



THE PRIORY
LEARNING TRUST

Disciplinary Policy and Procedure

Policies approved by the Board of Trustees

Signed:

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Date: 1.9.19

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Date:

1/9/19

Executive Principal

History of Policy Changes

Date	Version	Author	Origin of Change e.g. TU request, change in legislation	Changed by
September 2017	1	FRL	Creation of policy	
May 2018	2		Review of policy	DL
February 2019	3		Following consultation with Somerset unions	DL
June 2019	4		Annual review	DL

This policy applies to The Priory Learning Trust and all its academies.

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Policy statement

- 1.1 The aim of this Disciplinary Procedure is to provide a framework within which The Priory Learning Trust (the Trust) can work with employees to maintain satisfactory standards of conduct and to encourage improvement where necessary.
- 1.2 It is the Trust's policy to ensure that any disciplinary matter is dealt with fairly and that steps are taken to establish the facts and to give employees the opportunity to respond before taking any formal action.
- 1.3 This policy does not form part of any employee's contract of employment. It should be considered guidance as to how the Trust is likely to manage a disciplinary matter. We may vary the application of this procedure, including any time scales for action, as appropriate.

Scope and purpose of policy

- 1.4 The procedure applies to all employees regardless of length of service excluding those in their probationary period where separate arrangements apply. It does not apply to agency workers or self-employed contractors.
- 1.5 This procedure is used to deal with misconduct. It does not apply to cases involving genuine sickness absence, proposed redundancies or poor performance. In those cases reference should be made to the appropriate policy or procedure on the intranet or available from the HR Team.
- 1.6 Minor conduct issues can often be resolved informally between employees and their line manager. These discussions should be held in private and without undue delay whenever there is cause for concern. Where appropriate, a note of any such informal discussions may be placed on the employee's personnel file. In some cases a verbal instruction may be given. Formal steps will be taken under this procedure if the matter is not resolved, or if informal discussion is not appropriate (for example, because of the seriousness of the allegation).
- 1.7 Employees will not normally be dismissed for a first act of misconduct, unless the Trust decides that the conduct amounts to gross misconduct or the employee has not completed a probationary period.
- 1.8 As recognisable figures in the local community the behaviour and conduct of staff outside of work can impact on their employment. Therefore conduct outside work may be treated as a disciplinary matter if it is considered that it is relevant to the employee's employment.
- 1.9 The Policy has been guided by the ACAS code of practice.

Interpretation

- 1.10 The Trustees delegate responsibility for the management of disciplinary matters to the Executive Principal or Chief Operations Officer for the Central Team and for Academy staff delegate's day to day responsibility to the Principals/Head teachers or the Chief Operations Officer for Academy Business staff. Matters of discipline involving the Executive Principal or Chief Operations Officer shall be dealt with by the Trustees who shall follow this policy to the extent that it is practical and appropriate.

Confidentiality

- 1.11 It is the aim of Trust to deal with disciplinary matters sensitively and with due respect for the privacy of any individuals involved. All employees must treat as confidential any information communicated to them in connection with an investigation or disciplinary matter.

- 1.12 Employees, and anyone accompanying them (including witnesses), must not make electronic recordings of any meetings or hearings conducted under this procedure.
- 1.13 Employees will normally be told the names of any witnesses whose evidence is relevant to disciplinary proceedings against them, unless there is good reason that a witness's identity should remain anonymous. Consent is obtained from witnesses before information is shared.

Allegations

- 1.14 Allegations may be brought to the Trust's attention in a number of ways and through a variety of sources. As with disclosures made by children and young people, adults need to be aware that in making an allegation it is not always possible to keep the matter confidential. The Trust will in each case determine the most appropriate course of action and may choose to proceed with an investigation even if the person making the allegation does not want them to.
- 1.15 Allegations which involve issues of child protection and/or abuse of children by staff should be referred immediately to the Designated Officer for Allegations (DOFA) and will be dealt with in accordance with the provisions of *Keeping Children Safe in Education*. No further action under this procedure will usually be taken until the DOFA has been consulted.

