



ST. MARY'S
ACADEMY TRUST

St Mary's Academy Trust

Staff Disciplinary Policy

Date agreed by HR Committee: September 2019

Date to be reviewed: September 2021

1. INTRODUCTION

- 1.1 Disciplinary rules and procedures are intended to promote orderly employment relations as well as promoting fairness and consistency in the treatment of individuals. The primary aim of the procedure is to help and encourage employees to improve rather than a way of imposing discipline. This policy and procedure covers all St Mary's Academy Trust employees.
- 1.2 The policy is designed to promote best practice and encourage all employees to achieve and maintain 'acceptable standards' of conduct whilst ensuring consistent and fair treatment. The spirit within which disciplinary action may be taken is founded on a supportive and trusting culture where employees self-manage their behaviour and are given the opportunity to correct or improve unacceptable behaviour or conduct.
- 1.3 The procedure should only be used in connection with the misconduct of employees. It should not be used for issues relating to capability, general probationary period issues, or short or long term attendance problems (which are covered by separate provisions).
- 1.4 Issues of minor or low level misconduct that may have resulted from minor negligence are usually best dealt with on an informal basis. A quiet word is often all that is required to improve an employee's conduct (refer to Section 5). Examples of where it is appropriate to deal with issues informally include: initial instances of poor timekeeping, errors in the completion of timesheets or expenses claim, or other minor issues of a similar nature. However, a repetition of any issues may lead to formal action.

2. KEY PRINCIPLES

- 2.1 The key principles of the procedure are based on the advice given in the ACAS Code of Practice and relevant employment legislation.
- 2.2 No disciplinary action will be taken against an employee until the case has been fully investigated. It may be evident that it is not necessary to proceed to the formal disciplinary procedure and that Informal Action through coaching, training or close supervision may be sufficient.
- 2.3 At every stage in the procedure, the employee will be provided with as much information relating to the nature of the allegation against them, without breaching legislative requirements, and will be given the opportunity to state their case before any decision is made.
- 2.4 An employee is entitled to be accompanied or represented throughout the process at each formal meeting by a work colleague or designated Trade Union/Professional Association Official. However, this right does not extend to friends/family or professional persons such as solicitors and barristers. Only in exceptional circumstances where the outcome may have a substantial impact on any future decision by the employees' professional body may a legal representative be present, however such requests for representation will be reviewed on a case by case basis by the Chief Executive.
- 2.5 All disciplinary investigations and hearings shall be carried out as quickly as possible in order to avoid unnecessary delay. However, it is acknowledged that in certain circumstances e.g. school closure due to holidays or where external parties are involved these timescales may not apply.
- 2.6 The procedure will also apply to conduct outside of the workplace, including criminal charges, cautions or convictions where the conduct has a bearing on the individual's employment. Reference should be made to the Trust's Code of Conduct. The main consideration should be whether the offence or conduct is one that makes the individual unsuitable for their type of work, or brings the Trust's reputation into disrepute.

- 2.7 In accordance with the Trade Union Recognition Agreement Disciplinary action will not be taken against a recognised Shop Steward until the circumstances of the case have been discussed with a Convenor. In the case of a Convenor the matter should be discussed with a Regional Officer.
- 2.8 An employee will have the right to appeal against any disciplinary sanction.
- 2.9 Headteachers that are responsible for undertaking a disciplinary investigation have the right to seek assistance from the Chief Executive or Human Resources. Likewise, an employee may, at any stage, seek advice and support as outlined above. All Headteachers should inform the Chief Executive and Human Resources when he/she commences a formal disciplinary investigation.
- 2.10 Headteachers should ensure that all documentation relating to both informal and formal disciplinary investigations/actions is placed on the employee's personal file and a note of any investigation or sanction recorded.

