



HCAT

Disciplinary Policy and Procedure

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HCAT Disciplinary Policy and Procedure

1. Introduction

- 1.1. This policy has been developed in consultation with Trade Unions and Professional Associations who are recognised by HCAT.
- 1.2. The purpose of this Disciplinary Policy and Procedure is to set and maintain standards of conduct throughout HCAT, and in doing so, ensure that all our employees are treated fairly and consistently. It is designed to help and encourage all employees to achieve and maintain satisfactory standards of conduct.
- 1.3. This policy and procedure does not form part of any employees' contract of employment and it may be amended at any time.

2. Scope

- 2.1. This policy applies to all employees of HCAT (the Trust) including those employed by Academies within the Trust. Conduct issues for non-teaching employees within their Probationary Period will be dealt with under the Probationary Policy.

3. Principles

- 3.1. Wherever possible, matters of misconduct should be dealt with informally, to encourage the employee to learn from their mistakes and improve their conduct.
- 3.2. Underperformance and ill health will be dealt with under separate policies.
- 3.3. Any disciplinary matter will be dealt with fairly and without unreasonable delay.
- 3.4. Where an employee is subject to more than one allegation relating to their conduct, if appropriate, these issues will be dealt with together.
- 3.5. Actions taken outside working hours fall within this policy, including but not limited to criminal charges, cautions or convictions where these may have a bearing on the employees' employment, and/or when it is considered that the employee's actions bring the reputation of the Trust or Academy or the employee into disrepute. This includes a breach of professional standards and the Code of Conduct.
- 3.6. Employees have the right to be accompanied at investigatory meeting(s)/the hearing/the appeal by their trade union representative or a work colleague. It is the employees' responsibility to make the necessary arrangements for representation. This right does not extend to family/friends or professional persons such as solicitors and barristers.
- 3.7. At any disciplinary hearing/appeal, including subsequent deliberations leading to a judgement, the panel will be advised by a member of the Trust's Human Resources Team.
- 3.8. A written record of the hearing/appeal must be taken. The note taker may be the clerk to the governors/trustees or a senior member of staff (with no conflict of interest) at the Academy or the Trust. The note taker will make a record of the hearing but not the confidential deliberations of the panel.
- 3.9. The Trust does not support the audio recording of disciplinary/appeal hearings unless there are exceptional circumstances for doing so and all parties present are in agreement to being recorded. Covert recording of the hearing/appeal is considered gross misconduct and/or a breach of the regulations contained in GDPR

(General Data Protection Regulation) Article 6 and an offence contrary to Section 170 (1)c of the Data Protection Act 2018.

- 3.10. An employee will not normally be dismissed for a first act of misconduct unless the Trust/Academy decides that the conduct amounts to gross misconduct.
- 3.11. All employees have the right of appeal against any formal disciplinary sanction.
- 3.12. All documentation relating to disciplinary matters will remain confidential and will be retained on the employee's personal file for the duration of which the disciplinary sanction is live, unless when matters are of a safeguarding nature. Where disciplinary matters are of a safeguarding nature, they should not be removed from an employee's file.
- 3.13. All employees must treat information communicated to them in connection with a disciplinary matter as confidential. A breach of confidentiality will be taken seriously and may lead to disciplinary action under this policy and procedure.
- 3.14. In accordance with statutory requirements, cases that involve the safety and welfare of children will be referred to the Disclosure and Barring Service (DBS) and to the Teaching Regulation Agency (TRA).
- 3.15. Settlement Agreements will not be used for the termination of employment where matters are of a safeguarding nature.

4. Examples of Gross Misconduct/Misconduct

- 4.1. The following lists give examples of the type of conduct which may lead to dismissal (gross misconduct) and the types of conduct that may lead to disciplinary action (misconduct).
- 4.2. These lists are not exhaustive and only serve as a guide to matters that the Trust may deem (depending upon the nature, circumstances and severity of the incident) to be a breach of general discipline or gross misconduct.
- 4.3. It is accepted that to differentiate between general and serious breaches of discipline can be difficult, and therefore each case must be treated on its own merits. Since the examples are only guidelines, discretion will have to be exercised by the Trust/Academy in categorising breaches of discipline, having regards to all the circumstances under which the breach of discipline occurred.

Behaviour	
Gross Misconduct	Misconduct
Physical violence or bullying	Failure to comply with a reasonable request.
Serious verbal abuse	Abusive, objectionable or insulting behaviour.
Incapacity brought on by alcohol, illegal drugs or misuse of prescription drugs on the Trust's/Academy's premises, in working time, or at a Trust/Academy event.	- Foul or abusive language. - Disorderly conduct. - Unauthorised sleeping on the premises whilst on duty.
Handling or possessing illegal drugs or substances irrespective of whether it is on the Trusts/Academy's premises, in working time, at a	- Unauthorised absence from place of work. - Displaying or circulating offensive material.

Trust/Academy event or whilst acting on behalf of the Trust.	- Abuse of position and power. - Breach of the Grievance Resolution Policy.
Substantial abuse of position and power	
Serious breach of the Grievance Resolution Policy.	
Unlawful discrimination or harassment.	
Bringing the Trust/Academy into disrepute.	
Serious breach of professional conduct.	
Conduct outside the workplace, including but not limited to criminal charges, cautions or convictions.	
Actual or threatened assault upon another employee or person in the Trust/Academy.	
Continued and repeated offenses of misconduct	

General Conduct at Work	
Gross Misconduct	Misconduct
Theft, fraud or falsification of records.	Allowing visitors on the premises without authorisation.
Deliberate or serious damage to Academy/Trust property, facilities, equipment or products.	Unauthorised distribution of written or electronic material.
Deliberately accessing and circulating illegal, pornographic, offensive or obscene material.	Failure to return equipment provided by the Academy/Trust.
Serious breach of conduct – Academy/Trust’s reputation brought into disrepute.	Deliberately accessing and storing illegal documents/information.
Serious breach of Child Protection/Protection of Vulnerable Adult Procedures.	Negligence, carelessness or recklessness which could result in damage or misuse of Academy/Trust property, facilities, equipment or products.
Cause loss, damage or injury through serious negligence.	Undertaking work in conflict with the Academy/Trust e.g. working for another employer during contractual hours without approval.
Wilful or persistent refusal to carry out a management instruction or any act of serious insubordination.	Breach of the Computer/E Safety policies.
Undertaking own work for financial gain during works time.	Breach of data protection and confidentiality.
Serious Breach of Computer/E Safety Policies including the inappropriate use of the Trust/Academy’s IT,	Consistent time wasting that has a detrimental impact on the education of children.

