

<b>POLICY TITLE:</b>	<b>Disciplinary Procedure</b>
<b>Policy Number:</b>	AHR04.2
<b>Applies to:</b>	Employed Aspris Colleagues who have passed their probation
<b>Version Number:</b>	02
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<b>Responsible signatory:</b>	Louise Watts, Group HR Director
<b>Outcome:</b>	<p>This policy:</p> <ul style="list-style-type: none"> <li>• Aims to provide managers with the guidance they need to deal with allegations of misconduct and gross misconduct.</li> <li>• Aims to provide colleagues with information on what the process will be when faced with disciplinary action.</li> <li>• Aims to provide colleagues with information on what support is available to them when faced with disciplinary action.</li> <li>• Sets out the process for dealing with investigations and disciplinarys.</li> </ul>

**Cross Reference:**

AOP06	Safeguarding Children in Education	AHR06.2	Providing Employer References
AOP06A	Safeguarding Children in Residential Care	AHR07	Disclosures
AHR01.4	Practising Privileges for Therapists and other Health Professionals	AHR11	Use of Social Media by Employees
AHR04.1	Diversity and Inclusion	AHR12	Capability
AHR04.3	Grievance	AHR13	Probation
AHR04.10	Anti-Bullying and Harassment	ALE02	Combatting Bribery, Fraud and Corruption
AHR05	Attendance Management	ALE03	Data Protection

**EQUALITY AND DIVERSITY STATEMENT**

Aspris is committed to the fair treatment of all in line with the Equality Act 2010. An equality impact assessment has been completed on this policy to ensure that it can be implemented consistently regardless of any protected characteristics and all will be treated with dignity and respect.

This policy covers all parts of Aspris Services – The Care and Education Divisions; Central services and our Fostering service. For the Fostering service and the 2 operational divisions, there are local procedures that relate to some of these policies, where necessary.

In order to ensure that this policy is relevant and up to date, comments and suggestions for additions or amendments are sought from users of this document. To contribute towards the process of review, email [Aspris.GovernanceHelpdesk@Asprisgroup.com](mailto:Aspris.GovernanceHelpdesk@Asprisgroup.com)

# DISCIPLINARY POLICY

## 1 INTRODUCTION

- 1.1 Aspris is committed to ensure that any concerns are fully investigated and that a fair and proper process is followed when the need for disciplinary action arises.
- 1.2 There are no local procedures or practices applicable to this policy
- 1.3 This policy should be used in conjunction with the related policies listed on the preceding page where applicable.

## 2 AIMS

- 2.1 The purpose of this policy and procedure is to provide a non-discriminatory, fair and timely process for the management of disciplinary matters within Aspris, and to encourage improvement of conduct, where necessary. Dependant on the severity of any conduct, Aspris will follow a due process as outlined below. In the first instance, informal action may be taken. However, if the conduct is substantially serious so as not to warrant informal action, then the formal process will commence.
- 2.2 The reasons for disciplinary action may include, but are not limited to:
  - (a) Unsatisfactory attendance and/or timekeeping;
  - (b) Poor performance or negligence, lack of application to duties, misuse of Aspris's, childrens', Young Peoples', or suppliers' property, both tangible and intangible;
  - (c) Failure to report abuse or suspected abuse of a children or young person;
  - (d) Failure to use safe and hygienic work practices or to observe Aspris's duties and statutory requirements regarding health and safety;
  - (e) Refusal to carry out reasonable duties, or obey reasonable instructions, or follow Aspris's rules;
  - (f) Aggressive behaviour, assault, or serious threat of such, whilst at work. Ill-treatment of, or discourtesy to colleagues, children / young people in our care, and their relatives;
  - (g) Misconduct, wilful damage, theft, dishonesty, malicious practices and offences against the law which affects Aspris's business;
  - (h) Breach of the Aspris's IT, email and Internet use guidelines;
  - (i) Breach of confidentiality, relating to children and young people, Aspris or colleague details;
  - (j) Failure to record serious incidents or consistently failing to keep adequate and accurate records of service users where required.

This list is not exhaustive.