Investigations

- 1.16 Upon receiving an allegation against an employee it is likely that further information will be required to establish what the next course of action should be. Responsibility will be delegated to a member of the Leadership team or Manager to seek to establish the basic facts of the situation; this may involve looking at records, speaking to witnesses, reviewing CCTV etc. For the purposes of this policy, this individual will be known as the Investigating Officer.
- 1.17 The role of an Investigating Officer is to be fair and objective so that they can establish the essential facts of the matter and reach a conclusion on what did or did not happen. An investigator should do this by looking for evidence that supports the allegation and evidence that contradicts it. In potential disciplinary matters, it is not an investigator's role to prove the guilt of any party but to investigate if there is a case to answer. Where practicable, different people should carry out the investigation and disciplinary hearing.
- 1.18 In the case of allegations made against the Principal/Headteacher, the Executive Principal will be responsible for the management of the procedure and determining an appropriate investigating officer, either internally or externally.
- 1.19 Preliminary Investigation meeting
A preliminary investigation meeting may be held with the employee to establish the basic facts of the circumstance and to enable the Investigating Officer to determine whether further investigation is required. Such a meeting can sometimes give a reasonable explanation in response to allegations, which then enables the matter to be concluded. A preliminary meeting will not be required in all cases and it is for the Investigating Officer to decide if this is appropriate. The Employee may be accompanied by a colleague for this meeting, however, if unavailable the meeting will go ahead without delay.
- 1.20 Further investigation

The purpose of an investigation is to establish a fair and balanced view of the facts relating to any disciplinary allegations made against an employee, before deciding whether to proceed with a disciplinary hearing. The amount of investigation required will depend on the nature of the allegations and will vary from case to case. It may involve interviewing and taking statements from the employee and any witnesses, and/or reviewing relevant documents and other information. The meeting will be conducted impartially, fairly and professionally

1.21 Interviewing witnesses

It may be necessary to interview witnesses who may have information that is relevant to the allegations. A record of the meeting will be made and the witness will have the opportunity to review the record, make amendments for clarification purposes and sign and date the record. The Trust recognises that some employees may find this difficult or worrying, however all employees are expected to fully participate in any such investigation.

1.22 Interviewing the employee

Investigation meetings 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. Employees do not have a statutory right to bring a companion to an investigation meeting. However, employees are allowed to bring a trade union representative or work colleague to the investigation meeting if they are available. Any request to rearrange the time or date of the investigation meeting to enable a companion to attend within 5 days would be deemed reasonable, anything further will be at the discretion of the Trust and maybe refused to allow the investigation to proceed without delay. A record of the meeting will be made and the employee will have the opportunity to review the record, make amendments for clarification purposes and sign and date the record.

1.23 Employees must co-operate fully and promptly in any investigation. This will include providing the names of any relevant witnesses, disclosing any relevant documents or information and attending investigative interviews if required. As each investigation will vary in length and complexity it will be completed in as short a time frame as possible.

1.24 The Trust may, for the purposes of verifying evidence brought to it in support of a disciplinary allegation, access and later rely on a corroborative evidence, images and recordings from its CCTV systems.

Criminal charges

1.25 Where conduct is the subject of a criminal investigation the Trust may be prevented or delayed from pursuing disciplinary action in accordance with this policy. The employee will be informed of the instructions received by the Trust.

1.26 The Trust will not usually wait for the outcome of any prosecution before deciding what action, if any, to take. Where employees are unable or have been advised not to attend an investigation meeting or disciplinary hearing or say anything about a pending criminal matter, a decision may have to be made based on the available evidence.

1.27 A criminal investigation, charge or conviction relating to conduct outside work may be treated as a disciplinary matter if it is considered that it is relevant to the employee's employment.