hardware, systems, email and internet.	
• Serious breach of Teachers Standards.	• Refusal to follow a reasonable instruction (please seek advice from Trust HR with reference to “reasonable”).
• Serious breach of professional codes of practice.	• Smoking on the Trust’s/Academy’s premises.
• Serious breach of safeguarding including Safer Recruitment procedures.	
• Giving false information as to qualifications, entitlements to work (including immigration status and the disqualification from childcare requirements) or other otherwise to gain or retain employment or other benefits.	
• Serious breach of student exam procedures (exam malpractice).	
• Misappropriation of the Trust/Academy’s finances.	
• Failure to adhere to Keeping Children Safe in Education requirements.	
• Serious breach of trust.	
• Using social media whether in or out of working time (e.g. blogs, Facebook, Twitter etc.) to post derogatory or offensive comments about the Trust/Academy or any of its academies, work colleagues, or third parties with which the Trust/Academy has an operational relationship.	
• Serious breach of data protection/confidentiality.	
• Covertly recording hearings, meetings or colleagues.	
• Making any sexual or other inappropriate contact or conduct including failure to maintain appropriate professional boundaries with any pupil or student.	
• Any misappropriation of files or documents belonging to the Trust/Academy of any kind or making copies, duplicates or excerpts of these for private or any other purposes unrelated to an employee’s employment and without consent.	

Health and Safety	
Gross Misconduct	Misconduct
• A serious breach of Health and Safety rules.	• Failure to observe Health and Safety requirements.
• Failure to disclose a medical condition either on appointment or upon diagnosis which may affect ability to undertake duties of the post resulting in a serious incident.	• Neglect of safety standards. • Failure to wear essential protective equipment. • Failure to disclose a medical condition either on appointment or upon diagnosis which may affect ability to undertake duties of the post.

Absence and Timekeeping	
Gross Misconduct	Misconduct
• Falsification of records to defraud the Trust/Academy.	• Persistent unacceptable absence levels e.g. when absence continues without any/sufficient explanation.
• Abuse of the Trust's/Academy's Managing Sickness Absence Policy.	• Failure to keep management informed of reasons for absence from work whether due to ill health or other reasons.
• Absence without authorisation.	• Failure to submit medical certificates in accordance with the Trust's/Academies Absence due to sickness scheme.
	• Regularly or persistently late for work following wellbeing intervention.
	• Failure to comply with Trust/Academy's Supporting Attendance Policy including non-attendance at OHU appointments in accordance with terms and conditions of employment.
	• Leaving early without permission.

5. Safeguarding

- 5.1. In accordance with Keeping Children Safe in Education, Working Together to Safeguard Children, and Barnsley Safeguarding Children's Board Procedures, where it has been alleged someone who works with children (or vulnerable adults) has:
 - Behaved in a way which has harmed or might harm a child
 - Possibly committed a criminal offence against a child
 - Behaved towards a child or children in a way that indicates he or she would pose a risk of harm if they work regularly or closely with children.
- 5.2. Advice should be sought immediately from the Local Authority Designated Officer (LADO) or the Adult Safeguarding Designated Service Officer and/or the police.
- 5.3. The LADO and/or the police may deem it necessary to arrange for a multi-agency strategy meeting to be held before an investigation is undertaken. The meeting (or discussion) will determine the appropriate course of action.
- 5.4. Even if an employee resigns, the disciplinary process must be completed. The employee should be given a full opportunity to answer the allegation and make representations about it. (See point 9 for referrals).

6. Financial Irregularity

- 6.1. In the case of investigation of fraud, theft and/or irregularity within academies, the financial handbook governs how the situation must be addressed. The Education and Skills Funding Agency (ESFA) must be notified of any fraud, theft or irregularity which singly or cumulatively exceeds £5K. Any unusual or systematic fraud must be reported regardless of value. The ESFA may decide to conduct their own investigation which may take precedence over the Academy investigation and this should be checked at an early stage.

7. Criminal Activity

- 7.1. No internal disciplinary investigation should be initiated in relation to child protection/fraud whilst the matter is being investigated by the police/Audit/ESFA/Child Protection/Social Services without authorisation being given to do so by the relevant body.

8. Disciplinary Action Involving a Professional Association/Trade Union Representative

- 8.1. If an employee is a trade union representative or if the allegation relates to trade union activity, no formal action will be taken until (following agreement with the individual concerned) the circumstances of the case have been discussed with their Trade Union (Regional Representative). If the individual does not wish their Trade Union Representative to be involved, the disciplinary process can continue.

9. Referrals

- 9.1. Where an employee in a teaching role has been dismissed (or where dismissal would have been the outcome had they not resigned prior to the conclusion of the disciplinary process) they must be referred to the Teaching Regulation Agency (TRA). The TRA will consider the case and make the appropriate sanction, which may include barring the individual from teaching.
- 9.2. With regard to disciplinary action in relation to safeguarding issues involving the risk of harm, or actual harm to a child, employees (whether teaching or support employees) must be referred to the Disclosure and Barring Service (DBS) and additionally, in the case of teachers and HLTA's to the Teachers Regulation Agency (TRA).

10. Raising a Grievance

- 10.1. If an employee raises a grievance after disciplinary proceedings have started against them, where the grievance is related to the disciplinary case, it is appropriate that both matters are dealt with at the same time i.e. at one meeting. However, where there is a significant amount of evidence to be considered, it may be necessary to hold two separate meetings but ensuring that the same panel hears both the grievance and the disciplinary. It is advisable that another manager is allocated responsibility for investigating the grievance aspect of the case.
- 10.2. In instances where the grievance has no relationship with the disciplinary process, then both procedures may run in parallel but be heard as two separate meetings with different panels.