- 2.3 Minor faults will be dealt with informally through one-to-one meetings, performance reviews, letters of concern and/or other development requirements identified. Where appropriate, a note of informal discussions will be placed on the personnel file, but will not be considered for the purposes of future disciplinary hearings. However, in cases where informal discussion with the colleague does not lead to an improvement in conduct or performance, or where the matter is considered to be too serious to be classed as minor, for example, unauthorised absences, persistent poor timekeeping, sub-standard work performance etc., the following disciplinary procedure will be used.

## 3 SCOPE

- 3.1 This policy applies to all Aspris colleagues. This policy does not apply during probationary periods of employment, nor does it apply to locum or agency staff. It shall also be inapplicable to individuals with a casual/bank working arrangement or a service level agreement. Where conduct issues arise involving individuals assigned to a bank shift or on service level agreements, this policy may be referenced for the purposes of conducting a fact finding investigation.
- 3.2 Aspris reserves the right to vary its application of the Disciplinary Policy at any time, including variation of time limits where appropriate and necessary to do so. In particular, but not exclusively limited to, Aspris may vary the application of the Disciplinary Policy in situations where the colleague is absent from work without authorisation or contact or has continuous service with Aspris of less than two years. In confirmation, this policy is non-contractual. Any such variation to policy application will need to be discussed and agreed with the relevant HR contact prior to enactment.

#### **4 RESPONSIBILITIES**

- 4.1 **Colleagues** – it is the responsibility of the colleague to raise any issues in a timely and appropriate way, initially with their line manager, to enable a swift resolution. Colleagues also have a duty to act in accordance with Aspris policies and procedures and must familiarise themselves with these documents.
- 4.2 **Managers** – it is a manager's responsibility to ensure standards are adhered to and any issues of performance or conduct are addressed in a timely manner.
- 4.3 **Group HR Director** – it is the responsibility of the Group HR Director to ensure fair processes are in place and support and guidance is available for colleagues and managers.

#### **5 CONFIDENTIALITY**

- 5.1 All colleagues must treat as confidential any information communicated to them in connection with an investigation or disciplinary matter.

#### **6 Behaviour Outside Working Hours**

The Company demands employees of the highest integrity and expects all employees to maintain high standards outside working hours. Any outside activities, which could reasonably be regarded as detrimental to the reputation of the Company, may lead to dismissal.

As a condition of employment, employees are required to notify the Company immediately of any criminal charges, cautions or conviction, plea of guilty or not guilty in respect of a criminal offence.

#### **7 SUSPENSION**

- 7.1 In serious cases of alleged misconduct where there is a potential risk to colleagues, children, students or young people, or to the business, the colleague may be suspended from work, prior to and whilst investigations are completed. Suspension will usually be on full basic pay following careful consideration of the circumstances, potential risk to the business, colleagues and children, students or young people and any other alternatives to suspension. However, there is no requirement to suspend a colleague unless consideration of all the circumstances dictates this. The reasons for the suspension will be explained and confirmed in writing to the individual. Suspension is a neutral act and is not a disciplinary action or a

presumption of guilt. Prior to any suspension decision being enacted, the suspension protocol must be reviewed and followed **See appendix 1.**

- 7.2 Suspension from work will be no longer than necessary to investigate any allegations of misconduct against a colleague or so long as is otherwise reasonable while any disciplinary procedure against the colleague is outstanding. Every attempt will be made to ensure the period of suspension is kept to a minimum and will be reviewed on a regular basis. However, there may be circumstances in which suspension may last longer than envisaged, due to the involvement of a third party e.g. LADO / Police. In this situation, the colleague will remain on suspension pending third party actions, so a full and fair investigation can be undertaken.
- 7.3 Suspension may also take the form of assigning alternative duties to the colleague and in particular where the nature of the allegation[s] makes it inappropriate for the colleague to continue with their substantive role but, the risks to the business and children, students and young people are appropriately managed in an alternative role. Where this happens, assignment to alternative duties will only be for the duration of time it takes to complete the investigation and any formal action deemed necessary and will be on the colleague's usual rate of basic pay.
- 7.4 For any colleagues working with children, students or young people, if the allegations involve causing emotional, psychological, physical or sexual harm, financial abuse or neglect to a service user, the manager who carried out the suspension must inform their local safeguarding team and appropriate external regulatory body.
- 7.5 If the colleague has been suspended on clinical or professional grounds or where a practitioner's practising privileges have been suspended, restricted or withdrawn on professional or clinical grounds, the suspending manager should notify the Group HR Director and Director of Governance & Risk who will inform or advise on referral to the appropriate national professional body.