3. ASSESSMENT OF THE INITIAL ALLEGATION

- 3.1 When the initial allegation arises, and the Headteacher considers that the employee's conduct may justify disciplinary proceedings, they should attempt to obtain an overview of the situation so that a decision can be made whether to proceed to a formal investigation or deal with the matter informally. This will involve speaking to the employee concerned and any witnesses. Additionally, the Headteacher must ensure that vital corroborative evidence is secured e.g. computer evidence, documentary evidence etc. where ever possible. Following this initial investigation, the Headteacher should determine the appropriate course of action:
- The allegation is unfounded and no further action is required
 - The allegation is minor, as a result of a minor negligence and as such should be dealt with through Informal Action (refer to section 5)
 - A full investigation, as outlined in the Formal Action, should be undertaken and where appropriate the employee suspended. (refer to section 8)
 - The allegation is vexatious or malicious and requires further investigation which may result in disciplinary action against the perpetrator
- 3.2 The Headteacher may determine that the alleged misconduct relates to safeguarding of children. In such cases:
- The relevant guidance for dealing with such matters must be followed e.g. Child Safeguarding Procedures and immediate referrals made.
 - Issues relating to child safety must be discussed with the Chief Executive, Human Resources and the Local Authority Designated Officer in accordance with 'Barnsley Safeguarding Children's Board Procedures and the DfE's Dealing with Allegations of Abuse against Teachers and other Staff - Guidance for Local Authorities, Headteachers, School Staff, Governing Bodies and Proprietors of Independent Schools.

4. INFORMAL ACTION

- 4.1 In the majority of cases an informal conversation between the Headteacher and the employee is all that is needed and will often be a more satisfactory method of dealing with a breach of discipline rather than instigating a formal disciplinary process.
- 4.2 When an allegation against an employee is made, the Headteacher should not automatically assume that the alleged action is deliberate or intentional on the part of the employee but an error, oversight or misjudgment. Where possible, the Headteacher should attempt to resolve the issue by informal methods e.g. close supervision, coaching, training mentoring etc. However, if it is apparent that the conduct or behaviour is too serious to be dealt with on an informal basis, formal procedures should be initiated (refer

to Section 7). Advice should be sought from the Chief Executive as appropriate.

- 4.3 Examples of where it is appropriate to deal with issues informally include: initial instances of poor timekeeping, errors in the completion of timesheets or expenses claim, oversight in the completion of documentation etc. However repeated instances of these may lead to formal action.

Discussion with Employee

- 4.4 The Headteacher should arrange to meet with the employee to explain that the matter will be dealt with informally. The Headteachers should ensure that the employee is fully informed as to the nature of the alleged misconduct. The meeting should be viewed as a mechanism to assist the employee in understanding and improving their behaviour and should not be regarded as punitive.
- 4.5 The meeting should take the form of a two-way discussion, and where there is obviously no case to answer, this will be made clear to the employee.
- 4.6 Where improvement is required, the Headteacher should ensure that the employee understands any shortcomings and the acceptable standards of behaviour/conduct. Reference should be made to the employee's job description and the Code of Conduct.
- 4.7 The Headteacher and the employee should aim to agree objectives to address the problem and any support or training that may be required to assist the employee in meeting the required standards. This may take the form of mentoring, coaching or training. The arrangements will vary depending on the circumstances of each case.
- 4.8 It is acceptable for the employee to be accompanied during this meeting. The employee may seek support from a colleague or recognised Trade Union/Professional Association representative however, the companion role is purely supportive. Likewise, the Headteacher may seek support of the Chief Executive or Member of the Governing Body.
- 4.9 The employee will be given a maximum of three months to improve and progress will be reviewed informally and regularly. The Headteacher should provide positive support and encouragement to assist the employee in meeting the required standards of conduct. The employee should be advised, in writing, of the consequences of failure to meet agreed targets or to change their behaviour.
- 4.10 A note of the meeting and any agreed action points will be kept for reference purposes on the employee's personal file as part of the employment history and a copy given to the employee. The employee will be asked to sign that they agree that the document forms a true record of any discussions and agreed actions. Where an employee does not agree with the content they should state, in writing, why. The documentation and note of disagreement should be returned to the Headteacher within 14 days. Such written documentation in no way constitutes formal disciplinary action.
- 4.11 Improvement/progress should be monitored and where this is evident, a further file note will be made to acknowledge this positive outcome and a copy will be made available for the employee.
- 4.12 If at any time during the informal process it becomes apparent that the matter is more serious, the discussion/informal procedure will be adjourned to allow the employee to access Trade Union representation and the Headteacher to implement Formal Action.