11. Sickness Absence

- 11.1. If an employee becomes unfit for work during the disciplinary process, they should make every effort to attend management investigation meetings and hearings. The Investigating Officer will refer the employee immediately to the Occupational Health Service to ascertain their fitness to participate in the disciplinary process.
- 11.2. If the employee is deemed unfit to participate for a prolonged period (defined as 4 weeks or more) or if the employee fails to attend Occupational Health and is unable to confirm their fitness to participate in the process, disciplinary meetings may go ahead in their absence and a decision made based on the available evidence. Each case will be judged on its own merits. If the employee is unable to attend, the employee can be asked to submit a response in writing for consideration by the chair and/or their nominated representative may present the case on their behalf. If the employee is unhappy with the outcome of the disciplinary hearing, they will have the opportunity to address this perceived inequality at a Disciplinary Appeal meeting.
- 11.3. It is recognised this can be a difficult time for the employee and all parties should be mindful that if matters are dealt with promptly, this could alleviate some stress felt by the employee during the process. A counselling support referral will be offered in every instance.

12. Initial Assessment

12.1. When an initial allegation arises, preliminary enquiries should establish whether:

- The allegation of misconduct is unfounded and no further action is required.
- The allegation of misconduct is minor and can be dealt with through informal action.
- That the existing evidence, by mutual agreement, can be presented at a hearing without the need for a detailed or separate formal investigation meeting. On these rare occasions, the employee must be informed of the details of the allegation(s) and the reason why the alleged conduct is deemed unacceptable prior to the hearing taking place.
- A formal investigatory meeting(s) into the allegation of misconduct is required.
- The employee should be suspended from work and a formal investigation is required.
- The allegation is vexatious and malicious which could result in disciplinary action against the employee concerned.

13. Early Intervention/Informal Action

- 13.1. An informal conversation between the Line Manager and the employee may suffice when the misconduct is evident but minor. The employee should be advised that if misconduct re-occurs, formal action may be instigated.
- 13.2. A note of the discussion, to be entitled “management instruction” including agreed action points and the expected standards of behaviour, should be signed by both parties and placed on the employees’ personal file for a period of 6 months, after which time it should be removed.

14. Suspension

- 14.1. There may be circumstances where an employee has to be suspended. Before any suspension is made, contact should be made with Trust Human Resources.
- 14.2. Where possible, contact should also be made with the employees Trade Union Representative (if known) and arrangements should be made for the employee to be supported by a work colleague or member of the Trade Union (this could be the school based representative), provided this does not unduly delay the meeting (see Appendix 1 – Suspension Guidance).
- 14.3. Suspension is a neutral act and does not imply that any decision about the veracity of the allegations has been made.
- 14.4. The decision to suspend may be made by the CEO, (Executive) Principal, Headteacher or Board of Trustees (in the case of the CEO) after serious consideration of the initial assessment.
- 14.5. Suspension is not automatic and depending on the circumstances, it may be possible that alternative arrangements can be made such as a temporary transfer to alternative duties/location, providing the employee can be supervised.
- 14.6. Suspension should only be carried out where there is a potential for the employee to impede the investigation, the allegation is so serious that it may result in the employee being dismissed on the grounds

of gross misconduct or if allowing the employee to remain at work would present too great a risk to students, other employees or themselves.

- 14.7. The suspension will be on full pay whilst a formal investigation takes place.
- 14.8. During the suspension period a named contact not involved with the investigation will be assigned to keep in touch with the employee.
- 14.9. If the employee falls sick whilst suspended, the normal sickness absence (including pay) arrangements will apply.
- 14.10. The reason(s) for suspension will be confirmed in writing (see template letters in Appendix 2)
- 14.11. Suspension will be reviewed every 4 weeks to consider whether circumstances surrounding the suspension have changed. If circumstances require, the suspension can be lifted.

15. Formal Action and Investigation

- 15.1. When an allegation of misconduct arises, and it is inappropriate to be dealt with informally, or if the matter has already been dealt with informally without the required improvement (cumulative), formal action will be considered.
- 15.2. An Investigating Officer of appropriate seniority with the academy staffing structure will be appointed to establish the facts.

16. Conducting an Investigation

- 16.1. A member of the Trust's Senior Management Team/the (Executive) Principal, Headteacher, Head of School will determine who will undertake the role of Investigating Officer (IO). The IO will be of appropriate managerial level who has had no previous involvement in the matter and is not conflicted.
- 16.2. The IO will:
 - Ascertain the facts. This usually involves the holding (and documenting) of management investigatory meetings with the employee and where appropriate, witnesses. This includes the collation of formal witness statements.
 - Assess the facts, taking into consideration mitigating factors.
 - In cases where there is no requirement to proceed to a formal disciplinary hearing, communicate the outcome to the employee concerned.
 - Determine whether the evidence gathered supports the allegations and there is a requirement to proceed to a disciplinary hearing.
 - Make the necessary arrangements for the disciplinary hearing.
 - Present the management case at the hearing.
- 16.3. The employee will have the right to be accompanied as set out in the Principles (Section 3).
- 16.4. Every reasonable effort should be made by the employee and representative to be available for the meeting. If the employees' representative is unable to attend on the specified date, the employee may request that

the meeting be postponed. Provided that the new date and/or time is reasonable i.e. within working hours, and within 5 working days of the original date this will be accommodated.

17. Disciplinary Action outside of a Disciplinary Hearing

- 17.1. It is perfectly acceptable for an agreement to be arrived at prior to the hearing between both parties and unions in circumstances where the facts are not in dispute (i.e. the employee has admitted the misconduct during the investigation) and both parties agree on the sanction. A formal meeting should be held to discuss the key findings of the investigation and issue the pre-agreed sanction. This approach will not apply to allegations of misconduct or where dismissal is a possible outcome or where the allegations concern the safeguarding and protection of children (or vulnerable adults). Because the employee has been prepared to accept a formal sanction as an alternative to progressing the case to a full disciplinary meeting, there will be no right of appeal.