## **8 ABSENCE**

- 8.1 If a colleague takes sickness absence whilst on suspension or during the investigation or disciplinary process, the investigator may, depending on the circumstances and the nature of the allegation, and dependant on the nature of the colleague's absence:
- (a) Continue this process, with the colleague's participation, by offering alternative ways for them to attend the disciplinary hearing/investigation meetings. This can be done either over the phone, at a service the colleague does not work at, by allowing the colleague to put forward their responses/representation to the allegations in writing or allowing a fellow colleague or Trade Union representative to attend a face to face meeting with a copy of the colleague's written responses;
  - (b) Postpone the investigation or disciplinary proceedings until the colleague is fit to be interviewed or provide a written statement;
  - (c) Refer the matter to occupational health in order to ascertain their option on the colleague's fitness to participate in investigation/disciplinary proceedings. This is particularly where the colleague's sickness absence may be resulting in long delays to the investigation/disciplinary being concluded.

## **9 INVESTIGATION (FACT FINDING)**

- 9.1 When an allegation(s) has been brought to light, it is important that a full and thorough investigation is carried out. The purpose of an investigation is to establish a fair and balanced view of the facts. The amount of investigation required will

depend on the nature of the allegations and will vary from case to case. As part of the investigation, interviews and witness statements may be taken from the colleague and any other relevant individuals. No decision on disciplinary action will be taken until after a disciplinary hearing is held. For investigations involving safeguarding or more serious issues, terms of reference should be provided to the investigating officer by the Operations Director.

- 9.2 The fact finding investigation should be conducted by an appropriate person who has not been involved or associated with the allegation(s)/potential disciplinary offence(s). The investigating manager will take steps to ensure the allegations are investigated as soon as reasonably practicable, taking into account the availability of witnesses, evidence and any restrictions placed on commencing the investigation by third parties, i.e. Safeguarding.
- 9.3 Depending upon the outcome of the investigation, the investigating manager may decide to take no further action, issue a letter of concern or recommend disciplinary action. If there is a case for disciplinary action to be taken, the below procedure will apply.

## **10 DISCIPLINARY PROCEDURE**

- 10.1 **Informing the colleague of the allegations** – If it is decided that a formal disciplinary hearing is appropriate, a letter will be sent/given to the colleague setting out the allegations and confirming that the matter is being referred to a disciplinary hearing. Alongside this letter (or following very shortly afterwards), a copy of any investigation summary notes, witness statements or additional documentation referred to in the management case which may be presented at the disciplinary hearing should be provided to the colleague, where appropriate. The colleague should also be advised of the possible outcomes of the disciplinary hearing. The letter will detail the colleague's right to be accompanied by a fellow colleague or trade union representative (see section 9.3) at the disciplinary hearing and that they may call witnesses to the hearing. The colleague should be given written notice of time, date and place of the disciplinary hearing. The colleague will be given a minimum of 48 hours' notice to enable them to prepare for the hearing. However, in certain circumstances, more notice than 48 hours may be provided dependant on the matter itself. The below is a non-exhaustive list which provides the basis for more notice being provided, on a discretionary basis. However, the below list is not definitive, nor does it automatically apply to cases. Each matter will be considered on the facts and allegations, and the appropriate timescale will be provided as notice of the hearing:

- (a) It is a complicated investigation;
- (b) There are numerous documents;
- (c) The colleague's personal circumstances dictate that additional time may be required.

- 10.2 **Holding a disciplinary hearing** - The hearing will normally be conducted by someone other than the person who investigated the allegations.

- 10.2.1 The colleague must make every effort to attend the hearing. The investigating manager will not usually be present at the hearing. Where this is required, it will be at the sole discretion of the chair of the disciplinary hearing. However, if this cannot be arranged, the hearing chair should explain the allegations against the colleague and go through the evidence that has been gathered. The colleague should be allowed to respond to the allegations/evidence against them. The colleague should also be given the opportunity to ask questions, present their own evidence and call relevant witnesses. Where the colleague intends to call a witness, the colleague

should confirm the identity of the witness to the hearing chair and HR 24 hours, prior to the hearing in addition to the reason they are being called. It will ultimately be the hearing chair's decision as to whether the witness will be called. A witness cannot be called to the meeting against their will. Where a witness does attend a hearing, they will only be permitted to attend the hearing when presenting their evidence.