1.28 Where an employee receives a police caution or is convicted the facts will be investigated before deciding whether to take formal disciplinary action. Disciplinary action will not be automatic and will depend upon the circumstances. Employees should inform the Principal/Headteacher or the Chief Operations Officer (or in the case of the Principal/Headteacher, the Executive and in the case of the Executive or Chief

Operations Officer, the Trustees) immediately if they are involved in a criminal investigation, or are subject to a charge or conviction

- 1.29 Where a criminal investigation relates to allegations of abuse of children or young people the Trust will co-operate and share information about the employee with other relevant agencies as appropriate.

Suspension

- 1.30 In some circumstances it may be necessary to suspend the employee from work. The suspension will be for no longer than is necessary to investigate the allegations and conclude the disciplinary process. The arrangements will be confirmed to the employee in writing as soon as possible.
- 1.31 Suspension of this kind is not a disciplinary penalty and does not imply that any decision has already been made about the allegations. Employees will continue to receive full salary and benefits during the period of suspension.
- 1.32 Alternatives to suspension, for example re-organisation of duties, work location; temporary redeployment to another role etc will be explored where relevant before a decision to suspend is made. The nature and severity of the allegations will need to be considered as will the employee's role within the Trust.
- 1.33 Where allegations are made that involve the protection of children suspension will not be considered to be automatic. A reasoned decision will be made based on all available information, including the advice for DOFA.
- 1.34 The suspension will be kept under review as the investigation progresses. As information is gathered it may become appropriate to lift the suspension during the course of the investigation or prior to any disciplinary hearing.
- 1.35 The decision to suspend an employee can be made by the Principal/Headteacher, Chief Operations Officer or Executive Principal. In the case of the suspension of the Principal; the Executive Principal will make the decision.
- 1.36 Whilst suspended, it is important that the employee is supported during this time and is able to contact someone at the workplace to discuss any concerns they may have. The employee will be allocated an impartial and appropriate person within the academy and details of the Trust's employee assistance programme.

Disciplinary hearing

- 1.37 Following any investigation, if the investigating officer believes there are grounds for disciplinary action, the employee will be required to attend a disciplinary hearing. The employee will be informed in writing of the allegations against them, the basis for those allegations, and what the likely range of consequences will be if it is decided at the hearing that there are reasonable grounds to consider that the allegations are substantiated. The following will also be included where appropriate:
- (a) a summary of relevant information gathered during the investigation;
 - (b) a copy of any relevant documents which will be used at the disciplinary hearing; and
 - (c) a copy of any relevant witness statements, except where a witness's identity is to be kept confidential, in which case as much information as possible will be provided whilst maintaining confidentiality. (5 working days) extenuating circumstances?

- 1.38 Appendix 1 sets out examples of conduct which is likely to amount to misconduct and gross misconduct.
- 1.39 Five working days written notice will be given, unless exceptional circumstances or mutually agreed notice differs, of the date, time and place of the disciplinary hearing will be given to provide the employee with a reasonable amount of time to prepare their case based on the information that they have been provided with. The hearing will be arranged as soon as is practicably possible
- 1.40 The Investigating Officer with HR will be responsible for ensuring that all of the arrangements for the hearing are made and that the employee receives the appropriate paperwork and notice of the hearing.

Role of Companion at Meetings and Hearings

- 1.41 An employee may bring a companion to a disciplinary or appeal hearing. The companion may be either a trade union representative or a work colleague. The employee should inform the Investigating Officer who their chosen companion is, in good time before the hearing.
- 1.42 Should the employee choose to bring a companion to the hearing they will be responsible for making these arrangements and for providing their companion with any paperwork that they require for the hearing. Acting as a companion is voluntary and your colleagues are under no obligation to do so. If they agree to do so they will be allowed reasonable time off from duties without loss of pay to act as a companion. On request, an additional copy can be supplied to the employee for the companion.
- 1.43 If the choice of companion is unreasonable the employee can be asked to choose someone else, for example:
- (a) if they have a conflict of interest or may prejudice the meeting; or
 - (b) if the companion works at another site and someone reasonably suitable is available at the site at which the employee works; or
 - (c) if the companion is not available at the time a meeting is scheduled and will not be available for more than five working days afterwards.
- 1.44 A companion may make representations, ask questions, and sum up the employee's position, but will not be allowed to answer questions on the employee's behalf. The employee may confer privately with their companion at any time during a meeting