18. Disciplinary Hearing

- 18.1. Where dismissal is a possible outcome, the case will be heard by a panel of three Governors drawn from across the Trust, which will also apply in the following circumstances:
- Where the (Executive) Principal, Headteacher has been directly involved in the case either as investigating officer or as a witness.
 - Where the (Executive) Principal, Headteacher is the subject of disciplinary action.
- 18.2. Where disciplinary action is taken against a central Trust employee, the case will normally be heard by the COO or CEO (or in the case of the COO or CEO, the Board of Trustees).
- 18.3. Where an employee is required to attend a Disciplinary Hearing, the following process must be followed:
- 18.4. The decision to progress to a Disciplinary Hearing will be confirmed in writing (Appendix 2) and must include:
- details of the allegation(s)
 - the potential outcome of the case
 - all evidence and documentation gathered during the investigation, including a summary of the Investigating Officers case
 - witness statement(s) (where relevant)
 - the date/ time/ location of the meeting, giving 10 days-notice, unless a mutually agreeable earlier date can be agreed
 - the name(s) of the person(s) hearing the case
 - the employee's right to be accompanied
- 18.5. In some cases, the employee may wish to submit documentation for consideration by the panel. This should be provided no later than 5 working days prior to the date of the hearing. Where relevant, the employee must also confirm which witnesses they wish to call and in liaison with the IO, make the necessary arrangements for their attendance.
- 18.6. It is expected that all witnesses employed at the academy attend the meeting to be questioned. However, in some circumstances it may be impracticable or unacceptable for the witnesses to be present at the meeting. Where internal or external witnesses do not attend for whatever reason, it is for the panel to determine the weight placed on the evidence presented in their witness statement.
- 18.7. Should the employee request their representative attend on their behalf or if they wish to provide a written submission, the person/panel hearing the case will consider this.

- 18.8. Every reasonable effort should be made by the employee and representative to be available for the hearing. If the employees' representative is unable to attend on the specified date, the employee may request that the meeting be postponed. Provided that the new date and/or time is reasonable i.e. within the working day, and within 5 working days of the original date this will be accommodated. Where no agreement can be reached the hearing date will be set by the Investigating Officer.
- 18.9. Should the employee and/or their representative fail to attend without any reasonable explanation, the person/panel hearing the case will decide whether to proceed in their absence.
- 18.10. The hearing will be conducted as detailed in Appendix 3.
- 18.11. If an employee attends with a TU representative or work colleague, the chosen representative does not have the right to answer questions on the employees' behalf or address any meeting without the employees' consent. They will be allowed to address the panel and present the employees' case.

19. Outcome of the Disciplinary Hearing/Appeal

19.1. The possible outcomes of the Disciplinary Hearing are:

- **No Action**

No action is appropriate where there is reasonable belief the evidence is insufficient to confirm the misconduct allegations.

- **Management Instruction**

Management Instruction may be appropriate where there is reasonable belief that the evidence is insufficient to confirm the misconduct allegations, but the panel determine that the employees' behaviour warrants improvement. In such cases, it is appropriate to issue the employee with a letter that details what is expected of the employee going forward.

- **Written Warning**

A written warning will be relevant in instances of minor acts of misconduct or where there has been repetition of the same action that has warranted previous informal action (cumulative).

The length of a written warning should be 6 months.

- **Final Written Warning**

A final written warning is relevant where there is a re-occurrence of misconduct or where misconduct is sufficiently serious but does not warrant dismissal.

The length of the final written warning should be 12 months.

In extreme circumstances, including where a written warning or a final written warning has been issued, the panel may conclude it appropriate to issue the sanction for a longer period of time. In these rare cases, a written warning should remain on file for no more than 12 months and a final written warning for no more than 24 months.

- **Cumulative Dismissal**

Cumulative dismissal is relevant in circumstances whereby there has been a re-occurrence of misconduct which has been subject to a written and/or final written warning, or misconduct has not improved following a final written warning, or the employee subject to a final written warning and has committed a further act of misconduct. Following a further formal hearing the employee can be served notice based on their contract of employment.

- **Summary Dismissal**

Summary dismissal without notice is appropriate in instances of gross misconduct and/or where the reputation of the Trust/Academy will be severely compromised.

- **Recommendations**

In addition to any of the outcomes listed above, the panel may also conclude that it is necessary to make some recommendations. These should be recorded and passed to the most appropriate member of SLT/Management to take forward.

- 19.2. The employee will, where possible, be notified verbally of the outcome by the person that heard the case. The decision will also be confirmed in writing within 5 working days wherever possible, informing the employee of their right of appeal.
- 19.3. The written record of the hearing should be completed as quickly as possible after the date of the hearing.
- 19.4. Copies of disciplinary sanctions will be kept on the employee's personal file as a record of events/employment history but will be disregarded for disciplinary purposes after the stipulated timescale and destroyed, unless the case was of a safeguarding nature.

20. Right of Appeal

- 20.1. Employees have the right of appeal against any sanction given as a result of a hearing (not a Disciplinary Sanction Meeting) within 10 working days of receiving their confirmation letter and (where appropriate) should provide supporting evidence (for example, if new evidence has come to light). The Appeal Form in Appendix 4 should be used for this purpose but a letter outlining the grounds for appeal is also acceptable.
- 20.2. The appeal will be heard by a panel of three Governors or Trustees drawn from across the Trust not previously having been involved in the disciplinary hearing, who have no prior knowledge of the case.
- 20.3. At any disciplinary appeal hearing, including subsequent deliberations leading to a judgement, the panel will be advised by a member of the Trust's HR team (who was not present at the original hearing).
- 20.4. The employee will be given 10 days-notice of the Appeal Hearing and be informed of: -
 - The name(s) of the person(s) who will hear the case.
 - The date, time and location of the hearing.
 - The right to representation.
 - A copy of the relevant policy.
- 20.5. At the discretion of the Trust, the appeal will be conducted as a review of the first instance decision, having regard to the matters set out on the Appeal Form and/or letter from the employee, and the outcome letter

of the disciplinary hearing. In some extenuating circumstances there may be a complete re-hearing of the case.