5. MEDIATION

- 5.1 In some cases, the Headteacher/Investigating Officer may consider that mediation can be used to assist in resolving disciplinary issues. Mediation is a voluntary process where the mediator helps two or more people in a dispute to attempt to reach an agreement regarding actions, behaviours, etc.
- 5.2 Mediation is seen as particularly effective when used to deal with minor allegations of misconduct or before matters escalate. Early intervention can prevent both parties from becoming entrenched in the

situation to such an extent that the matter is incapable of a resolution through the use of mediation.

5.3 Mediation may be used in the following circumstances:

- For conflict involving colleagues of a similar job or grade, or between a Headteacher and a member of their staff
- To rebuild relationships after the formal process is complete
- To address a range of misconduct issues relating to relationship breakdown, personality clashes, communication problems, minor cases of bullying and harassment.

5.4 Mediation can be instigated at any stage of the management investigation procedure as long as any on-going formal procedures are put in abeyance. In cases where mediation proves unsuccessful, then formal procedures will recommence.

5.5 Mediation may not be suitable if:

- It is used by a Headteacher to avoid their managerial responsibilities
- A decision regarding a right or wrong is needed e.g. possible criminal activity and the parties do not have sufficient power to settle the matter
- One side is completely uncompromising and using mediation will only raise unrealistic expectations of a positive outcome.

5.6 Further guidance regarding mediation can be obtained from Human Resources.

6. FORMAL ACTION

6.1 Following the initial assessment, the Headteacher may determine that the allegation is of a more serious nature or potential gross misconduct and that progression to Formal Action is required. In such cases a full and formal investigation (as outlined in Section 9) should be undertaken to establish the circumstances and facts surrounding the alleged misconduct. Where an employee has been dealt with informally and failed to achieve the necessary standards the Headteacher may determine that Formal Action is required.

6.2 Depending on the nature of the allegation the Headteacher may determine that the employee should be suspended from duty whilst the formal investigation is being undertaken. Advice relating to the use of precautionary suspension is outlined in Section 8.

7. PRECAUTIONARY SUSPENSION

7.1 The suspension of an employee does not constitute disciplinary action and should not be viewed as such. It is important that a Headteacher should not exercise the right to suspend an employee without proper grounds and without full consideration of whether there is an alternative to suspension e.g. temporary transfer to other duties/location. Advice should be sought from HR and the CEO.

7.2 As a general rule, employees should only be suspended where the alleged misconduct is so serious that it may constitute gross misconduct, which, if proven, could lead to dismissal. Additionally, it may be necessary to suspend an employee where:

- There are serious grounds for doubt as to the suitability of the employee to continue at work;
- Criminal investigations or proceedings relevant to the employee's job are involved; a client, pupil or employee of the Trust could be placed "at risk" if the employee were not removed from duty;
- It is necessary to allow a full and unhindered investigation and no other alternatives, e.g. temporary transfer to other duties, are available.

7.3 Where an alleged misconduct is made against a Headteacher, the Chief Executive and the Board of Directors should be consulted regarding the suspension.