Procedure at disciplinary hearings

- 1.45 If the employee and/or their companion cannot attend the hearing they should inform the Investigating Officer immediately, or if not practical, the HR Manager, and consideration will be given to arranging an alternative time. Employees must make every effort to attend the hearing and failure to attend without good reason may be treated as misconduct in itself. Failure to attend without good reason, or persistent inability to do so (for example for health reasons), may lead to a decision being taken based on the available evidence.
- 1.46 If the employee chooses not to attend the hearing they may choose to send a written statement for consideration at the hearing.
- 1.47 The hearing will be chaired by the following (who may be accompanied by a panel of one or more members of staff/individuals of equivalent status within the Trust which may include the Governors:

1.48	Involving:	1.49	Allegations of misconduct	of	1.50	Allegations of gross misconduct/repeated misconduct
1.51	Executive Principal or Chief Operations Officer	1.52	Trustees		1.53	Trustees
1.54	Trust Central Staff	1.55	Executive Principal or Chief Operations Officer		1.56	Trustees
1.57	Principal/Headteacher	1.58	Executive Principal		1.59	Trustees
1.60	Academy Teaching and Learning Staff	1.61	Principal/Headteacher or at their election a member of the Leadership Team		1.62	Academy Council
1.63	Academy Business Staff	1.64	Chief Operations Officer or at their election a member of the Leadership or Central Team		1.65	Trustees

1.66

1.67 The Investigating Officer and a member of the HR Team will also be present.

1.68 At the disciplinary hearing the Investigating Officer will go through the allegations against the employee and the evidence that has been gathered. The employee will be able to respond and present any evidence of their own.

1.69 Relevant witnesses may be asked by the Investigating Officer or the employee to appear at the hearing. The employee must give sufficient advance notice if they wish to call witnesses to ensure that there is time to arrange their attendance. The employee will be given the opportunity to respond to any information given by a witness. However, the employee will not normally be permitted to cross-examine witnesses unless, in exceptional circumstances, the Chair decides that a fair hearing could not be held otherwise.

1.70 The Chair may adjourn the disciplinary hearing if there is a need to carry out any further investigations such as re-interviewing witnesses in the light of any new points that have been raised at the hearing. The employee will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.

1.71 The employee will be informed in writing of the decision and the reasons for it, usually within 10 working days of the disciplinary hearing.

Disciplinary penalties

1.72 The Chair/Panel may find that there is no case to answer and may refer the case back to an informal process. Alternatively, the Chair/Panel may give the employee a disciplinary warning or dismiss them.

- 1.73 The usual penalties for misconduct are set out below. The Trust aims to treat all employees fairly and consistently, and a penalty imposed on another employee for similar misconduct will usually be taken into account but should not be treated as a precedent. Each case will be assessed on its own merits.
- 1.74 First written warning. A first written warning will usually be appropriate for a first act of misconduct where there are no other active written warnings on the employee's disciplinary record.
- 1.75 Final written warning. A final written warning will usually be appropriate for:
- (a) misconduct where there is already an active written warning on the employee's record; or
 - (b) misconduct that is considered sufficiently serious to warrant a final written warning even though there are no other active warnings on the record.
- 1.76 Dismissal. Dismissal will usually only be appropriate for:
- (a) further misconduct where there is an active final written warning on the record; or
 - (b) any gross misconduct regardless of whether there are active warnings on the record. Gross misconduct will usually result in immediate dismissal without notice or payment in lieu of notice (summary dismissal).
- 1.77 Alternatives to dismissal. In some cases, the Chair/Panel may, at its discretion consider offering the following alternatives to dismissal. These will usually be accompanied by a final written warning. Examples include:
- (a) Demotion;
 - (b) Transfer to another department or job;
 - (c) Loss of seniority; or
 - (d) Reduction in pay.

