situation when it is in the best interests of the investigation that the employee is away from the school, e.g. the investigation could be compromised by the continued presence of the employee in school;
- there is a serious risk to the pupils, other employees or the school resources or property
- the allegations relate to a safeguarding issue
- the reputation of the school could be compromised by keeping the employee at work



Suspension is not a disciplinary sanction. It does not imply 'guilt' or that any decision has already been made. Suspension may involve a total suspension from work, suspension of part of the employee's normal duties, transfer to alternative work or transfer to a different workplace. The alternative options should be considered before implementing a total suspension from work.

Wherever possible, the Trust's HR Manager should be consulted before action to suspend is taken.

If necessary, a less senior manager can send a member of staff home pending ratification by the headteacher the following day.

Where the employee is a union member, the local trade union representative can be asked to attend the suspension meeting if practicable. Where suspension occurs, this should be confirmed in writing, giving broad details of the allegation. In all cases, the CEO needs to be informed.

The employee will be informed immediately if the suspension is lifted. This could be at any stage during or at the end of the investigation, or at any stage of the disciplinary procedure. Whilst suspended, the employee must make themselves available for meetings on request.

Suspension from duty is a 'working arrangement' whereby the employee must not enter the school or any Trust building. They must not contact any Trust employee without the permission of the headteacher or the Investigating Officer. They must not contact pupils, parents and carers with whom they would come into contact during the course of their duties. Failure to observe this requirement may render them liable to further disciplinary action.

13. Child protection legislation

If allegations are made against staff which involve child protection issues, the child protection procedure must be followed, irrespective of how the allegation arises. Employees will be suspended pending the outcome of the child protection (Allegations Against Staff) process. If the relevant child protection agencies decide not to pursue formal action against the employee, the matter will be referred back to the school for consideration under the appropriate HR procedure.

Action under the relevant procedure will begin once the matter has been referred back to the school. The fact that external agencies have not pursued formal action should not be taken as a presumption of innocence or guilt on behalf of the employee.

14. Referring conduct issues to external organisations

Where it is required to do so, the school will refer conduct issues or allegations to the appropriate external professional, public and statutory bodies. This includes referrals to the Disclosure and Barring Service and/or the Teaching Regulation Agency in relevant circumstances.



15. Criminal offences

Charges or criminal offences committed outside of the employment/working hours with the school shall not be treated as an automatic reason for disciplinary action. However, employees are required to inform the school of any such criminal charges or convictions in order that the school can consider whether any disciplinary proceedings will be taken against the employee, up to and including summary dismissal.

Where a police investigation or a charge is pending, it may be necessary to delay investigations, however this is not in itself a reason for delaying or withholding disciplinary action, if the alleged offence is relevant to the employment, and enough evidence is available to enable the person hearing the complaint to be reasonably satisfied as to the relevant facts, it may be possible to continue.

Where there is misconduct at work and this is also the subject of a criminal investigation, the school should apply the disciplinary procedure in the normal way. However, in carrying out a disciplinary investigation, it will need to exercise caution to ensure that it does not impede police enquiries.

An employee shall not be disciplined solely because a charge is pending or because of absence through having been remanded in custody. School leaders will involve the Trust's HR Manager in these cases. In addition, the school should attempt to establish if the employee involved is in a trade union and make contact with the appropriate Branch Secretary to discuss the situation.



Appendix A: Disciplinary offences

Gross misconduct

'Gross misconduct' is the term given to misconduct that is so serious it undermines the contract of employment. Even if an employee has had no previous warnings, a single act of gross misconduct will lead to dismissal. There is no definitive list of examples that constitute misconduct or gross misconduct. The examples given below are not exhaustive.

1. Defrauding or stealing from the Trust, its partners, members of the public, employees, or any person or organisation the employee comes into contact with in the course of employment. This includes falsification for financial gain of documents such as timesheets, invoices, receipts, accounts, overtime claims, application forms or qualifications.
2. Attempting to steal or defraud and colluding with other parties to steal or defraud.
3. Unauthorised use of or wilful damage to Trust property will also be considered as gross misconduct.
4. Corrupt or improper practices. Examples include:
 - improper use of official position for personal and/or financial advantage or for the private advantage of some other person or organisation
 - failing to disclose private interests which conflict with the Trust's interests
5. Engaging in unauthorised employment or business during hours when contracted to work for the Trust, e.g. when on sick leave, study leave or suspension.
6. Serious acts of discrimination, victimisation, bullying and/or harassment of any individual or group.
7. Prolonged unauthorised absence from work (at least 10 working days without contact).
8. Inappropriate conduct towards or contact with pupils.
9. Maltreatment, abuse or wilful neglect of those in care, or whose personal welfare is otherwise the responsibility of the Trust.
10. Serious sexual offences and/or misconduct at work.
11. Serious breach of health and safety which endangers any individual, e.g. damage to, misappropriation of, or neglect of safety equipment.
12. Wilful unauthorised disclosure of confidential information or data, e.g. disclosure of sensitive personal information or commercially valuable information.