- 7.4 Where suspension is deemed to be appropriate there is no requirement to give advance notice to meet with the employee and inform them of the suspension. However, where reasonably practicable and without causing undue delay, the employee should be given the opportunity to be accompanied by a Trade Union or Professional Association Representative or work colleague.
- 7.5 The employee will be informed that he/she is being suspended and given the full details of the allegation and the reasons for the suspension. The suspension and the reason/s for this should be confirmed to the employee in writing within 7 days. Standard letters can be obtained from Human Resources.
- 7.6 The employee should be advised to contact a Trade Union or Professional Association representative and will be given a named contact person within the Trust in the event that they have any issues which they need to discuss. In addition, the employee should be advised that they must not discuss the alleged disciplinary matter with any colleagues involved in the issues, as this may be prejudicial to 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 hearing however; the colleague is not obliged to comply with such requests. The employee should advise the Investigating Officer that he/she intends to make such a request. These requirements will be contained within the suspension letter and the employee will also be informed that contravention of these terms may result in further action against him/her.
- 7.7 The employee should be advised that confidential counselling support is available should they wish to avail themselves of this facility.
- 7.8 Suspension from duty will be subject to the following conditions:
- Employees who are suspended shall continue to receive their contractual pay until the matter is resolved
 - No employee who is an accredited union representative shall be suspended until a full-time official of the union has been consulted.
- 7.9 Whilst suspended from duty the employee must remain contactable and must make themselves available to attend any Management Investigation Meeting or Disciplinary Hearing. If the employee falls ill during the suspension period he/she should follow the absence notification procedure and submit medical certificates in the normal manner. (Refer to section 15 for additional advice regarding sickness during the disciplinary procedure.)
- 7.10 An employee suspended for any conduct relating to safeguarding must be referred to the DBS - there is a legal requirement for employers to make a referral to the DBS where they think that an individual has engaged in conduct that harmed (or is likely to harm) a child; or if a person otherwise poses a risk of harm to a child. Where it is decided on the conclusion of a case that a person who has been suspended can return to work, the case manager should consider how best to facilitate.
- 7.11 Additionally, employees wishing to take annual leave during a period of suspension should gain approval from their Manager in the normal manner.
- 7.12 Schools should input periods of suspension on Sims.
- 7.13 Investigations should be carried out as quickly as possible given the circumstances of each case. Any suspension should be reviewed after 14 days, in the first instance, and then on a monthly basis. The employee should be informed in writing of the outcome of the suspension review. The Headteacher should ensure that details of the suspension review are recorded including all factors relevant to the decision and a copy kept with the investigation file.

7.14 If during the course of an investigation it becomes apparent that the alleged offence is more serious than first anticipated and could be classed as gross misconduct or to safeguard the personal welfare of the employee or the reputation of the Trust, suspension should be considered. Advice should be sought from the Chief Executive.

8. INVESTIGATION

- 8.1 Where an allegation relates to a child/children the Investigating Officer should also refer to relevant Child Protection Procedures when undertaking an investigation.
- 8.2 No disciplinary action should be taken without a full investigation of the facts and circumstances surrounding the case. It is the responsibility of the Investigating Officer to obtain all relevant information from any reasonable sources, both supporting and not supporting the allegations. Advice should be sought from Human Resources and the procedure detailed below followed.
- 8.3 Where it is determined that formal action may be required, the investigation must be carried out by an impartial Investigating Officer, this will either be the Headteacher or another senior member of staff/Governor approved by the CEO. Ideally this should not be the employee's immediate line manager or an individual against whom the allegations have been made, nor involved in the allegations themselves.
- 8.4 Investigations should commence immediately, however, there are circumstances where the investigation might be delayed e.g. where an internal investigation may prejudice police enquires and legal proceedings. In cases where there is police involvement the Chief Executive must be notified. Additionally, the Chief Executive must be notified of cases relating to theft, fraud or willful damage as specified in the Financial Regulations.
- 8.5 Any employee whose conduct is being investigated and any witness/es to be interviewed as part of the investigation may be accompanied by a Trade Union or Professional Association representative or work colleague.
- 8.6 The Investigating Officer should request that all parties involved in the investigation maintain confidentiality in respect of the allegations to allow the investigation to proceed without prejudice.

Management Investigatory Interviews

- 8.7 The employee must be given 5 days' notice of the time and date of the Management Investigation meeting and should be made fully aware of the reason for the investigation. Employees may elect to waive the notice period if they wish. Where possible such meetings should be away from the employee's place of work. Standard invite letters to the meeting can be obtained from Human Resources. The Investigating Officer should prepare in advance questions relevant to the issues to be explored at the meeting and be prepared to follow up the responses further during the investigation. Such questions must not be shared with the employee/representative prior to the meeting.
- 8.8 The purpose of the investigation and the allegations will be made clear and the employee will be given an opportunity to respond and give his/her own explanation of the circumstances. The content of the Management Investigatory Meeting should be documented and the employee asked to certify that this is a true record of the meeting. Employees who disagree with the content should sign and detail their disagreement. Employees are required to respond within 5 days.

Obtaining Witness Statements and Other Evidence

- 8.9 Where appropriate, factual written statements should be obtained from any witnesses/other relevant parties who could provide information beneficial to the investigation. Witnesses will be asked to attend a Management Investigation Meeting and the meeting documented.