The effect of a warning

- 1.78 Written warnings will set out the nature of the misconduct, the change in behaviour required, the period for which the warning will remain active, and the likely consequences of further misconduct in that active period.
- 1.79 A first written warning will usually remain active for twelve months and a final written warning will usually remain active for 24 months. In exceptional cases verging on gross misconduct or specific misconduct which may warrant indefinite warnings such as dangerous breaches of health and safety and/ or safeguarding, a final written warning may state that it will remain active indefinitely.
- 1.80 After the active period, the warning will be removed from the employee's personnel file and disposed of securely unless it concerns Safeguarding or Health and Safety.

Appeals against disciplinary penalties

- 1.81 The employee has the right to appeal against a disciplinary penalty which has been imposed upon them. This must be in writing, stating the full grounds of appeal and sent to the HR Team within 5 working days of the date on which the employee was informed of the decision.

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

1.83 The appeal hearing will be chaired by the following (who may be accompanied by a panel of one or more members of staff/individuals of equivalent status within the Trust:

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1.85

1.86 Involving:	1.87 Allegations of misconduct	1.88 Allegations of gross misconduct/repeated misconduct
1.89 Executive Principal or Chief Operations Officer	1.90 Trustees	1.91 Trustees
1.92 Trust Central Staff	1.93 Trustees	1.94 Trustees
1.95 Principal/Headteacher	1.96 Trustees	1.97 Trustees
1.98 Academy Teaching and Learning Staff	1.99 Principal/Headteacher or Academy Council	1.100 Trustees
1.101 Academy Business Staff	1.102 Chief Operations Officer or Trustees	1.103 Trustees

1.104 If any new matters are raised in the appeal hearing further investigation may need to be carried out. The appeal hearing may be adjourned if there is a need to carry out any further investigations such as re-interviewing witnesses in the light of any new points that have been raised at the hearing. If any new information comes to light this will be provided to the employee with a summary including, where appropriate, copies of additional relevant documents and witness statements. The employee will have a reasonable opportunity to consider this information before the hearing is reconvened.

1.105 The employee must be given written notice of the date, time and place of the appeal hearing. This will normally be no less than 5 working days. The employee may be accompanied to the hearing by a work colleague or trade union representative.

1.106 The appeal hearing may be a complete re-hearing or it may be a review of the fairness of the original decision in the light of the procedure that was followed and any new information that may have come to light. This decision will be at the discretion of the Chair depending on the circumstances of the case. In any event the appeal will be dealt with as impartially as possible. The penalty outcome will not be more advanced than previous outcome issued

1.107 Following the appeal hearing the Chair may:

- (a) confirm the original decision;

- (b) revoke the original decision; or
- (c) substitute a different penalty.

1.108 The employee will be informed in writing of the decision and the reasons for it, usually within 10 working days of the appeal hearing. There is no further right to appeal.

Referrals to external bodies

In cases where employees are dismissed or resign during a disciplinary process a referral to the Disclosure and Barring Service and Secretary of State will be made where the thresholds for referral are met.

Review of policy

This policy is reviewed annually by the Trust and where materially amended is consulted on, where necessary. We will monitor the application and outcomes of this policy to ensure it is working effectively.

Appendix 1

1. Definitions

- 1.1 **Misconduct:** The following are examples of matters that will normally be regarded as misconduct and will be dealt with under the Disciplinary Procedure:
- a) Minor breaches of the Trust or School policies including the Sickness Absence Policy, Electronic Information and Communications Systems Policy, and Health and Safety Policy, Safeguarding policy;
 - b) Minor breaches of an employee's contract of employment;
 - c) Damage to, or unauthorised use or misuse of, Trust property;
 - d) Poor timekeeping or time wasting;
 - e) Unauthorised absence from work;
 - f) Refusal to follow instructions;
 - g) Excessive use of Trust resources such as telephones, email or internet for personal reasons;
 - h) Inappropriate or other offensive behaviour, including using obscene language, victimisation or harassment of other members of staff;
 - i) Rudeness towards parents, members of public and fellow employees;
 - j) Negligence in the performance of duties;
 - k) Unacceptable personal appearance;
 - l) Poor attendance; or
 - m) A minor breach of the Trust's Code of Conduct
 - n) Failure to follow reasonable management instructions
 - o) A minor failure to maintain appropriate boundaries with staff, students, parents or carers

This list is intended as a guide and is not exhaustive.