- 20.6. New evidence will be considered if relevant and there is a good reason why this had not been included as part of the original hearing.
- 20.7. The person(s) hearing the appeal will receive the Appeal Form and/or letter, relevant documents referred to in the disciplinary hearing and a copy of the letter confirming the outcome of the disciplinary hearing.
- 20.8. At the appeal stage, either party may decide that it is relevant for witnesses to attend the meeting. In circumstances whereby it is impracticable or unacceptable for witnesses to attend, the person hearing the appeal will determine the weight placed on the evidence provided.
- 20.9. Every reasonable effort should be made by the employee and representative to be available for the appeal hearing. If the employees' representative is unable to attend on the specified date, the employee may request that the hearing be postponed. Provided that the new date and/or time is reasonable i.e. within the working day, and within 5 working days of the original date, this will be accommodated.
- 20.10. If following reasonable attempts to arrange a suitable date for all to attend and the employee/their representative is still unavailable, the person hearing the appeal may determine that the appeal is withdrawn.
- 20.11. The appeal should normally be conducted in one day except in exceptional circumstances.
- 20.12. If an employee attends with a TU representative or work colleague, the chosen representative does not have the right to answer questions on the employees' behalf or address any meeting without the employees' consent. They will be allowed to address the appeal panel and present the employees' case.
- 20.13. The process for the Appeal Hearing will be as outlined in the Process at a Formal Appeal Hearing (see Appendix 3).
- 20.14. The panel hearing the appeal has authority to confirm, reduce, or revoke the original outcome. The decision of the panel hearing the appeal is final.
- 20.15. Where an appeal against dismissal is not upheld, the date of termination will be the date on which the employee was originally dismissed. During the appeal stage, the employee will remain dismissed from the academy. If an employee is reinstated following dismissal, they will be treated as being continuously employed for the whole period, including the period between dismissal and reinstatement.
- 20.16. Where possible the decision will be given to the employee at the conclusion of the meeting and confirmed in writing no more than 5 working days after the hearing.
- 20.17. The written record of the appeal hearing should be completed as quickly as possible after the date of the hearing.
- 20.18. All documents pertaining to this procedure should be retained on the employee's personal file as per point 3.9.

21. Monitoring and Review

21.1. The Equality Act 2010 requires public bodies, in carrying out their functions, to have due regard to the following:

- to eliminate discrimination and other conduct that is prohibited by the Act
- to advance equality of opportunity between people who share a protected characteristic and people who do not share it
- to foster good relations across all characteristics - between people who share a protected characteristic and people who do not share it.

21.2. In the development of this policy due regard has been given to achieving these objectives.

21.3. This procedure will be reviewed to respond to any changes in the employment legislation, and at least every three years, in conjunction with the Trust's recognised trade unions.

22. Appendix 1 – Suspension Guidance

Initial allegation

- If an allegation arises regarding employee misconduct, an initial assessment (fact finding) meeting will take place.
- After a thorough assessment, the employee may be suspended without prejudice as a precautionary measure and a formal investigation commence.
- Suspension is not automatic. Alternative options whilst an investigation takes place should be explored, such as a temporary transfer to alternate duties/location, providing the employee can be supervised.
- Before any suspension is undertaken, the (Executive) Principal/Headteacher/Head of School should consult with the Trusts HR team.
- The (Executive) Principal/Headteacher/Head of School may choose to delegate the suspension to a member of the Senior Leadership Team if appropriate. *The person undertaking the suspension should always be more senior to the employee being suspended.*
- If the suspension is relating to the Executive Principal/Headteacher/Head of School, the CEO should undertake the suspension meeting.

The Suspension Meeting

Where possible, arrangements should be made for the employee to be supported by a work colleague or a member of the Trade Union (this could be the school-based representative), provided this does not unduly delay the meeting.

NB if the employee is also a Trade Union Representative, please make reference to the Policy before proceeding.

At the meeting the (Executive) Principal/Headteacher/Head of School will:

- Explain the nature of the concern/allegations and give the employee the opportunity to respond to the concern.
- Consider any response from the employee which may influence a decision to suspend.

Suspension may be considered appropriate where there is a realistic safeguarding concern, or it is felt that a continued presence at work may prejudice an investigation.

If suspension is deemed appropriate, it will be made clear that it is a neutral act intended to protect the Trust/Academy and the employee. Suspension is not considered a disciplinary penalty.

The suspension will be on full pay, whilst a formal investigation is undertaken.

Notes will be taken at the meeting.

It is advised the (Executive) Principal/Headteacher/Head of School covers the following points at the suspension meeting:

- Inform the employee of the reason for suspension.
- Advise the employee that a full investigation will take place and identify who the Investigating Officer will be (where possible).
- If at any time during the investigation the Investigating Officer considers the complaint to be unsubstantiated, the suspension will be revoked, and the employee will be asked to resume duties.
- Whilst on suspension, the employee must make themselves available for any management investigation meetings.
- The employee must not enter into discussions with colleagues or other people involved in the investigation as this may prejudice the investigation.
- The employee is entitled to request a statement from any colleague or other witness of the alleged misconduct and arrange for their attendance at any disciplinary meeting. However, the witness is not obliged to comply with such requests. The employee must advise the Investigating Officer if they intend to make such a request;
- During the suspension, the employee must not enter his/her normal place of work or other associated work sites. Where an employee lives on site, then access to the residential quarters is permitted, however, the employee must not enter into or venture onto the remainder of the property;

- The employee must hand over any Trust/Academy property, e.g. keys, mobile phone, ID badge, computer equipment, and the (Executive) Principal/Headteacher/Head of School may need to suspend access to computer systems that can be accessed remotely e.g. homeworking accounts.
- The suspension will be confirmed in writing including details of the reason for the suspension.
- The suspension will be reviewed every 4 weeks, and the employee informed of any changes.

23. Appendix 2 – Template Disciplinary Letters

Letter 1

SUSPENSION LETTER

Private and Confidential

(Name)

(Address)

(Date)

Dear

SUSPENSION FROM DUTY

With reference to the meeting with **(Name, job, title)** and **(Name, job, title)** on **(date)**, I wish to confirm your suspension from duty with effect from **(date)**. During your suspension from work you will continue to receive contractual pay.

The suspension is in accordance with the Trust/Academy's Disciplinary Policy to allow a management investigation into allegations relating to:

- ***(Insert full details of specific allegation/s. This may include dates, times etc).***

If upheld, these allegations would constitute gross misconduct and could therefore lead to dismissal. (Use in potential gross misconduct cases only)

Enclosed is a copy of the Disciplinary Policy for your information.

The suspension will be reviewed at regular intervals. During the suspension it may be necessary for you to attend an investigatory interview and/or a Disciplinary Hearing at which you are entitled to be accompanied by your Trade Union or a work colleague. However, this right does not extend to family/friends and professional persons such as solicitors and barristers. It is your responsibility to make your own arrangements for their attendance.

Alternatively, if it is decided that no further action is necessary you will be informed of this and arrangements will be made for your return to work.