- 8.10 If a witness is someone from outside of the Trust, who is not prepared to attend a disciplinary hearing, every effort will be made to obtain a signed written statement from him/her.
- 8.11 Other material such as police reports, photographs, video evidence etc. should also be collated. Such material may have been collected as a result of authorised surveillance undertaken in accordance with the provisions of the Investigatory Powers Act (2016). Advice must be sought from Human Resources prior to any surveillance being undertaken to ensure compliance with the Act.

Conclusion of the Investigation

- 8.12 On completion of the investigation, the Investigating Officer will review the case and determine one of the following courses of action:
- There is no substance to the allegation and therefore no further action is necessary. If the employee is suspended the Headteacher should revoke the suspension and provide support to facilitate their reintegration into the workplace. The employee should be notified in writing accordingly. Letters can be obtained from Human Resources.
 - The matter can be dealt with by Informal Action – refer to section 5
 - The allegation appears to be well founded and a disciplinary hearing should be convened.
- 8.13 In all cases, the Investigating Officer should document the justification for the decision.

9. INITIATING THE HEARING

- 9.1 Where sufficient evidence exists to support the allegation the Investigating Officer and Human Resources should make arrangements for a Disciplinary Hearing to take place: -
- Book suitable accommodation for the efficient conduct of the proceedings, preferably away from the employee's normal place of work
 - Confirm attendance of the panel.
 - Arrange for an external HR representative to provide procedural advice to the panel, this is essential where it is alleged that gross misconduct has occurred
 - Arrange for the witness/witnesses to attend
 - Arrange for a minute taker or, preferably, the hearing to be recorded.
 - Prepare Management's case including collation of evidence, overview of case, questions, script, etc.
- 9.2 In normal circumstances the Panel conducting the Disciplinary Hearing should consist of: Governors who have not been involved in the investigation and are impartial to the process (Board of Directors for Headteachers).

The employee will be:

- Given 10 days (excluding weekends and statutory holidays) notice of the requirement to attend a disciplinary hearing in writing and at this time be provided with any other documentation that the Investigating Officer intends to refer to (Standard letters can be obtained from Human Resources)
 - Provided with full details of the allegations or concerns under consideration;
 - Informed of the right to representation by a Trade Union or Professional Association Representative or work colleague;
 - Provided with a copy of the Disciplinary Procedure
- 9.3 It is expected that all documentation that the Investigating Officer intends to refer to during the hearing, along with a brief statement of case (this should be an overview of the case only and not the script that will be referred to in the hearing) will be exchanged with the employee/ representative 10 days prior to the Hearing.

- 9.4 The employee/representative will provide the Investigating Officer with copies of all documents which the employee will rely on, 5 days (excluding weekends and statutory holidays) in advance of the hearing. Neither party will be required to exchange the script that they intend to refer to prior to the Hearing.
- 9.5 Where the person accompanying the employee is unavailable the hearing may be postponed for up to 7 days. If the employee fails to attend the reconvened hearing without good reason, a decision may be taken in his/her absence.
- 9.6 Consideration should be given to implementing reasonable adjustments to allow attendees including witnesses to participate in the Hearing.