10.2.2 If a colleague refuses to answer questions, they will be informed that such a refusal will lead to the hearing manager coming to a conclusion based on the available evidence only. If the colleague persists in refusing to answer proper questions a brief adjournment will be called to allow the colleague to consider their position, with their companion if they have chosen to have one present. If a colleague still persists in refusing to answer questions then the hearing will proceed and a decision will be reached based on the available evidence.

10.2.3 If a colleague fails to attend a disciplinary hearing without explanation or sufficient explanation, then the hearing will proceed in the colleague's absence with a decision made based on the information available to the chair of the hearing.

### 10.3 **Accompaniment**

10.3.1 Colleagues have the right to be accompanied by a companion. A companion can be a fellow colleague, an accredited trade union representative, or an official employed by a trade union. A trade union representative who is not an employed official must have been certified by their union as being competent to accompany a colleague. It is for the colleague to organise for someone to accompany them if they so wish. Solicitors and other external legal advisors are generally not acceptable as a colleague's companion; family members are also not acceptable.

10.3.2 There is no duty on a fellow colleague, trade union representative or official to accept a request to accompany a colleague and no pressure should be brought to bear on a person if they do not wish to act as a companion.

10.3.3 If the companion is not available, the colleague will be invited to choose another companion who is available. The unavailability of a companion is not sufficient grounds to delay the hearing. However, if the chosen companion is not available then, provided the colleague proposes an alternative time that is within five working days (beginning with the day the hearing was scheduled for), then the hearing will be postponed. A postponement longer than five working days will be at Aspris' discretion, and will only be considered for justifiable reasons, which do not include attempts to delay the disciplinary or appeal process.

10.3.4 The companion should be allowed to address the hearing to put and sum up the colleague's case, respond on behalf of the colleague to any views expressed at the hearing and confer with the colleague during the hearing. The companion does not, however, have the right to answer questions on the colleague's behalf, address the hearing if the colleague does not wish it or prevent the investigatory/hearing manager from explaining their case.

10.4 **Decide on Appropriate Action** - Depending upon the seriousness of the allegations the disciplinary outcome may be any of the below four stages. All colleagues are treated fairly and consistently and action imposed on another colleague for similar misconduct will be taken into account but will not determine the outcome of the colleague's matter, considering that all information and circumstances will be taken into account and assessed on its own merits.

10.4.1 **Stage one – No formal action/ Letter of Concern (Informal)** - This is not a formal disciplinary sanction, although a note will be kept on the colleague's file for

future reference. A minor breach of standards may warrant a letter of concern. This will include details of the expected improvement and any timescales within which the improvement should occur. There is no right of appeal against this level of warning. This is a likely outcome of a minor incident and first occasion of the same but is not appropriate in more serious matters. A letter of concern can be issued without following the full disciplinary process if deemed appropriate subject to advice from the Regional HR Advisor about the case.