I wish to confirm that you are not to enter your place of work **(state other premises also if relevant)** without prior agreement with the Investigating Officer. You should not enter into discussions with colleagues or other people involved in the investigation as this may prejudice the investigation. However, you are entitled to request a statement of facts in respect of the allegation(s) from any witnesses and you should inform the Investigating Officer prior to commencement of this. It should be noted that colleagues are not obliged to comply with your request.

If you fall ill whilst on suspension, normal sickness reporting procedures will apply. You must notify your line manager or appropriate supervisor on the first day of your illness.

Counselling support is available from Occupational Health. If you have any queries relating to your suspension or require referral for counselling, please contact **(insert name, job title)** on **(insert telephone number)**

Yours sincerely

enc

SUSPENSION REVIEW LETTER

Private and Confidential

(Name)

(Address)

Dear

SUSPENSION REVIEW

I refer to my recent letter, confirming your suspension from duty on ***(insert date)*** under the Trust/Academy's Disciplinary Policy.

I am writing to inform you that your suspension has been reviewed and will remain in place. Your ongoing suspension is to facilitate continued investigations into allegation(s) of ***(insert reason for suspension- may be due to ongoing police investigation etc)***. The extension to the suspension is necessary due to ***(give explanation)***.

I wish to stress again, that this suspension is made without prejudice.

May I remind you that whilst on suspension, you must not attempt to enter ***(insert location)*** without the specific authority of ***(insert name, title)*** and that you should not hold discussions with colleagues or other people connected with the allegation. However, this does not preclude you from requesting a statement of fact from any witnesses to the alleged misconduct and you should inform ***(name of Investigating Officer)*** prior to commencement of this.

Yours sincerely

REVOKE SUSPENSION LETTER

Private and Confidential

(Name)

(Address)

Dear

SUSPENSION FROM DUTY

With reference to your suspension from work following allegations of ***(insert allegations)***. A management investigation has been conducted into this matter and it has been determined that

(Insert one of the following paragraphs)

Either:

there is no case to answer and no formal action will be taken against you. Accordingly, your suspension from work will be revoked with immediate effect.

You should report for work on ***(insert date & time)***. ***(Insert name)*** will meet with you to facilitate your reintegration in to the workplace.

Or

the allegations are no longer gross misconduct and your suspension will be revoked with immediate effect. ***(Insert)*** However, the allegations potentially still constitute misconduct and require investigation which may lead to a Disciplinary Hearing. ***(Or)*** However, the allegations potentially still constitute misconduct consequently a Disciplinary Hearing will be arranged. In the meantime, you should report for work on ***(insert date & time)***. ***(Insert name)*** will meet with you to facilitate your reintegration in to the workplace.

Or

the allegations are no longer of gross misconduct and your suspension will be revoked with immediate effect. The matter will be dealt with informally under the Disciplinary Policy and you should report for work on ***(insert date & time)*** to discuss what informal action is necessary and to facilitate your reintegration in to the workplace.

Yours sincerely

INVITE TO MANAGEMENT INVESTIGATION LETTER

Employee should be given 5 working days-notice

Private and Confidential

(Name)

(Address)

Dear

MANAGEMENT INVESTIGATION

Further to your suspension from work with effect from ***(insert date)***/Further to the alleged ***(detail incident)*** on ***(date)***, I wish to confirm the arrangements for a management investigation meeting. The meeting will take place on ***(insert date)*** at ***(insert time)***. The meeting will be held at ***(insert location)***. Please report to reception on your arrival and ask for ***(insert name)***.

The investigation will be conducted by ***(insert name, title)*** and ***(insert name, title, if applicable)***.

In accordance with the Trust/Academy's Disciplinary Policy you are entitled to have your Trade Union Representative or work employee of your choice present in an advisory and supportive capacity. However, this right does not extend to family/friends and professional persons such as solicitors and barristers. It is your responsibility to make your own arrangements for their attendance.

If you have any queries regarding this matter please contact ***(insert name)*** on the above number.

Yours sincerely

Encs

INVITE TO MANAGEMENT INVESTIGATION FOR WITNESSES

Employee should be given 5 working days-notice

Private and Confidential

(Name)

(Address)

Dear

MANAGEMENT INVESTIGATION - WITNESS

I am writing to confirm that a management investigation is currently taking place in accordance with the Trust/Academy's Disciplinary Policy. I have been given your name as an independent witness who may be able to assist with my investigation.

You are therefore requested to attend a management investigation meeting. The meeting will take place on ***(insert date)*** at ***(insert time)***. The meeting will be held at ***(insert location)***. Please report to reception on your arrival and ask for ***(insert name)***.

The investigation will be conducted by ***(insert name, title)*** and ***(insert name, title, if applicable)***.

In accordance with the Disciplinary Policy you are entitled to have your Trade Union Representative, or work employee of your choice present in an advisory and supportive capacity. However, this right does not extend to family/friends and professional persons such as solicitors and barristers. It is your responsibility to make your own arrangements for their attendance.

In order to maintain confidentiality in respect of the allegation(s), I wish to advise you that you should not enter into discussions with anyone other than the Investigator(s). However, the employee(s) about whom the allegation(s) is made or their representative may request that you provide them with a statement of events and/or attend at any potential disciplinary hearing. Such requests are permissible.

If you have any queries regarding this matter, please contact **(insert name)** on the above number.

Yours sincerely

Encs

INVITE TO A FORMAL HEARING LETTER

Employee should be given 10 working days-notice

Private and Confidential

(Name)

(Address)

Dear

DISCIPLINARY HEARING

I write to inform you that you are required to attend a Disciplinary Hearing at (location) on (date) at (time). At the hearing the specific allegations, outlined below, will be presented and you will be given an opportunity to respond to them:

(details of allegation/s)

(If the allegation(s) are on balance proven they may be deemed gross misconduct and therefore lead to your dismissal –add this paragraph if this a potential gross misconduct case).

(If the allegation(s) are on balance proven they may be deemed misconduct and therefore lead to your dismissal – add this paragraph if there is a final written warning in place).

(If you are currently subject to a written/final written warning the person(s) hearing the case will be made aware of this. - add this paragraph if there is a written/final written warning in place).

The person(s) (delete as appropriate) appointed to hear the disciplinary matter will be (name and designation) advised by a Human Resources Business Partner. The management case will be presented by (name and designation). The hearing will be conducted in accordance with the Trust/Academy's Disciplinary Policy (a copy of which is enclosed for your information).