13. Failure to report or record any matter which it is the employee's contractual duty (either expressed or implied) to report.
14. Fighting or acts of violence at the workplace. Serious threatening or abusive behaviour towards staff, pupils or members of the public.
15. Sexual Harassment - includes unwanted conduct of a sexual nature that violates dignity, creates an intimidating, hostile, degrading, humiliating, or offensive environment, or subjects an employee to less favourable treatment for rejecting or submitting to such behaviour. Employers have a proactive duty to take reasonable steps to prevent sexual harassment, and failure to do so may result in liability (see also Staff Code of conduct).
16. Victimisation - occurs when an individual is subjected to a detriment because they have carried out, are suspected of carrying out, or intend to carry out a protected act under the Equality Act 2010. This includes bringing or participating in proceedings, providing evidence, or claiming that someone has broken the law under the Equality Act 2010. Examples of victimisation may include denying opportunities, excluding individuals because they raised a grievance about sexual harassment, failing to promote someone because they accompanied someone to a grievance meeting, or dismissing someone due to their involvement in complaints, grievances, or tribunal proceedings related to discrimination or harassment.
17. Making statements that are or could be damaging, slanderous or libellous, whether verbally, written, in electronic communication or by social media, which could be harmful to a pupil, an employee or other worker, a governor, a member of the public, or our reputation.
18. Victimising a person who has raised concerns, made a complaint, given evidence or information under our policies, e.g. grievance procedure, disciplinary procedure or otherwise.
19. Making a disclosure of false or misleading information under our whistleblowing policy maliciously, for personal gain, or otherwise in bad faith against a person or, making untrue allegations in bad faith against a person.
20. Criminal offences outside work (including fraudulent activities such as claiming Housing Benefit or unemployment benefit etc.) which may affect the individual's employment suitability.
21. Being incapable of performing duties as a result of the abuse of alcohol or drugs.
22. Serious contravention of the Trust's Policy on Internet Access and Social Media websites. Employees must not use email, the Intranet or Internet to deliberately access internet sites containing pornographic, racist, offensive or obscene material. They must not use these to harass or threaten fellow employees or others.



23. Deliberate and wilful negligence in job performance, likely to damage the Trust's reputation or have serious implications for pupils or colleagues. Gross negligence, incapability or incompetence, including serious professional misjudgement, which destroys the confidence in the employee, e.g. failing to supervise a contract which leads to serious financial loss to the Trust.
24. Obtaining a job by lies or deception in the course of selection procedures.
25. Repeated acts or a pattern of behaviour that destroys confidence in the employment relationship.
26. Making false claims under any of the Trust's policies and procedures.
27. Serious negligence, serious neglect of duties, or a serious or deliberate breach of your conditions of employment, operating procedures, public examination rules, DfE statutory requirements, statutory rules affecting your work, or Health and Safety rules, for example:
 - failure to comply with the Prevent Duty
 - failure to report safeguarding concerns
 - failure to exercise proper control or supervision of pupils
 - disclosure of restricted public examination material or content
 - falsifying sickness absence
 - taking leave when permission is denied
28. Ignoring handling instructions/responsibilities/safety regulations, to include those in relation to chemicals, machinery, equipment or food

Other misconduct

1. Unauthorised absence from work
2. Regular lateness for work
3. Regular failure to follow employment rules, e.g. reporting absence
4. Refusal to obey a reasonable instruction from a line manager or other leader
5. Negligence at work leading to loss, damage or wastage of schools', Trust or public property
6. Improper, disorderly or unacceptable conduct at, during or when arriving for work.
7. Inappropriate drinking of alcohol at work



8. Wilfully inadequate work performance (poor performance or lack of capability will normally be the subject of the capability procedure)
9. Abusive or threatening behaviour towards a member of the public, pupils or fellow employees
10. Breaches of the Trust's Financial Regulations
11. Neglect of duty, e.g. where an employee, without good cause:
 - fails to discharge the obligations placed on them by their contract of employment
 - by carelessness or neglect causes any loss, damage or injury to occur to any person or property
 - fails to report any matter it is his or her duty to report. Knowingly making false, misleading or inaccurate oral or written statements to trustees or other employees or members of the public
12. Disregard of safety rules previously brought to the employee's attention
13. Engaging in other businesses without the required consent of the HT or CEO
14. Failure to notify the headteacher or CEO of any gift, benefit, hospitality or other advantages in breach of the Trust's policy
15. Improper use of the school's email, internet and telecommunications
16. Damage to or unauthorised use of Trust property
17. Smoking in non-smoking areas
18. Persistently failing to follow the School's Acceptable Standards of Appearance, including failing to display school identification when at work.