- 10.4.2 **Stage two – first written warning (Formal)** - Where further action is necessary or where the offence is deemed to be sufficiently serious, following the convening of a formal disciplinary hearing, a first written warning may be issued. This sanction may be appropriate where there is a first act of misconduct where there are no other active written warnings. It may be appropriate for the colleague to be given an improvement notice alongside this for behaviour/misconduct within a required timescale. If this is given, the colleague should be warned of the consequences of failing to abide by this and the sanction will be confirmed in writing to the colleague.
- 10.4.3 **Stage three – final written warning/extended final written warning (Formal)** - Where an incident constitutes serious misconduct or where there is a failure to improve or a repetition of an issue dealt with previously at stage two, following a formal disciplinary hearing a final written or extended final written warning may be issued. It may be appropriate for the colleague to be given an improvement notice alongside this for behaviour/misconduct within a required timescale. If this is given, the colleague should be warned of the consequences of failing to abide by this.
- 10.4.4 **Stage four – dismissal (Formal)** - Where a colleague has been warned previously and further action is necessary, termination of employment with notice will be considered.. There may be occasions where the seriousness of the case (gross misconduct) leads to a colleague being dismissed without notice and without recourse to the earlier stages of the procedure. A disciplinary hearing must be held before any decision is made to dismiss for any colleagues with over 2 years continuous service. (See gross misconduct below). The outcome of the hearing will be confirmed in writing.
- 10.5 Aspris reserves the right to skip warning stages where, after conclusion of a disciplinary process, this is deemed appropriate taking into account the nature and extent of the misconduct.
- 10.6 Each formal warning will remain valid for a period of 12 months, unless stated otherwise. The outcome of the hearing must be confirmed in writing to the colleague. The written confirmation of the disciplinary sanction will state:
- (a) The nature of the misconduct
  - (b) The improvement that is required
  - (c) Any period of time given for improvement
  - (d) The consequences of a further breach of the rules of conduct.
- 10.7 **THE OUTCOME OF ALL DISCIPLINARY HEARINGS MUST BE REPORTED TO YOUR REGIONAL HR ADVISOR/REGIONAL HR BUSINESS PARTNER TO ENSURE ACCURATE RECORDS ARE MAINTAINED AND REPORTED ON ANY FUTURE EMPLOYER REFERENCES IN ORDER TO MEET OUR SAFEGUARDING RESPONSIBILITIES.**

## **11 GROSS MISCONDUCT**

- 11.1 If an allegation of gross misconduct is upheld following a disciplinary hearing, colleagues may be summarily dismissed without notice and without a warning being issued as detailed above. A full and thorough investigation will be carried out and a

disciplinary hearing will always be held before a decision to dismiss is made. The following list is not exhaustive, but gives examples of offences which constitute gross misconduct:

- (a) Abuse, violence or serious threat of such against persons whilst on Aspris business, or ill treatment or discourtesy to colleagues, children, students or young people and their relatives and other colleagues
- (b) Theft or unauthorised possession of property belonging to other colleagues, Aspris, suppliers, children, students or young people and their relatives
- (c) Falsification of records and fraud, including fraudulent self-certification of absence and attendance and timekeeping
- (d) Wilful damage to property belonging to Aspris, suppliers, children, students or young people and their relatives
- (e) Refusal to obey a reasonable instruction
- (f) Serious insubordination
- (g) Serious breaches of health and safety rules
- (h) Gross negligence
- (i) Unlawful discrimination or harassment
- (j) Breaches of confidential information
- (k) Accepting gifts or loans from children, students or young people, or their relatives
- (l) Leaving work during normal working hours without discussion / permission
- (m) Sleeping whilst on duty or during any paid breaks
- (n) Absence from work without permission
- (o) Consuming alcohol or non-prescription drugs during working hours, which includes an allocated rest break
- (p) If the Company reasonably believes that you have consumed alcohol or drugs prior to your shift
- (q) Breaches of professional codes of conduct relating to employment
- (r) Bringing the Company into disrepute (this includes the misuse of Social Media – posting critical, derogatory or offensive comments about the Company, colleagues or children, students or young people).
- (s) Providing references when not authorised to do so or providing incorrect information with regard to references

## **12 APPEALS**

- 12.1 Colleagues may appeal against any formal disciplinary action in writing to a nominated manager, within five calendar days of receipt of the disciplinary outcome letter. The five calendar days will run from receipt of the disciplinary outcome letter. The appeal must set out the basis and the full grounds being appealed, and any such appeal may be delayed if this is not forthcoming. The right of appeal will be detailed in the warning or dismissal letter. If a dismissal is being appealed, the date of the dismissal will not be delayed pending the outcome of an appeal.
- 12.2 The appeal will be dealt with by an independent manager who has not been involved in the case previously. The disciplinary sanction may decrease or remain the same within the appeal process. The colleague will again have the right to be accompanied by a fellow colleague or a Trade Union representative as per the above.
- 12.3 If further information or new matters are raised at appeal, a further investigation may need to be undertaken. If appropriate, copies of the information will be provided to the colleague and the opportunity to comment upon the information will be provided before any decision is made.
- 12.4 An appeal hearing may be reconvened or, if the grounds for the appeal are very clear, the manager may choose to deal with the appeal by correspondence or a conference call with the colleague and their companion. The appeal hearing will not normally rehear the case, unless new information is provided, but will consider the



grounds for the appeal. The outcome of the appeal will be confirmed in writing and this decision will be final.