You have the right to be accompanied at the hearing by a Trade Union Representative, or a work colleague. However, this right does not extend to family/friends and professional persons such as solicitors and barristers. It is your responsibility to make your own arrangements for their attendance.

Please find enclosed copies of documents which will be presented by management at the hearing including a brief overview of the case. You also have the right to submit documentary evidence and to call witnesses. If you intend to produce your own documents you should submit them along with a brief overview of your case to me at least 5 working days prior to the date of this hearing. Failure to do so may result in the hearing going ahead without

consideration to your case. Additionally, should you wish to request that your representative attend on your behalf, or if you wish to provide a written submission, this request/submission must be received at least 5 days working days prior to the date of the hearing and will be considered by the person(s) hearing the case.

If you intend to call witnesses you should submit details of who these are and make arrangements for them to attend.

Either:

Management will be calling the following witnesses to give evidence at the hearing.

Or:

It is not management's intention to call witnesses on this occasion.

You must make yourself available for this Disciplinary Hearing. If you fail to attend without reasonable cause, then the hearing may go ahead in your absence.

Yours sincerely

Encs

WRITTEN/FINAL WRITTEN WARNING LETTER

Private and Confidential

(Name)

(Address)

Dear

DISCIPLINARY HEARING – WRITTEN/FINAL WRITTEN WARNING

I am writing to confirm the outcome of the Disciplinary Hearing held on **(date)**. I was supported by **(name and designation) (if applicable)**. **(Name)** presented the management case **(assisted by if appropriate)**. **(Name)** represented you at the hearing.

The purpose of the hearing was to consider the allegation(s) that:

(insert details)

(Name) presented the management case and provided evidence in relation to the allegation. **(Summarise management's case)**

In response you/your representative stated **(summarise case)**.

Consideration was given to all the evidence presented by both parties and a determination made that your action(s) did constitute misconduct/gross misconduct. The reasons for this decision are as follows:

(summarise main points)

As a consequence of such action I now confirm the decision to issue you with a written/final written warning.

This penalty will remain effective for a period of **(insert time period)** months from **(dates)**. Periods of sickness absence of two consecutive weeks or more will not count as time spent towards your sanction. Consequently, the expiry of the penalty will be adjusted accordingly.

(Where appropriate give details of improvements of behaviour expected and support that will be put in place).

I must point out that any further misconduct may lead to further disciplinary action under the Trust/Academy's Disciplinary Policy which could ultimately lead to your dismissal.

You have a right of appeal against this decision. If you wish to appeal you should do so in writing to ***(name, title)***, within 5 working days of receiving this written/ final written warning.

Yours sincerely

(Name and designation of person hearing case)

DISMISSAL FOR CUMULATIVE MISCONDUCT LETTER

Private and Confidential

(Name)

(Address)

Dear

DISMISSAL FOR CUMULATIVE MISCONDUCT

I am writing to confirm the outcome of the Disciplinary Hearing held on ***(date)***. I was supported by ***(name and designation) (if applicable)***. ***(Name)*** presented the management case ***(assisted by if appropriate)***. ***(Name)*** represented you at the hearing.

The purpose of the hearing was to consider the allegation(s) that:

(insert details)

(Name) presented the management case and provided evidence in relation to the allegation. ***(Summarise management's case)***.

In response you/your representative stated ***(summarise case)***.

Consideration was given to all the evidence presented by both parties and a determination made that your action(s) did constitute misconduct. The reasons for this decision are as follows:

(summarise main points)

At the time of your hearing you were subject to ***(enter details of previous warnings still in effect)***. I have considered the appropriate penalties and determined in the circumstances that dismissal was appropriate. I now confirm the decision to dismiss you on the grounds of cumulative misconduct.

You are entitled to **(number)** weeks-notice and you will receive a payment in lieu of this notice. Your employment will therefore be terminated on **(date of hearing if wait for outcome – if not date letter received)**.

You have the right of appeal against this decision. If you wish to appeal you should do so in writing to me within 5 working days of receiving this letter.

Upon termination of your employment if you are a member of the Occupational Pension scheme, I advise that you contact the Pension Authority to discuss the preservation of any accrued benefits.

Yours sincerely

(Name and designation of person hearing case)

DISMISSAL FOR GROSS MISCONDUCT LETTER

Private and Confidential

(Name)

(Address)

Dear

DISMISSAL FOR GROSS MISCONDUCT

I am writing to confirm the outcome of the Disciplinary Hearing held on ***(date)***. I was supported by ***(name and designation) (if applicable)***. ***(Name)*** presented the management case ***(assisted by if appropriate)***. ***(Name)*** represented you at the hearing.

The purpose of the hearing was to consider the allegation(s) that:

(insert details)

(Name) presented the management case and provided evidence in relation to the allegation. ***(summarise management's case)***

In response you/your representative stated ***(summarise case)***.

Consideration was given to all the evidence presented by both parties and a determination made that your action(s) constitute gross misconduct. The reasons for this decision are as follows:

(summarise main points)

Having found your actions constituted gross misconduct and after considering the available penalties, it was determined that summary dismissal was appropriate. I now confirm the decision to summarily dismiss you from your employment. This dismissal is without notice and effective immediately, your last day of employment with the Trust/Academy being ***(date of hearing if stay for outcome – if not the date the outcome letter is received)***.

You have the right of appeal against this decision. If you wish to appeal you should do so in writing to me within 5 working days of receiving this letter indicating the grounds for your appeal and, where appropriate, the name of your representative.

Upon termination of your employment if you are a member of the Occupational Pension Scheme, I advise that you contact the Pension Authority to discuss the preservation of any accrued benefits.

Yours sincerely

(Name and designation of person hearing case)

INVITE TO AN APPEAL HEARING LETTER

Employee should be given 10 working days-notice

Private and Confidential

(Name)

(Address)

Dear

DISCIPLINARY APPEAL HEARING

With reference to your appeal against the ***(insert details of penalty as a result of x misconduct)***. I write to inform you that a Disciplinary Appeal Hearing has been arranged and will take place at ***(location)*** on ***(date)*** at ***(time)***. The appeal will be conducted as a review of the first instance decision, having regard to the matters set out on your Appeal Form and/or letter.

The person(s) hearing the case will be (name and designation) advised by (insert name and title of Human Resources Business Partner). The hearing will be conducted in accordance with the Trust/Academy's Disciplinary Policy (a copy of which is enclosed for your information).

You have the right to be accompanied at the Appeal Hearing by a Trade Union Representative, Professional Association Representative or a work colleague. However, this right does not extend to family/friends and professional persons such as solicitors and barristers. It is your responsibility to make your own arrangements for their attendance.

Please find enclosed copies of documents which will be presented by management at the hearing. You also have the right to submit any new documentary evidence at least 5 working days prior to the date of this hearing. Failure to do so may result in the hearing being delayed.

You must make yourself available for this Disciplinary Appeal Hearing. If you fail to attend without reasonable cause, then the Appeal will be deemed as being withdrawn.

Yours sincerely

(Name and designation of person hearing appeal)

Encs

APPEAL OUTCOME LETTER

Private and Confidential

(Name)

(Address)

Dear

DISCIPLINARY APPEAL OUTCOME

I am writing to confirm the outcome of the Disciplinary Appeal Hearing held on **(date)**. I was supported by **(name and designation) (if applicable)**. **(Name)** presented the management case **(assisted by if appropriate)**. **(Name)** represented you at the hearing.

The purpose of the hearing was to consider the allegation(s) that:

(insert details)

(Name) presented the management case and provided evidence in relation to the allegation. **(Summarise management's case)**

In response you/your representative stated **(summarise case)**.

The person(s) hearing the appeal considered all of the evidence presented by both parties and a determination made that your actions did constitute gross misconduct/ misconduct **(delete as appropriate)**. The reasons for this decision are as follows:

(summarise main points)

(In the case of unsuccessful appeal against written/ final written warning insert the following paragraphs) As a consequence of such action I now confirm the decision be upheld. **(Insert appropriate penalty)** will remain effective for a period of **(insert time period)** months from **(dates)**. Please note periods of sickness absence of two consecutive weeks or more will not count as time spent towards your penalty. Consequently the expiry of the sanction will be adjusted accordingly.

(Where appropriate give details of improvements of behaviour expected and support that will be put in place).

I must point out that any further misconduct may lead to further disciplinary action under the Trust/Academy's Disciplinary Policy which could ultimately lead to your dismissal.

You have no further right of appeal.

OR

(In the case of unsuccessful appeals against a dismissal insert the following paragraph)

As a consequence of such action the decision to terminate your employment on the grounds ofhas been upheld.

You have no further right of appeal.

OR

(If appeal is successful insert the following paragraphs) As a consequence the decision is to revoke ***(detail sanction originally given)***.

Yours sincerely

(Name and designation of person hearing appeal)

24. Appendix 3 – Procedure to be followed at a Disciplinary Hearing/Appeal

PROCESS AT A DISCIPLINARY HEARING

- i) The person(s) appointed to hear the disciplinary case will perform introductions, clarify roles, and outline the procedure that will be followed.
- ii) Management will present their case making reference to any supporting evidence and calling witnesses should this be required. At the conclusion of the management case the person(s) hearing the case will be made aware of any current penalties.
- iii) The employee and/or representative may question management and any witnesses.
- iv) The person(s) hearing the case (including the HR Advisor to the panel) may question management and any witnesses.
- v) The employee shall respond to the Management's case making reference to any supporting evidence and calling witnesses as appropriate.
- vi) Management may question the employee and/or their representative and any witnesses.
- vii) The person(s) hearing the case (including the Advisor) may question the employee and/or representative and any witnesses.
- viii) Both sides will be advised that they are now invited to sum up their case and be given the right to request an adjournment of the proceedings. *Please note that both sides should adjourn if only one side requests an adjournment and should be called back at the same time.*
- ix) Management will summarise their case.
- x) The employee or their representative will summarise their case.
- xi) Once the meeting/ hearing is complete, both parties will withdraw. If further information is required on the evidence presented, both sides must be recalled to allow clarification. A decision shall then be reached by the person(s) hearing the case, based on an unbiased consideration of the evidence as to whether there is reasonable belief that alleged gross misconduct/ misconduct is proven.
- xii) Both parties shall be recalled and the outcome of the hearing conveyed and recorded. This will be confirmed in writing, normally within 5 working days, with details of the nature of the misconduct and the implications. In exceptional circumstances it may be necessary for the outcome to be communicated after the hearing. All parties will be advised of any changes to the method of communication and extension to timescales at the closure of the hearing.

PROCESS AT A DISCIPLINARY APPEAL HEARING

- i) The person hearing the appeal will perform introductions, clarify roles, and outline the procedure that will be followed.
- ii) The employee/and or representative will present their case making reference to any supporting evidence. At the conclusion of the management case the person(s) hearing the appeal should be made aware of any current sanctions.
- iii) Management may question the employee/and or their representative.
- iv) The person(s) hearing the appeal (including the HR Advisor to the panel) may question the employee/and or their representative.
- v) Management shall respond to the employee's case making reference to any supporting evidence.
- vi) The employee/and or their representative may question management.
- vii) The person(s) hearing the appeal (including the Advisor) may question management.
- viii) The employee/and or their representative will summarise their case.
- ix) Management will summarise their case.
- x) Once the meeting is complete, both parties will withdraw. If further information is required on the evidence presented both sides must be recalled to allow clarification.
- xi) A decision shall then be reached by the person(s) hearing the appeal based on an unbiased consideration of the evidence as to whether there is reasonable belief the potential gross misconduct/ misconduct is proven.
- xii) Both parties shall be recalled and the outcome of the meeting conveyed and recorded. This will be confirmed in writing normally within 5 working days, with details of the nature of the misconduct and the implications. In exceptional circumstances it may be necessary for the outcome to be communicated in writing only. All parties will be advised of any changes to the method of communication and extension to timescales at the closure of the hearing.

25. Appendix 4 – Appeal Form

Part A – For completion by employee

Name:		Job Title:	
Location:		Date of Hearing:	
Date outcome letter received:		Name of TU representative	
Please detail the grounds of your appeal in accordance with the *Disciplinary/Grievance/Pay/Supporting Attendance Procedure.			
* Delete as appropriate.			

Part B – For completion by the Line Manager

Date appeal received	
Date receipt of appeal acknowledged	
Date of appeal hearing	