10. THE DISCIPLINARY HEARING

- 10.1 All witnesses are required to attend the Hearing to be questioned. However, in some circumstances it may be impracticable or unacceptable for the witness to be present at the hearing and in which case a copy of the written statement will be provided. Witnesses can be accompanied but not represented, by a Trade Union or Professional Association Representative or work colleague (refer to section 2).
- 10.2 Where it is impractical or unacceptable for the witness to attend the Hearing, the Investigating Officer should seek to reach agreement with the employee representative regarding the non-attendance of the witness and the submission of a written submission.
- 10.3 If the Trade Union, Professional Association Representative or work colleague cannot attend on the date originally set a worker can suggest an alternative time and date so long as it is reasonable and it is not more than five working days after the original date. Employers may, however, wish to allow more time than this for a re-arranged meeting, particularly in cases that might result in dismissal.
- 10.4 Where there is a request to postpone a hearing for more than five days because a Trade Union Representative or other companion is not available, it may be fair to allow the postponement if it does not cause unreasonable delay. The employer should consider the facts and decide what is fair and reasonable in the circumstances.
- 10.5 Where agreement cannot be reached the employee/representative may wish to submit a series of questions that they wish the witness to provide a written response to prior to the Hearing. Alternatively, consideration should be given to the use of a video link or other suitable method to allow the witness to respond to questions during the Hearing. In instances where the witness refuses to participate, their statement will be disregarded.
- 10.6 The Panel should fully consider the evidence and decide, on the balance of probability i.e. it is more probable than less probable that the employee committed the alleged misconduct, what disciplinary action, if any, will be taken. Section 12 provides guidance on the levels of sanctions. However, it should be noted that the list of examples is not exhaustive and that the level of sanction will be determined on an individual basis taking account of the severity, circumstances, collaborative evidence, mitigation, etc.
- 10.7 The decision will normally be given verbally to the employee at the Hearing and confirmed in writing, usually, within 5 days. Where the panel require a significant amount of time to give full consideration to all of the evidence presented, it may be necessary for the outcome to be communicated in writing as soon as possible after the Hearing. Additionally, the panel may defer the decision making to allow them to seek advice on the appropriate level of sanction.

11. LEVELS OF DISCIPLINARY ACTION

- 11.1 If after hearing all the evidence presented within the Disciplinary Hearing the Panel is satisfied that an employee's conduct is unsatisfactory; they should determine the action to be taken taking account of

any mitigating circumstances and corroborative evidence.

11.2 No employee will be dismissed for a first breach of discipline except in the case of gross misconduct.

11.3 The range of actions following a disciplinary hearing are detailed below:

No Action

In cases where it is concluded that misconduct has not occurred or where there is insufficient evidence to conclude that misconduct has occurred.

Informal Action

In cases where misconduct has occurred but it is felt that it is not serious enough to be dealt with formally, e.g. oversight or minor negligence, the procedure outlined in section 3 should be followed. However, it is anticipated that such cases would have been identified previously and will not get to this stage.

Written Warning

Written Warnings are normally issued as a result of minor acts of misconduct or where there has been a repetition of an issue that has previously been dealt with under Informal Action.

The Written Warning will include:

- Details of the complaint;
- What improvements are expected and how these can be made;
- The timescale allowed for this. The sanction should remain in force for a minimum of 12 months and, in exceptional circumstances, a maximum of 2 years.
- Actions which will result due to failure to meet the outlined improvements; the outcome of a further act of misconduct;
- The right of appeal.

A copy of the Written Warning will be kept on the employee's personal file. It will be disregarded for disciplinary purposes after the agreed timescale and will not then be used for determining any cumulative sanction however; the warning will remain on file as a record of events/employment history.

Final Written Warning

Where there has been a recurrence of misconduct which is subject to a Written Warning; an employee's conduct has not improved following a Written Warning; an employee subject to a Written Warning has committed a further unrelated act of misconduct or the misconduct is of a more serious nature, the employee should be issued with a Final Written Warning.

The Final Written Warning will include:

- Details of the complaint;
- What improvements are expected and how these can be made;
- The timescale allowed for this. The sanction should remain in force for a minimum of 12 months and, in exceptional circumstances, a maximum of 2 years;
- Actions which will result due to failure to meet the outlined improvements; the outcome of a further act of misconduct;
- The right of appeal.

A copy of the Final Written Warning will be kept on the employee's personal file. It will be disregarded for disciplinary purposes after the stipulated timescale, however; the warning will remain on file as a record of events/employment history.

Where an employee is in receipt of a Final Written Warning and commits a further act of misconduct this will result in the issuing of a dismissal sanction.

Downgrading/Transfers

There may be occasions when it is felt that the misconduct is such that the employee is considered unsuitable to continue performing in their current job. In such instances the employee may be downgraded and/or transferred to another school within the Trust. The employee will be paid the appropriate salary for the job and no protection arrangements will be put into place. The employee will be afforded the right to appeal against the sanction.