12.5

In very exceptional circumstances, a disciplinary outcome may be revisited after issue. This will only happen with the approval of the Group HR Director, Director of Risk & Governance and relevant COO for the division. Approval will require there to be new information or evidence which has come to light following the original decision and the matter being one of a serious nature e.g. safeguarding / safety of our children and young people.

### **13 RECORDS**

13.1 Meeting/summary notes will be made at all meetings which take place with the colleague during the investigation and disciplinary stage, along with any supporting evidence. These records will be retained on the colleague's personal file and will be confidential, in accordance with the Data Protection Act 2018.

13.2 The colleague will receive copies of the notes of any disciplinary meeting.

13.3 The factual outcome of any investigation or disciplinary hearing may be included in any future employer references provided on behalf of Aspris, if required to do so.

### **14 FAILURE TO ATTEND AN INVESTIGATION MEETING OR DISCIPLINARY HEARING**

14.1 If a colleague fails to attend an investigation meeting or disciplinary hearing, and provides no satisfactory reason for so doing, Aspris may, entirely at its discretion arrange an alternative date/time.

14.2 If the colleague also fails to attend this meeting, and still provides no satisfactory reason for so doing, Aspris will proceed and a decision will be reached based on the available evidence.

### **15 EMPLOYEE ASSISTANCE HELPLINE**

15.1 Aspris understand that undergoing a disciplinary process may be difficult for colleagues and therefore reminds colleagues that they are able to access the Employee Assistance Helpline by telephone on 0800 015 9633 or via [www.employeeassistance.org.uk](http://www.employeeassistance.org.uk) - quoting Aspris. This helpline is a 24 hour, 7 days a week service for colleagues who require support in difficult situations.

### **16 CRIMINAL OFFENCES**

16.1 Criminal offences outside employment shall not necessarily be treated as a reason for disciplinary action. In such cases the appropriate manager will conduct an investigation and if appropriate a disciplinary hearing will be convened. Where criminal charges are pending against a colleague the manager should consider, in accordance with this procedure the question of the colleague's employment independently from the outcome of any court hearing. Each case shall be considered separately taking into account relevant circumstances.

### **17 INFORMING PROFESSIONAL BODIES**

17.1 The regulatory body for the service and national professional bodies such as the Teacher Regulation Agency (England), Education Workforce Council for Wales, General Teaching Council for Scotland, Health and Care Professional Council (HPCP),

Social Work England, Social Care Wales, Scottish Social Services Council and the Nursing and Midwifery Council (as appropriate) must be informed about colleagues that have been suspended, restricted or withdrawn on professional and/or operational grounds in accordance with the relevant professional standards. The disciplining manager is responsible for informing the Group HR Director and agreeing who is to inform the professional body. There should be no delay in notifying the professional body, and a copy of all communications retained in the file of the individual colleague concerned.

- 17.2 In the case of colleagues working in Aspris independent schools, the Head Teacher must inform the Disclosure and Barring Service (DBS) of any colleague who has been disciplined, dismissed, is currently under investigation or left prior to the end of an investigation for causing emotional, psychological, physical or sexual harm, neglect or risk of harm to children (see OP06 Safeguarding Children; and HR07 Disclosure). This same requirement applies to the Registered Manager for any Social Care Home /Children's Home within any part of Aspris Services.
- 17.2.1 The Head Teacher/Registered Manager should contact Stuart Creswick, People Services Operations Manager as soon as it is thought there may be a need to refer a current or former colleague to the DBS
- 17.2.2 For schools in Wales, there is also statutory duty to inform the Education Workforce Council (Wales)
- 17.3 If a colleague has been dismissed for causing emotional, psychological, physical or sexual harm, financial abuse or neglect to a child or young person, the hearing chair must inform the DBS/Disclosure Scotland (see HR07 Disclosure).