- 1.2 **Gross misconduct:** Gross misconduct is a serious breach of contract and includes misconduct which, in the opinion of the Trust, is likely to prejudice its business or reputation or irreparably damage the working relationship and trust between the Trust and the employee. Gross misconduct will be dealt with under the Disciplinary Procedure and may lead to dismissal without notice or pay in lieu of notice (summary dismissal).
- 1.2.1 The following are examples of matters that are normally regarded as gross misconduct:
- a) Theft, or unauthorised removal of property or the property of a colleague, contractor, student or member of the public;
 - b) Fraud, forgery or other dishonesty, including fabrication of expense claims and time sheets, student's work, examinations or assessments;
 - c) Actual or threatened violence, or behaviour which provokes violence;
 - d) Deliberate damage to the Trust's buildings, fittings, property or equipment, or the property of a colleague, contractor, student or member of the public;
 - e) Inappropriate conduct with children or young people, including failing to maintain appropriate professional boundaries;

- f) Serious failure to follow the Trust's safeguarding policies or child protection procedures;
- g) Serious misuse of the Trust's property or name;
- h) Deliberately accessing internet sites or sending emails at work or at home, using Trust equipment, which contain pornographic, offensive or obscene material;
- i) Repeated or serious failure to obey instructions, or any other serious act of insubordination;
- j) Bringing the Trust into serious disrepute;
- k) Being under the influence of alcohol, illegal drugs or other substances during working hours or not being capable of fulfilling your duties because of the effects of alcohol or illegal drugs or other substances.
- l) Causing loss, damage or injury through serious negligence;
- m) Serious or repeated breach of health and safety rules or serious misuse of safety equipment;
- n) Unauthorised use or disclosure of confidential information or failure to ensure that confidential information in your possession is kept secure;
- o) The offer or acceptance of bribes or other secret payments;
- p) Sexual misconduct at work
- q) Conviction or caution for a criminal offence that in the trustees reasonable opinion may affect the Trust's reputation or its relationships with its staff, students, parents or the public, or otherwise affects your suitability to continue to work for the Trust;
- r) Possession, use, supply or attempted supply of illegal drugs;
- s) Serious neglect of duties, or a serious or deliberate breach of your contract or operating procedures;
- t) Unauthorised use, processing or disclosure of personal data contrary to our Data Protection Policy;
- u) Harassment of, or discrimination against, employees, students, parents or members of the public, related to any of the protected characteristics contrary to our Equal Opportunities Policy or our Anti-harassment and Bullying Policy;
- v) Failure or refusal to disclose any of the information required by your employment or any other information that may have a bearing on the performance of your duties;
- w) Giving false information as to qualifications or entitlement to work (including immigration status);
- x) Making a disclosure of false or misleading information under our Whistleblowing Policy maliciously, for personal gain, or otherwise in bad faith;
- y) Making untrue allegations in bad faith against a colleague;
- z) Victimising a colleague who has raised concerns, made a complaint or given evidence information under the Whistleblowing policy, Anti-harassment and Bullying policy, Grievance Procedure, Disciplinary Procedure or otherwise;

- aa) Serious misuse of our information technology systems (including misuse of developed or licensed software, use of unauthorised software and misuse of email and the internet) contrary to our ICT acceptable use policy;
- bb) Undertaking unauthorised paid or unpaid employment during your working or directed time hours;
- cc) Making a false declaration or failing to disclose information in relation to being disqualified from the provision of childcare, or becoming disqualified from providing childcare; or
- dd) A serious breach of the Trust's Code of Conduct.

This list is intended as a guide and is not exhaustive.

- 1.3 In some instances, offences which would normally constitute gross misconduct may be considered as misconduct because of mitigating circumstances. Similarly, issues which would normally be treated as misconduct may, in certain circumstances, be considered so serious that they constitute gross misconduct.