Cumulative Dismissal

Dismissal with notice may be considered in circumstances where the panel has determined that:

- There has been a recurrence of misconduct which is subject to a Final Written Warning, or;
- An employee's conduct has not improved following the issuing of a Final Written Warning, or;
- An employee subject to a Final Written Warning has committed a further unrelated act of misconduct,

The employee will be served with notice based on their contractual entitlement up to a maximum of 12 weeks. In certain exceptional circumstances payment in lieu of notice may be given and the employee will not be required to work the notice period. Other alternatives may include transferring the employee to another location for their notice period or granting Special Leave (the employee will receive contractual earnings but will not be required to attend work).

The employee must be provided with a written statement of the reason for dismissal, which will include:

- Details of the misconduct;
- The reasons for the decision;
- The right of appeal.

Summary Dismissal

Summary Dismissal is the dismissal of an employee without notice. This is appropriate in cases of gross misconduct or where the reputation of the Trust will be severely compromised. The employee will be informed in writing, giving details of the misconduct, the reasons for dismissal and the right of appeal.

Copies of all letters relating to the different levels of sanctions are available from Human Resources. When a sanction has expired the details will remain on an employee's personal file forming part of their employment history. It will not count towards any further misconduct after this time. If an employee is absent due to sickness for 2 consecutive weeks or more, this will not count as spent time towards a current sanction and therefore the employee will resume this sanction on their return from sickness.

12. RIGHT OF APPEAL

- 12.1 An employee who wishes to appeal against a disciplinary decision should inform the appropriate Chair of Governors, in writing, within 14 days of receipt of the letter notifying them of the decision. Arrangements should then be made for the Appeal Hearing.
- 12.2 The rights of the employee and the procedure for the convening and the hearing of an appeal shall be the same as for the initial Disciplinary Hearing. Section 3 details the responsibilities of the Headteacher/Governors in respect of Appeal Hearings.
- 12.3 The Appeal shall be a **full re-hearing** of the case and can be used to introduce **new evidence** which has come to light since the original Hearing.

- 12.4 The Investigating Officer and Human Resources will make arrangements for the Hearing (as outlined in Section 10) and inform the employee in writing, giving 10 days (Excluding weekends and statutory holidays) notice, of the requirement to attend the Appeal Hearing.
- 12.5 Both parties are required to produce a brief statement of case (overview of the case), together with supporting documents, which should be exchanged not less than 5 days (Excluding weekends and statutory holidays) prior to the Hearing. Neither party will be required to exchange the script that they intend to refer to prior to the Appeal Hearing.
- 12.6 The result of the appeal and the reasons for the decision will normally be notified to the employee within 5 days of the Hearing. The Appeal Panel may confirm, reduce, increase or revoke the original outcome.

13. RAISING A GRIEVANCE DURING THE DISCIPLINARY PROCESS

- 13.1 During the course of a disciplinary process, an employee might raise a grievance. Best practice advises that, where the grievance is related to the disciplinary case then it is appropriate that both matters are dealt with at the same time i.e. at one Hearing. However, it is advisable that another manager is allocated responsibility for investigating the grievance aspects of the case.
- 13.2 In instances where the grievance has no relationship to the disciplinary matter then both procedures may be dealt with concurrently.

14. SICKNESS ABSENCE DURING THE DISCIPLINARY PROCESS

- 14.1 If an employee is absent due to sickness, which appears likely to continue for more than two weeks, the investigating officer should refer the employee to the Trust's Occupational Health Provider. This referral should include information about the disciplinary matter and should seek medical advice in relation to the employee's fitness to participate in an investigation and to attend a disciplinary hearing/appeal. On receipt of advice from the Trust Occupational Health Provider, the investigating officer may determine that the management investigation/hearing will take place in the employee's absence.
- 14.2 Employees who fall sick whilst suspended from work should follow normal absence reporting arrangements. The suspension of the employee should be placed in abeyance until the period of sickness has ceased. The Headteacher should advise the employee of this and that the suspension will recommence once the employee is declared fit to return to work.

15. MONITORING

- 15.1 The relevant Trust Board member should be provided with a quarterly report detailing the number of disciplinary cases, appeals, reasons of the appeal and outcomes.

