



**THE CRYPT SCHOOL**

**DISCIPLINARY PROCEDURE**

**(FORMERLY THE CONDUCT PROCEDURE AND GUIDANCE)**

## **DISCIPLINARY AND APPEALS Procedure**

- 1. This procedure does not form part of The Employee's contract of employment, except to the extent required by law.**

### **2.1 Introduction**

**2.1.1 Status:** The School is not obliged to follow this procedure in every instance. However, the School will follow a fair and effective procedure in the event that disciplinary action is necessary. [There may be occasions when the School considers it appropriate to change or omit parts of the procedure. If the School amends the procedure, The Employee will be given advance notice of the amendments.]

**2.1.2** The Head, Deputy Head and Director of Studies are all authorized by the Governing Body to invoke any part of this procedure up to and including dismissal. Heads of Department are also authorised to issue up to and including a first written warning.

**2.1.3 Capability:** This procedure does not apply to incompetence, incapability or other poor performance unless this is attributable to misconduct.

#### **2.1.4 Conduct issues**

Minor conduct issues (that do not fall within the safeguarding policy) can often be resolved informally between the employee and management. These discussions should be held without undue delay whenever there is cause for concern and should be held by the relevant line manager, with either the PLM, Deputy Head or Director of Studies in attendance. A note of any such informal discussions may be placed on the Employee's personnel file. 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).

#### **2.1.5 Confidentiality**

Our aim is 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.

The Employee, and anyone accompanying the Employee (including witnesses), must will not make electronic recordings of any meetings or hearings conducted under this procedure.

The Employee will normally be told the names of any witnesses whose evidence is relevant to disciplinary proceedings, unless we believe that a witness's identity should remain confidential.

### **2.2 The investigation stage**

**2.2.1 Investigation:** As a first step any disciplinary issue will be investigated. If, after investigating the matter, it appears that there are no reasonable grounds for concern, The

Employee will be informed and, if relevant, allowed to return to work as normal.

**2.2.2 Suspension:** If the matter to be investigated is thought at any stage of the investigation to involve gross misconduct or it is in the interests of the School, a pupil, an employee or The School, the Head may immediately suspend The Employee from work on full pay and benefits whilst the investigation proceeds. Suspension is not considered as a disciplinary action at this point and will be reviewed to ensure that it is not unnecessarily protracted.

**2.2.3 Separation of roles:** The School may appoint a senior member of staff to carry out the investigation ("*the Investigating Officer*").

**2.2.4 Preliminary interview:** As part of the investigation, the Investigating Officer may (if considered appropriate) undertake a preliminary interview with The Employee. First of all The Employee will be advised of the nature of the complaint. Then The Employee will be given the opportunity to state their case and submit any relevant documents. The Employee will be given access to any relevant information and papers held by the School.

## **2.3 The disciplinary stage**

**2.3.1 Completion of investigation:** On completion of the investigation, the Investigating Officer will present the facts of the case to an appropriate officer (either the Head, Deputy Head or Director of Studies) to decide on whether there is sufficient evidence for a case to be answered. If it is concluded that it is necessary to take formal action in respect of the complaint, a disciplinary hearing will be arranged. The Employee will be invited to attend and will be given at least 3 working days' advance notice of the hearing.

The letter will include details of the allegations, the basis for those allegations, and what the likely range of consequences will be if The School decides after the hearing that the allegations are true. The School will also include the following where appropriate:

- all relevant evidence gathered during the investigation should be supplied to the individual;
- a copy of any relevant documents which will be used at the disciplinary hearing;
- a copy of any relevant witness statements will be supplied as part of the evidence; where, in very exceptional circumstances, a witness statement which needs to be anonymous, can be redacted but even in these cases, the School will give as much information as possible, while maintaining confidentiality;
- who will be in attendance at the hearing.

The School will give The Employee written notice of the date, time and place of the disciplinary hearing. The hearing will be held as soon as reasonably practicable

**2.3.2 Right to be accompanied:** In accordance with ACAS guidance, the Employee has a statutory right to be accompanied by a colleague, a trade union representative, or a trade union official of the employee's to the Disciplinary Hearing.

**2.3.3 Witness statements:** If statements have been obtained from witnesses during the

course of the investigation The Employee will be given a copy of them. In certain circumstances it may be necessary to preserve the anonymity of a witness.

**2.3.4 Disciplinary Panel:** The School may appoint a Disciplinary Panel to hear the matter. In appropriate circumstances, the Head, Deputy Head or Director of Studies may hear the matter on his/her own. The Investigating Officer shall not be a member of the Disciplinary Panel. If the employee or The Employee's colleague or Union representative cannot attend the hearing the school should be informed immediately and The School will arrange an alternative date/time which should be not more than 5 working days. The Employee must make every effort to attend the hearing, and failure to attend without good reason may be treated as misconduct in itself. If The Employee fail to attend without good reason, or are persistently unable to do so (for example for health reasons), the school may take a decision based on the available evidence in The Employee's absence.