References:

**Legislation**

Children's Homes Regulations 2015

Children's Homes (Wales) Regulations 2002

Data Protection Act 2018

Education (Independent School Standards) (England) Regulations 2010 as amended 2012

**Guidance**

CQC (2015) Specialist Mental Health Services: Provider handbook

CQC (2015) Residential Adult Social Care Services: Provider handbook

CQC (2015) Community Adult Social Care Services: Provider handbook

CQC (2015) Guidance for Providers on the Meeting Regulations

DfE (2015) Guide to the Children's Homes Regulations including the Quality Standards

DfE (2011) Teachers' Standards: Guidance for school leaders, school employees and governing bodies

DfE (2022) Residential Special Schools: National minimum standards

DfE (2012) Teacher Appraisal and Capabilities - a model for schools

**Associated Forms:**

**Management Report – Investigation Template** available from your Regional HR Advisor/HR Business Partner or Central HR

**AHR A17:** Disciplinary Standard letters are available from your Regional HR Advisor/HR Business Partner or Central HR

## Appendix 1 – Suspension Protocol

### Purpose

To ensure that suspensions of colleagues are dealt with fairly and expediently and in line with the Disciplinary Policy.

### Process

**Step 1-** As soon as there is a situation where you need to take a decision to suspend a colleague then the Site Leader / Head Teacher / Registered Manager must contact either the Regional HR Advisor or the Regional HR Business Partner **before** the suspension takes place to discuss the situation. The operational manager should then inform their Operations Director.

When you are preparing to telephone the HR team make sure you have the following information ready:

Confirmation that the individual is a permanent employee – if they are a bank worker you cannot suspend, instead you should inform them that they are not going to be engaged until any investigation is complete.

- Circumstances of the allegation
- What the individual has been told
- Who the Investigating Officer is going to be & anticipated timescales
- Any factual information or evidence available (e.g. CCTV footage)

Where a suspension decision involves an allegation of safeguarding the Group Head of Safeguarding will be informed immediately for awareness only and where necessary any advice from a technical safeguarding perspective.

**Step 2-** Every decision to suspend, or alternative to suspension requires sign off by the relevant divisional COO and Head of Operational HR before the decision is made. It is the responsibility of the Operations Director to inform the Head of Operational HR and the COO. The COO and Head of Operational HR will then agree the course of action.

Any decisions made over a weekend or outside of normal working hours where it is not practical to follow steps 1 and 2, it is essential that the next working day both steps are followed as set out above.

### Involvement of External agencies

If the incident requires notification to external agencies; i.e. the police or safeguarding, you must ensure that you are clear on what is an employment matter and what is related to the incident and needs to be investigated by an external agency.

In these circumstances it is useful to have a call involving as a minimum, the Operations Director, Site Leader / Headteacher / Registered Manager, Investigating Officer, Director of Governance & Risk & HR Business Partner or Advisor to agree who will take which actions. For safeguarding matters you should include your Regional Safeguarding lead (who will be your Operations Director) and the Group Head of Safeguarding.

The ultimate aim is to be pro-active in the way that we manage these relationships with external agencies but also to ensure that we do not prolong the internal employment investigation unnecessarily.

## 1. Employment

The employment investigation is into the behaviour and conduct of the individual focusing on breaches of our policies and procedures and whether there has been a potential breakdown in the employment relationship.

## **2. Safeguarding**

If there is a requirement to notify the local authority safeguarding team then this should be done in line with the appropriate Aspris Safeguarding policy. The local authority safeguarding team will decide who is to carry out their own investigation into the incident from the point of view and whether there is a continued risk to that young person.

## **3. Police**

You should always involve the police if there has been criminal activity this could include abuse of a young person or theft. The police are responsible for carrying out an investigation into the criminal activity, they are not investigating whether or not the employment relationship should continue.

In circumstances where external agencies have been notified you need to be absolutely clear with them what investigation we will undertake so that they can be reassured that we are not encroaching on their investigation. You must reassure both parties that we will work with them and provide opportunities for them to carry out their investigations as appropriate.

You should also be absolutely clear what action we have taken, what action we intend to take and also when we expect our investigation to be finished (within 5 working days). Examples of actions that may be taken include suspension of permanent employees to mitigate risk, referral to DBS/LADO (if required), or bank workers no longer being engaged.

If there is any CCTV then this should be copied five times so that we are not giving away the only copy to the police.

## **Review & Reporting**

The Regional HR team keep details of all suspensions on a log, so it is essential that they are notified weekly of updates relating to each suspension.

Any suspensions should also be noted on the site weekly report to the Operations Director.

Regional HR Business Partners will review suspensions on a weekly basis with the Regional HR Advisors and Operations Director.