16. CLOSING THE DISCIPLINARY INVESTIGATION AND HEARING

- 16.1 The Disciplinary Procedure Action Plan (Appendix A) must be completed in respect of all allegations of misconduct that are investigated. Where the investigation results in no action or informal action, the pro-forma must be completed by the Investigating Officer. In instances where formal procedures are followed the Chair of the Disciplinary Panel must complete the form.
- 16.2 The Action Plan must detail employee or School related issues e.g. development needs, policy revision etc. that need to be addressed in the immediate, medium and longer term and indicate when the actions are complete. The employee's Headteacher is responsible for ensuring that employee related actions are completed likewise, School issues must be monitored and signed off when complete by the Chief

Executive. Nil returns are required where no follow up action has been identified. A copy of the Plan, when the actions are complete, should be placed on the employee personal file.

16.3 The Investigating Officer must ensure that all documents/evidence relating to the investigation, regardless of the outcome, are filed securely on the employee's with restricted access personal file.

17. DATA IMPACT ASSESSMENT

17.1 At all stages of this procedure data obtained will be used only for the purpose for which it is intended and will be stored securely with restricted access to those involved in the process. Following the process data will be stored on the electronic personal file for the duration of the employees' employment with the Trust and for 6 years thereafter. The data will be destroyed at this time using a confidential shredding service.

18. EQUALITY AND DIVERSITY

18.1 This policy has been Equality impact assessed by the HR Committee, if on reading this policy you feel there are any equality and diversity issues please contact HR.

Appendix A

Disciplinary Procedure – Action Plan

The table below should normally be completed by the Chair of the Panel following the Disciplinary Meeting detailing identified actions in respect of employee and/or school related issues that require addressing. The pro-forma must also be completed when the Investigator has determined no action or, informal action is required and has identified the need for employee and/or school issues to be addressed.

Completed By: _____
Chair of the Panel/Investigator

Date: _____

Immediate Actions	Responsible Officer	Date Implemented
Medium Term (3 - 6 months)	Responsible Officer	Date Implemented
Longer Term (6 - 12 months or beyond)	Responsible Officer	Date Implemented

On completion of all of the above identified actions the form should be signed off by:

Employee _____ Date _____

Manager _____ Date _____

Appendix B

SUGGESTED PROTOCOL AT A DISCIPLINARY MEETING

- i) The Chair of the Panel 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 which the Panel should be made aware of any current penalties.
- iii) The employee and/or representative may question management and any witnesses should this be required.
- iv) The Panel including the Advisor may question management and any witnesses should this be required.
- v) The employee shall respond to the Management's case making reference to any supporting evidence and calling witnesses should this be required.
- vi) Management may question the employee and/or their representative and any witnesses should this be required.
- vii) The Panel including the Advisor may question the employee and/or representative and any witnesses should this be required.
- viii) Prior to the summing up either side shall have a right to request an adjournment of the proceedings in the event of new allegations being presented.
- ix) Management will summarise their case
- x) The employee or their representative will summarise their case.
- xi) Once the meeting is complete, both parties will then withdraw. If the panel members require further information on the evidence presented both sides must be recalled to allow clarification to be sought. Before a decision is reached the Advisor to the panel may be required to withdraw. A decision shall then be reached by the Panel based on an unbiased consideration of the evidence as to whether on the balance of probabilities the potential misconduct is proven.
- xii) Both parties shall be recalled and the outcome of the meeting conveyed. This will be confirmed in writing, normally within 5 working days, with details of the nature of the misconduct and the implications. All parties will be advised of any changes to the method of communication and extension to timescales at the closure of the meeting.

Appendix C

SUGGESTED PROTOCOL AT A DISCIPLINARY APPEAL MEETING

- i) The Chair of the Panel 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 which the Panel should be made aware of any current penalties.
- iii) Management may question the employee/and or their representative.
- iv) 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 Panel 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 then withdraw. If the panel members require further information on the evidence presented both sides must be recalled to allow clarification to be sought.
- xi) A decision shall then be reached by the Panel based on an unbiased consideration of the evidence as to whether on the balance of probabilities the potential misconduct is proven.
- xii) Both parties shall be recalled and the outcome of the meeting conveyed. This will be confirmed in writing 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. All parties will be advised of any changes to the method of communication and extension to timescales at the closure of the meeting.