**2.3.5 The Disciplinary Hearing:** The Disciplinary Panel will conduct the hearing. The Investigating Officer will be asked to report on his/her investigation. Both, The Employee and the Disciplinary Panel will be entitled to question the Investigating Officer and any witnesses. The Employee will be entitled to give The School an explanation and answer the allegations that have been made and may be questioned by the Investigating Officer as well as by the Disciplinary Panel. The Employee and the person accompanying The Employee and the Investigating Officer will be given the opportunity to address the Disciplinary Panel. The person accompanying The Employee does not have the right to respond directly to questions that are addressed to The Employee but may give The Employee advice on how The Employee should respond.

**2.3.6 Adjournment:** The Disciplinary Panel may adjourn the proceedings at any stage if this appears necessary or desirable. If adjourning for the purpose of enabling further information to be obtained, the Disciplinary Panel will specify the nature of that information. The Employee may ask for an adjournment for the purpose of consulting the person accompanying The Employee. Any adjournment will normally be for a specified period of time.

**2.3.7 Decision making:** On completion of the hearing, the Disciplinary Panel will retire to consider the decision. Neither The Employee, the person accompanying The Employee, nor the Investigating Officer will be allowed to take part in nor be present during the Disciplinary Panel's deliberations.

**2.3.8 Communication of decision:** When the Disciplinary Panel has made a decision, it will be communicated to The Employee (where possible) on the day and confirmed in writing within 5 working days. If the complaint is upheld, The Employee will be informed of the action to be taken, explanation of any penalty imposed and of the right to appeal against the decision.

If the decision has been taken to dismiss The Employee, The Employee will be informed (where possible) on the day and confirmed in writing within 5 working days of the reasons for the dismissal, the date on which the contract between the parties will terminate, the appropriate period of notice (or pay in lieu of notice), as well as information regarding The Employee right to appeal. If the decision is to summarily dismiss then notice would not normally be paid.

## 2.4 Disciplinary action

2.4.1 **Sanctions:** Depending upon the nature of any misconduct found to have been committed, any explanation given by The Employee and any mitigating circumstances, the Disciplinary Panel may impose any of the following sanctions:

**A formal oral warning;**

**A first written warning;**

**A final written warning;**

**Suspension without pay for a defined period;**

**Demotion; or**

**Dismissal with or without notice.**

2.4.2 **Currency of warnings:** An **oral warning** will normally be recorded on The Employee file for a period of 6 months from the date the warning was given. A written warning will be recorded on The Employee file normally for a period of 12 months from the date the warning was given. In exceptional cases a final warning maybe permanently left on the employees file.

2.4.3 **Gross misconduct:** Where there has been gross misconduct the Disciplinary Panel may dismiss without notice. The Employee will be notified in writing of the reasons for The Employee dismissal and informed of The Employee right to appeal. Some examples of what the School considers to be gross misconduct are set out below:

Indecent, violent or offensive behaviour whether committed at or outside work

Misuse of or deliberate damage to School property

Fraud, theft or dishonesty

Being on duty whilst unfit due to the influence of drugs and/or alcohol

Bullying

Conduct (whether committed at or outside work) which is likely to damage the School's reputation

Unlawful sexual, racial, age, religious or disability harassment or discrimination

Disregarding health and safety rules/requirements and endangering themselves or others

Willful neglect or refusal of duty

Misuse of confidential information

Offences related to drug abuse, sexual misconduct and the abuse of children.

Failure to carry out reasonable instructions.

## **2.5 Appeal**

**2.5.1 Right of appeal:** The Employee has the right of appeal to an Appeal against any penalty imposed by a manager/panel or against any dismissal. The Appeal Panel shall consist of the Headmaster (if the sanction was imposed by another manager) and at least one Governor. If the sanction was imposed by the Headmaster the Chairman will nominate at least two Governors to hear the appeal. An appeal panel shall not include any member of the Disciplinary Panel nor the Investigatory Officer.

**2.5.2 Appeal procedure:** Such a right of appeal must be exercised in writing, within 5 working days of The Employee being notified of the sanction, giving full details of why The Employee wish to appeal. The notice should be sent to the Head. The Appeal Panel will arrange a review hearing or a re-hearing to take place: this will usually be heard within 10 working days of receiving the employee's grounds for appeal and wherever possible the employee will be given at least 3 working days' notice of the hearing. The employee must take reasonable steps to attend the hearing. The procedure at the Appeal Hearing shall be the same as that for the Disciplinary hearing, save that there will be no right of appeal from the decision of the Appeal Panel. Where new evidence arises during the appeal The Employee, or The Employee representative, will be given the opportunity to comment before any action is taken. The Appeal Panel will be entitled to reach a different conclusion and impose a different sanction than that imposed by the Disciplinary Panel. If the employee presents new information the Panel could ask the original disciplinary panel to reconvene and consider the new evidence.

**2.5.3 Communication of Appeal Decision:** When the Appeal Panel has made a decision, it will be communicated to The Employee (where possible) on the day and confirmed in writing within 5 working days.

**2.5.4 Employment status:** If an appeal is made against a dismissal decision, that dismissal decision will have immediate effect so that, if the dismissal is by notice, the period of notice will have begun at the date given in the dismissal decision. If summary dismissal without notice has been imposed, The Employee will not be entitled to be paid for the period between that decision and the decision of The Employee appeal unless The Employee have been reinstated on appeal. If having been dismissed The Employee is reinstated on appeal, The Employee continuity of employment will be unaffected.

Policy Adopted: December 2015

Review date: July 2016

Reviewed: