Disciplinary Policy

This policy should be read alongside the Trust's Safeguarding, Capability, Grievance, Sickness Absence Management, Equality and other relevant policies, procedures and guidance documents:

- Disciplinary Toolkit
- Investigation and Fact-Finding Template
- LADO Employee Guidance Document

1.0 Application of the Procedures

This procedure applies to all staff employed by the Trust (including those seconded to other schools or organisations). An employee working within the Trust but employed on another organisation's terms and conditions of employment should have any disciplinary matter managed under the appropriate policy/procedure.

The overall purpose of this procedure is to promote fairness and consistency in the relationship between the Trust and its employees. The Trust aims to ensure that disciplinary concerns are dealt with promptly, fairly and consistently and that, where appropriate, steps are taken to establish the facts and give the employee an opportunity to respond before formal disciplinary action is taken. All individuals involved in the process will be treated reasonably, equitably and with dignity and respect.

Employees are expected to maintain appropriate standards of professional conduct. Conduct outside work may be considered under this procedure where there is a sufficient connection to the employee's role, safeguarding responsibilities, suitability for employment or the Trust's legitimate interests.

This procedure takes account of the ACAS Code of Practice on Disciplinary and Grievance Procedures and applicable statutory guidance. It also takes account of the contractual conditions applying to different groups of employees. Where specific statutory or contractual requirements apply, these will be taken into account and, where applicable, will take precedence over any provision of this procedure with which they conflict.

The procedure recognises two distinct routes:

Informal management action, where concerns are minor and can reasonably be resolved through discussion, clarification, support, training or an agreed improvement plan, without the need for formal disciplinary action.

Formal disciplinary action, where the concern is sufficiently serious, repeated or unresolved, or where the circumstances may justify a formal warning or dismissal.

2.0 Interpretation and Delegated Authority

In these procedures, the Trust Board includes Trustees acting collectively or individually where they are exercising appropriate delegated authority, and any committee or person exercising delegated authority on behalf of the Trust Board in accordance with the Trust's Articles of Association and Scheme of Delegation.

Academy Head means the Academy Head or another person exercising appropriate delegated authority on behalf of the Academy Head.

CEO means the Chief Executive Officer or an appropriate officer exercising delegated authority on behalf of the CEO.

School means any school or other establishment within Consortium Trust.

Where an employee is a member of the central team or is not attached to a specific school, references to the Academy Head should be read as references to the CEO or appropriate line manager, and references to a Trustee should be read as references to the Chair of the Trust Board or their nominee.

These procedures will be applied in accordance with relevant legislation, statutory guidance, the Trust's Articles of Association, Funding Agreement, Scheme of Delegation and the employee's contractual terms. Where specific statutory or contractual provisions apply to a particular category of employee, those provisions will take precedence where they conflict with these procedures.

3.0 Confidentiality

All proceedings and documentation will be handled confidentially and information will only be disclosed to those who need it to deal with the matter, or where disclosure is required or permitted by law or is necessary to fulfil the Trust's safeguarding, regulatory or reporting responsibilities.

All parties should be mindful of the need to preserve confidentiality in matters relating to children and young people. Wherever practicable, pupil statements and other statements referring to pupils will have identifying details redacted. Except in exceptional circumstances, pupils will not normally be asked to give evidence at disciplinary hearings.

For employees based in schools, the appropriate delegated committee of the Trust Board will be notified of the outcome of a formal disciplinary process where required by the Trust's governance arrangements.

4.0 Safeguarding Young People and Children

Any safeguarding concern or allegation relating to an employee, volunteer, supply worker, trainee, contractor or other person working with children must be managed in accordance with the Trust's current safeguarding and allegations-against-staff procedures and *Keeping Children Safe in Education* (KCSIE), as amended from time to time.

Concerns must be referred without delay to the Designated Safeguarding Lead (DSL) and/or other appropriate safeguarding professionals. Where required, the Local Authority Designated Officer (LADO), police, children's social care or other relevant agencies will be consulted.

Safeguarding and employment processes are separate, but may interact. Appropriate consideration must be given to any safeguarding enquiries and advice before commencing or progressing formal disciplinary action. This does not prevent the Trust from taking appropriate employment action where necessary to protect children, manage risk or address employment concerns.
Suspension, alternative duties, additional supervision or other protective arrangements may be considered where necessary and appropriate. Suspension is a neutral act and is not a disciplinary sanction.

5.0 Referral of Cases

An immediate referral to the CEO or appropriate senior officer must be made in cases of alleged financial irregularity, fraud, theft or misappropriation of Trust property. Appropriate advice and consideration should be obtained before formal disciplinary processes commence where necessary.

The Trust will make referrals to external bodies where required by law or statutory guidance. This includes, where the statutory conditions are met, referral to the Disclosure and Barring Service (DBS).

A DBS referral may be required where an individual working in regulated activity has been removed from regulated activity, including through dismissal, redeployment, resignation or other cessation of services, and the relevant harm or risk-of-harm conditions are met. The legal duty to refer to the DBS is separate from any referral to the Local Authority Designated Officer (LADO), police or another professional regulator.

In relation to teachers, the Trust will consider whether a referral to the Teaching Regulation Agency (TRA) is required in accordance with the applicable teacher misconduct requirements and current government guidance. A referral may be required where a teacher has been dismissed for serious misconduct or would have been dismissed had they not resigned or otherwise left employment.

External referrals may be made independently of the outcome of an internal disciplinary process or appeal where the relevant statutory duty, safeguarding requirement or regulatory obligation has arisen.

6.0 Disciplinary Procedure – Overview

This procedure will be used where misconduct, omission or, in certain circumstances, a failure in performance arising from willful or negligent conduct is such that formal disciplinary action may be warranted. Matters relating solely to an employee's capability or inability to meet the requirements of their role will normally be managed under the Trust's capability procedure.

The term misconduct covers acts, omissions or failures in performance which may reasonably be attributed to willful or negligent conduct. Examples are contained in Schedule 1.

The Trust's disciplinary process is normally divided into the following stages:
Stage 1 – Minor or first concerns may be addressed through appropriate management action. This may include fact-finding, discussion with the employee, clarification of standards or expectations, a management instruction, support, training or an agreed improvement plan. No formal disciplinary warning is issued.

Stage 2 – Where formal action may be warranted, the facts are investigated and a decision is made as to whether there is a case to answer. Following an investigation, the matter may be resolved through appropriate management action, including a management instruction, where formal disciplinary action is not considered necessary.

Stage 3 – Formal disciplinary hearing: where there is a case to answer, the employee is invited to a formal hearing with sufficient information and notice to prepare and with the statutory right to be accompanied.

Stage 4 – Outcome and sanction: the decision-maker may take no action, issue a first written warning, final written warning, or, where justified, determine dismissal.

Stage 5 – Appeal: the employee may appeal against any formal disciplinary sanction.
The stages are not necessarily sequential in every case. A matter may proceed directly to formal investigation where the concern is serious, where informal action would be inappropriate, or where safeguarding or other circumstances require a formal response.

7.0 Informal Management and Exclusions

The informal stage is intended to resolve minor or early concerns promptly and constructively. It may include fact-finding, a management conversation, clarification of expectations, a management instruction, coaching, training, additional supervision, a reasonable adjustment, mediation, a facilitated conversation or an agreed improvement plan.

An informal meeting should make clear what the concern is, what standard of behaviour is expected, what support is available and when progress will be reviewed. Where appropriate, the outcome may include a clear management instruction or agreed action that the employee is expected to follow.

An employee does not have a statutory right to be accompanied at an informal management meeting. However, reasonable requests for support should be considered, particularly where this would assist the employee to understand the concern or avoid disadvantage or discrimination.

A brief written note should be kept confirming what was discussed and any actions or expectations agreed. Such a note is not a disciplinary warning and must not be treated as one.

Where the concern is not resolved informally, or where further misconduct occurs, the Line Manager should consider whether formal disciplinary action is appropriate.

Formal disciplinary action may be commenced without prior informal action where the circumstances warrant it, including serious or gross misconduct, safeguarding concerns, repeated concerns, significant breaches of Trust policy, or matters where dismissal could reasonably be an outcome.

Separate procedures apply to redundancy and incapability arising from ill-health. Capability or performance concerns arising principally from lack of aptitude or skill should normally be managed under the Trust's appraisal/capability procedure rather than disciplinary action.

Normal management of employees, including routine performance review and appraisal, is outside the scope of this formal disciplinary procedure unless the matter is escalated into formal disciplinary action.

8.0 Formal Investigation

Where informal management does not resolve the concern, or where the matter is sufficiently serious to require formal action, the school will consider whether a formal investigation is required. The school should seek advice from the Central HR before instituting formal disciplinary action or suspending an employee.

The investigation should be objective, reasonable and proportionate. It should establish the relevant facts, gather evidence from all sides and determine whether there is a case to answer. Where possible, the person carrying out the investigation should not be the person who will make the disciplinary decision.

An employee who is the subject of an investigation may be accompanied at an investigatory meeting by a trade union representative or work colleague. There is no statutory right to be accompanied at an investigatory meeting, but the Trust will normally permit it as a matter of good practice.

If the employee is a trade union official and the matter concerns their trade union duties or status, the appropriate trade union official will be consulted before formal action is taken, in accordance with statutory requirements.

Witnesses may be asked to check and sign statements. Where appropriate, the investigating officer may anonymise or redact information to protect pupils, witnesses or confidential information.

The investigating officer's report should state whether they believe there is a case to answer and, if so, the nature and seriousness of the allegations. The report and relevant evidence will normally be provided to the employee if the matter proceeds to a disciplinary hearing.

9.0 Consideration of Suspension or Redeployment

Suspension may be necessary in some circumstances while an investigation is carried out. The Academy Head may suspend an employee in accordance with delegated authority and must inform the appropriate Trust officers.

Where the employee is an Academy Head, the decision to suspend will be taken by the CEO or another authorised senior officer where the CEO has a conflict of interest or is unavailable.

Suspension should only be used where necessary and proportionate and will normally be considered where there is a reasonable belief that the employee's continued presence at work may:

- put themselves or others at risk;
- create or contribute to a safeguarding concern;
- compromise or hamper an investigation;
- make it impracticable for the employee to remain at work; or
- significantly worsen or prevent the effective management of serious workplace concerns or relationships.

Alternatives to suspension should be considered where appropriate, including additional supervision, restricted duties, alternative work arrangements or temporary redeployment.

Suspension does not constitute disciplinary action and will normally be on full pay. It should not be unnecessarily prolonged. The need for continued suspension should be reviewed regularly and suspension should be lifted when the circumstances no longer justify it.

Where suspension is lifted, the Trust may consider an appropriate reintegration plan to support the employee's return to work.

10. Formal Disciplinary Hearing

If the investigation identifies a case to answer, a formal disciplinary hearing will be convened. The hearing may be conducted by the Academy Head or an appropriately authorised manager, Trustee or panel in accordance with the Trust's Scheme of Delegation. Where dismissal is a possible outcome, the hearing must be conducted by the person or panel authorised to make that decision.

The employee will normally receive at least **10 full working days'** notice of the hearing. The hearing could be sooner if it is agreed by both parties.

The written invitation will set out:

- the nature of the alleged misconduct and, where appropriate, the warning stage already reached;
- the date, time and place or method of the hearing;
- the name of the person presenting the case and any witnesses known at that stage;
- the name(s) of the person(s) hearing the case;
- the employee's right to produce written statements, evidence and relevant witnesses;
- the employee's statutory right to be accompanied by a trade union official, certified trade union representative or work colleague of their choice;
- the possible outcomes, including dismissal where that is a possible outcome; and
- the disciplinary report and relevant documentation being relied upon.

The Trust will normally provide relevant paperwork at least **five full working days** before the hearing. Late evidence will only be introduced where it is reasonable and necessary, with appropriate consideration given to whether the employee requires additional time to respond.

Hearing timescales may vary by agreement or where reasonable and necessary. The Trust will act fairly and avoid unreasonable delay. Shorter timescales may be mutually agreed, for example, where a matter arises close to the end of the school year and it is in all parties' interests to conclude matters before the school closure period.

The hearing will be conducted as informally as is consistent with fairness and the seriousness of the matter, in accordance with Schedule 2.

The person or committee hearing the case will determine the outcome within their delegated authority. An outcome may be communicated orally to the employee following the hearing, but the decision will in all cases be confirmed in writing, normally within **five working days**.

The outcome letter will confirm whether the allegation(s) have been upheld, not upheld or partially upheld and, where a sanction is imposed:

- the nature of the misconduct;
- the sanction;
- the improvement or conduct expected;
- the period for which a warning will remain live, where applicable;
- any required review, support or improvement arrangements;
- the consequences of further misconduct; and
- the employee's right of appeal and the timescale for lodging an appeal.

An employee will be asked to acknowledge receipt of an outcome letter. Refusal to sign or acknowledge receipt does not invalidate the decision.

11.0 Postponement of Hearings and Non-Attendance

The Trust will make reasonable efforts to accommodate the employee's chosen companion. Where the companion cannot attend, the employee may propose a reasonable alternative date in accordance with the statutory right to accompaniment. A postponement should normally be to a date within **five working days** of the original date, unless a longer period is reasonable in the circumstances.

Employees should take all reasonable steps to attend a hearing. A hearing will not normally be held in the employee's absence where there is a reasonable explanation and a suitable alternative can be arranged.

Where sickness prevents attendance, appropriate medical evidence may be requested and Occupational Health advice may be obtained. Reasonable adjustments and alternative arrangements, including a remote hearing or other suitable format, should be considered.

If an employee is persistently unable or unwilling to attend and reasonable alternatives have been considered, the Trust may proceed in their absence. The employee should be given a reasonable opportunity to provide written representations and/or have their representative make submissions on their behalf.

Safeguarding allegations must continue to be addressed in accordance with the Trust's safeguarding procedures even where an employee resigns or refuses to participate. Wherever possible, the person should be given a full opportunity to answer the safeguarding allegation and make representations about it.

However, it may be necessary to conduct a hearing in their absence and reach a judgement about whether the safeguarding allegation can be regarded as substantiated. Where appropriate, the Trust may reach an employment conclusion based on the evidence available.

In these circumstances, the Academy Head, Panel or manager may also make a decision regarding the sanction that would have been applied had the employee remained in employment.

Similar considerations may apply to an investigatory process where the employee is unable or unwilling to participate.

12.0 Warning Stages and Disciplinary Sanctions

The formal disciplinary procedure provides reasonable opportunity for improvement. Except in cases of gross misconduct or other exceptional circumstances, dismissal should normally follow a current written warning and an opportunity to improve.

The normal formal warning sequence is:

- First written warning.
- Final written warning.
- Dismissal, where further misconduct occurs or where the circumstances justify dismissal.

Under most circumstances, this procedure provides for an employee to receive two written warnings for misconduct of the same or similar nature, a first warning and a final warning, before dismissal is considered.

A warning should clearly identify the conduct or performance concern, the improvement required, the relevant live period, the support or review arrangements and the consequences of further misconduct.

First Warning

Where an employee's misconduct is such as to warrant a formal warning, and where there is no previous warning current, a first written warning will normally be the appropriate sanction. A first written warning will normally remain live for six months

Final Warning

Where a first written warning is current any further misconduct during the currency of that warning will normally lead to a final written warning. A final written warning may also be issued in circumstances

where an employee is shown to have committed serious misconduct, omission, or failure in performance short of gross misconduct, It may also be appropriate where dismissal would be a reasonable sanction, but the individual or panel hearing the case have good reason to believe that a warning will prove to be effective.

A final written warning will normally remain live for twelve months and will state that further misconduct during its currency will normally, if substantiated at a hearing, result in dismissal without further warning. A different period may be set by the hearing panel where there are exceptional and reasonable circumstances. The outcome letter will specify the live period and the employee may appeal against the imposition of an extended warning period.

The Trust may, where appropriate and lawful, take separate action to recover money or property legitimately due to it. Any deduction from salary will only be made where authorised by law, contract or written agreement.

Disciplinary sanctions will be proportionate to the seriousness of the misconduct and the circumstances of the individual case.

13.0 Dismissal

Where further misconduct occurs while a final written warning is live, dismissal will normally be considered unless there are strong mitigating circumstances or another outcome is more proportionate. The panel or individual hearing the case may alternatively, where appropriate, determine to extend the final warning for a period between three and twelve months.

Where allegations amount to gross misconduct, dismissal without notice may be appropriate even where there is no current warning, following a fair investigation and disciplinary hearing. In this case, the CEO will formally dismiss the employee without notice in accordance with the authorised decision.

Where misconduct falls short of gross misconduct but there has been a fundamental breakdown in the employment relationship, dismissal with contractual notice may be considered in exceptional circumstances. In this case, the CEO will formally dismiss the employee with due notice in accordance with the authorised decision.

Any dismissal decision must be made by the person or panel authorised under the Trust's Scheme of Delegation and applicable governance arrangements.

The Trust will comply with the employee's contractual notice and other applicable contractual or statutory entitlements unless dismissal without notice is justified as gross misconduct.

The CEO or appropriate Trust officer may attend or advise at a dismissal and/or appeal hearing in accordance with the Trust's governance arrangements, but the decision-maker must act fairly, consider the evidence and reach their own decision. The Trust must notify the CEO when such a hearing is convened.

14.0 Alternatives to Dismissal

In appropriate cases, alternatives to dismissal may be considered, usually alongside a final written warning. Examples include:

- Demotion
- transfer to another establishment or job
- restricted duties
- mediation or a recommendation for facilitated resolution.

Any alternative outcome must be lawful, reasonable, proportionate and consistent with the employee's contractual terms. Advice should be taken from the People/HR function before implementing an alternative to dismissal.

15.0 Appeals

An employee is entitled to appeal against any formal disciplinary sanction. If the sanction has been imposed by the Academy Head, the appeal will be heard by the Trustees. Where the sanction has been imposed by a committee of Trustees, the appeal will be heard by a Trustees' Appeals Committee.

An appeal should normally be heard by a person or panel who has had no previous involvement in the case and who is sufficiently senior and authorised to determine the appeal. Where the appeal is against dismissal, it should be heard by a differently constituted panel from the original decision-making panel.

An employee wishing to appeal must normally lodge written notification of their intention to appeal, with full grounds and any supporting documentation, within **14 working days** of the date of the written outcome.

The main grounds for appeal may include:

- the finding and/or sanction is not supported by the evidence;
- new relevant evidence has become available which was not reasonably available at the original hearing;
- the sanction is disproportionate in the circumstances;
- there was a significant procedural error or lack of fairness; or
- relevant mitigating circumstances were not properly considered.

A date for an appeal hearing will normally be arranged and notified to the parties within **14 working days** of an appeal being registered, where practicable. All parties will normally be given at least **10 working days'** notice of the date of the appeal. Any further submissions from those responding to the appeal should normally be provided to the Trust at least **five working days** before the appeal hearing, to enable them to be circulated to the parties in good time before the hearing.

The employee has a statutory right to be accompanied at an appeal hearing.

Depending on the grounds of appeal, the appeal may be a review of the original decision or a full rehearing. The appeal decision will be confirmed in writing without unreasonable delay and will normally be final within the Trust's procedure.

16.0 Records and Lapsed Warnings

Advice given during normal performance management and records of any allegations, complaints and subsequent investigatory or disciplinary processes all form part of an employee's employment history. It is important that proper records are retained, in accordance with the data protection legislation and the recommendations within the ACAS Code of Practice.

Furthermore, where an allegation relates to the safety or welfare of children, the Trust will maintain a clear and comprehensive record of the allegation, how it was followed up, actions taken, decisions and the outcome in accordance with KCSIE and the Trust's safeguarding procedures. This record must be retained at least until the person attains normal retirement age or for a period of 10 years from the date of the allegation if that is longer. This includes people who leave the organisation.

A disciplinary warning will cease to be live after the period of the warning has expired unless the outcome expressly provides otherwise. The underlying record will not automatically be removed from the employee's employment history/personal file held by the school. Records must accurately distinguish between allegations and outcomes. Where safeguarding terminology is used, the Trust will apply the current KCSIE definitions and should not treat an unsubstantiated allegation as proof of wrongdoing.

This applies equally to cases where a disciplinary complaint against an employee is withdrawn, or is found to have been mistakenly initiated, although a clear record of this outcome should be prominent in the papers retained.

Allegations that are found to be malicious should be removed from the employee's employment history/personal file held by the school, and any that are unsubstantiated, are unfounded or malicious should not be referred to in employer references.

False or malicious allegations should be dealt with appropriately. Where an allegation is found to be false or malicious, the Trust will consider whether further action is necessary.

References will be managed in accordance with the Trust's reference policy and current safeguarding requirements. Allegations that are unfounded, false, malicious or unsubstantiated will not be included in references simply because they were made.

17.0 Academy Heads

In Consortium Trust schools, responsibility for the conduct and discipline of employees will form part of the Academy Head's management responsibilities, subject to the Scheme of Delegation and Trust procedures.

Where there is a concern or complaint about misconduct by an Academy Head, the matter will normally be managed by the Trust Board, with advice from the CEO and People/HR function. Any suspension of an Academy Head will require the authorisation of the CEO in accordance with the Scheme of Delegation.

Where appropriate, the Trust Board may ask the CEO or another authorised senior officer to commission an independent investigation into the concern or complaint. The investigation will be conducted confidentially. Any person involved in investigating the matter should not normally subsequently act as the disciplinary decision-maker or sit on an appeal panel in the same case.

Following the investigation, the Trust Board, or persons authorised under the Scheme of Delegation, will consider the findings and determine whether no further action is required or whether the matter should proceed under the formal disciplinary procedure.

Where the matter proceeds to a formal disciplinary hearing, it will be considered by an appropriately authorised and impartial panel in accordance with the Trust's disciplinary procedure.

18.0 Advice and Support to Employees

Employees subject to formal disciplinary proceedings may seek advice and support from their trade union or professional association. Where appropriate, employees may also raise questions about the procedure, investigation or hearing with the Academy Head, Trust Board or CEO where they have responsibility for the relevant stage of the procedure.

A nominated individual who is not involved in the investigation or decision-making may be identified to keep an employee informed of significant developments and provide appropriate support, particularly where an investigation is prolonged, the employee is suspended or the employee is on leave of absence pending the outcome of the investigation. The employee will normally be informed of the name of the nominated individual.

Employees and witnesses may also access appropriate wellbeing support, including the Trust's employee assistance or wellbeing services, their GP or other appropriate support.

The Trust will maintain appropriate confidentiality throughout the procedure and will provide relevant support and protection to those involved where appropriate.

The Trust will consider reasonable adjustments where an employee has a disability or other protected need which may affect their participation in the procedure.

19.0 Grievance Complaints

If an employee wishes to raise a grievance during a disciplinary process, they should normally raise it in writing with the Chair of the Trust Board or CEO, as appropriate. Where the grievance concerns the Chair of the Trust Board, it will be referred to another appropriate member of the Trust Board for consideration.

The Trust will consider whether the grievance should be dealt with alongside, before or separately from the disciplinary matter. Where appropriate, the disciplinary process may be temporarily paused while the grievance is considered.

A complaint about the conduct of the disciplinary process should normally be raised within the disciplinary hearing or appeal rather than through a separate grievance, unless the circumstances make a separate grievance appropriate.

A grievance that is genuinely unrelated to the disciplinary matter may be considered under the Trust's grievance procedure in parallel with the disciplinary process.

20.0 Criminal Offences

An allegation of a criminal offence committed outside work will not automatically result in disciplinary action. The Trust will consider the nature of the alleged conduct and any relevant evidence, including any warning, caution, charge or conviction, and its relevance to the employee's suitability to undertake their

role, their relationships with the employer and colleagues, the school community and any safeguarding responsibilities.

The Trust may undertake its own employment investigation where appropriate and will consider whether this can be completed before the outcome of any criminal investigation or prosecution is known. Necessary employment action will not normally be delayed solely because a police investigation or criminal proceedings are ongoing.

Advice should be obtained from the People/HR function and, where appropriate, legal advisers. Where safeguarding or regulatory referral duties arise, these will be considered independently of the internal disciplinary process.

Schedule 1
General Principles – Misconduct and Gross Misconduct

It is not possible to specify every form of behaviour that may result in disciplinary action. Each case must be considered on its individual facts, taking into account the circumstances and context in which the alleged conduct occurred. Similar conduct may, depending on the circumstances, result in different disciplinary action, or no disciplinary action.

The examples of Misconduct and Gross Misconduct set out in Schedule 1 and Schedule 2 are intended to indicate the Trust's position on the types of behaviour that may constitute misconduct or gross misconduct. They are illustrative and not exhaustive. The omission of a particular type of behaviour from either schedule, or its inclusion in one schedule but not the other, does not in itself determine the appropriate disciplinary outcome or provide grounds for appeal.

There may be overlap between the examples of Misconduct and Gross Misconduct. This is intentional and allows the seriousness of the conduct to be assessed in the context of each individual case. The classification of an allegation as misconduct or gross misconduct should not substitute proper consideration of the circumstances, including any relevant mitigation.

Employees are expected, so far as is reasonably practicable, to be familiar with the working rules, standards and procedures relevant to their school/establishment and particular area of work. These may be set out in Trust or school policies and procedures, codes of practice, induction materials, manuals, posters, notices or other communications. Failure to comply with, or have due regard to, such requirements may constitute misconduct, gross misconduct, professional negligence or other grounds for disciplinary action, depending on the circumstances.

Examples of Potential Misconduct

- Professional negligence, misconduct, omission or, in certain situations, failure in performance to a reasonable and acceptable standard.
- Breaches of safeguarding procedures or failure to report concerns appropriately.
- Failure to maintain appropriate professional boundaries with pupils.
- Failure to exercise reasonable care for the safety and welfare of pupils, employees or others.
- Failure to observe Trust, school or departmental rules and procedures, including timekeeping, attendance and sickness reporting requirements.
- Persistent lateness or absence.
- Rudeness, insolence, aggressive behaviour or inappropriate language.
- Sexist, racist, discriminatory or other offensive behaviour.
- Expressing personal beliefs in ways which exploit pupils' vulnerability or could encourage unlawful behaviour.
- Harassment or bullying, including cyberbullying.
- Discrimination, harassment or victimisation contrary to law or Trust policy.
- Failure to comply with health and safety requirements.
- Misuse of Trust property or property belonging to others in the course of work.
- Unauthorised use of paid time, Trust materials or facilities.
- Unauthorised leave.
- Insubordination or failure to follow a reasonable and lawful instruction.

- Conduct which brings the Trust, school, service or profession into serious disrepute where there is a sufficient connection to employment.
- Misuse of the internet or inappropriate use of electronic mail.
- Wrongful sharing of security passwords.
- Unauthorised or inappropriate disclosure of confidential information or failure to observe data protection requirements.
- Misuse of the Trust's name, equipment, materials or information, including intellectual property.
- Failure to disclose an actual or potential conflict of interest in Trust contracts.
- Failure to comply with applicable legal or professional requirements concerning criminal convictions, cautions or other relevant information.

Examples of Potential Gross Misconduct

- Serious professional negligence, misconduct, omission or serious failure in performance.
- Serious breaches of safeguarding procedures or serious failure to report or act on safeguarding concerns.
- Serious breach of professional boundaries or abuse of a position of trust.
- Abuse or serious mistreatment of children or young people.
- Threatened or actual physical assault or violence.
- Serious sexual misconduct, including sexual harassment or other serious sexual behaviour contrary to law or Trust policy.
- Serious harassment, bullying, discrimination or victimisation.
- Malicious or vexatious complaints made with the intention of causing harm.
- Serious breaches of health and safety requirements or conduct creating a serious risk to others.
- Theft or misappropriation of money or property belonging to the Trust, employees, pupils or others.
- Fraud or dishonesty, including falsification of records, timesheets, expenses or sickness information.
- Serious misuse of Trust systems, internet or electronic communications, including deliberately accessing or sharing unlawful or seriously inappropriate material.
- Deliberate wrongful disclosure of passwords or serious compromise of Trust security.
- Serious unauthorised disclosure or misuse of confidential or personal information.
- Serious misuse of Trust property, equipment, materials or intellectual property.
- Serious conflicts of interest or dishonesty concerning Trust contracts.
- False statements or material omissions in an employment application or other recruitment documentation where relevant to the employment relationship.
- Serious criminal conduct or other conduct which makes continued employment untenable, subject to an appropriate assessment of the circumstances.

Schedule 2
Procedure for a Formal Disciplinary Hearing

Hearings will be conducted as informally as is consistent with fairness and the seriousness of the matter. The employee will be given a reasonable opportunity to understand the allegations, present their case and respond to the evidence. The person or panel hearing the matter will have discretion over the conduct and order of the hearing, while ensuring that all parties have a fair and reasonable opportunity to present relevant evidence and representations.

In the case of an appeal, the order of presentation will normally be adapted to reflect the nature and grounds of the appeal, with the employee as appellant normally presenting their case first. However, where the appeal constitutes a re-hearing of the full case, or where another order is appropriate, the case may be presented in a different order.

The Academy Head or Chair of an appeal panel hearing the cases should ensure that all parties understand the proposed order of presentation and have a reasonable opportunity to comment on it before the hearing begins.

1. Introduction
The Chair introduces those present, confirms their roles, explains the order of proceedings and confirms that the employee understands the allegations and possible outcomes.

2. Presentation of the Case
The person presenting the case may make an opening statement summarising the allegations and evidence. They may call witnesses and present documentary evidence, explaining its relevance where necessary.

The employee or their representative may ask questions of the presenter and witnesses. The person or panel hearing the case may also ask questions, and the presenter may ask further questions where necessary to clarify matters arising.

The employee or their representative may then make an opening statement, present their evidence and call relevant witnesses. The presenter and the person or panel hearing the case may ask questions, with the employee or representative given an opportunity to clarify matters arising.

The person or panel hearing the case may control the order and extent of questioning to ensure the hearing is fair, relevant and proportionate.

3. Clarification and Adjournment
The person or panel hearing the case may ask questions of either party or any witness to clarify the evidence.

Either party may request an adjournment, which will be considered by the Chair. An adjournment may also be necessary where significant new information arises.

Where necessary, either party or a witness may be recalled to clarify a point, with both parties given a reasonable opportunity to respond.

4. Final Statements
The person presenting the case may make a final statement, followed by the employee or their representative.

5. Consideration of the Case
The parties will normally withdraw while the person or panel hearing the case considers the evidence, findings, any mitigation and the appropriate outcome. The CEO or their representative may provide advice on procedural or legal matters where appropriate, but the decision-maker remains responsible for the decision.

Where necessary, the person or panel may seek further clarification from either party before reaching a decision, giving both parties a reasonable opportunity to respond.

6. Decision
Where possible, the decision may be communicated orally following the hearing. The outcome will be confirmed in writing as soon as reasonably practicable, normally within five working days, and will set out the decision, any sanction, the reasons for the outcome and the employee's right of appeal.

Informal to Formal Process Quick Guide

Stage	Purpose	Employee rights / process	Documentation	Possible outcome / key timescales
Informal management	Resolve minor or early concerns promptly and constructively.	Fact-finding, discussion, clarification of expectations, management instruction, support, training, coaching or improvement plan. No statutory right to accompaniment, although reasonable requests for support should be considered. A brief record should be kept. A management instruction is **not a disciplinary warning**.	• Communication logs uploaded onto Every • Copy shared with employee	• No further action agreed improvement/support and review, or escalation to formal process. • Formal action may begin without prior informal action where circumstances warrant it, including serious/gross misconduct or safeguarding concerns.
Formal investigation	Establish the relevant facts and determine whether there is a case to answer.	Investigation should be objective, reasonable and proportionate. Employee should have a reasonable opportunity to respond. Accompaniment will normally be permitted at an investigatory meeting as good practice, although there is no statutory right. Investigator should normally be separate from the disciplinary decision-maker. Central People/HR advice should be sought before formal action or suspension.	• Action Plan template • Job description • Relevant professional standards • Signed witness statements • Investigating officer report	• No further action • management action • referral to a formal disciplinary hearing. **No fixed timescale**, but the Trust should progress investigations reasonably and avoid unnecessary delay.
Suspension / protective arrangements	Manage risk while an investigation or disciplinary process is undertaken where necessary.	Suspension must be necessary and proportionate. Alternatives such as supervision, restricted duties or temporary redeployment should be considered. Suspension is a **neutral act, not a disciplinary sanction**, and will normally be on full pay.	• Confirmation letter • Communication logs • Mobility clause and support.	Suspension should not be unnecessarily prolonged and must be **reviewed regularly**, with the aim of lifting it when no longer justified. Safeguarding concerns must continue to be managed under safeguarding procedures.

Formal disciplinary hearing	Determine whether misconduct is established and whether formal action is appropriate.	Written invitation setting out allegations, hearing arrangements, possible outcomes and relevant evidence. Employee has the **statutory right to be accompanied** and may present evidence and relevant witnesses. Normally at least **10 full working days' notice**. Relevant paperwork normally provided at least **5 full working days before** the hearing. Shorter timescales may be agreed by both parties.	• Witness statements • Communication Log • Record on Every • Relevant professional standards • Medical certification • Maternity confirmation • Safeguarding process to continue • Investigating officer report • Record of meeting	• No formal action, • first written warning • final written warning • dismissal • another proportionate outcome where appropriate. Decision may be given orally, but must be confirmed in writing, **normally within 5 working days**.
Warnings	Provide a reasonable opportunity for improvement before dismissal, except in cases such as gross misconduct or other exceptional circumstances.	Warning must explain the conduct concerned, improvement required, live period, any support/review arrangements and consequences of further misconduct.	• Record on Every	**First written warning – normally live for 6 months. Final written warning – normally live for 12 months.** An exceptional warning period may be set by the hearing panel, normally between **3 and 12 months**, and the employee may appeal against an extended period.
Dismissal	Consider dismissal where further misconduct occurs during a final warning or where the circumstances justify dismissal.	Dismissal must be determined by the person/panel authorised under the Scheme of Delegation. Employee retains contractual/statutory entitlements unless dismissal without notice is justified.	• Safeguarding process to continue • Possible referral to DBS/TRA	Gross misconduct may justify **dismissal without notice** following a fair investigation and hearing. Serious misconduct short of gross misconduct may, in exceptional circumstances, result in dismissal with contractual notice where there has been a fundamental breakdown in the employment relationship.
Appeal	Review whether the decision was fair, reasonable	Employee must normally submit written grounds and supporting documentation within **14 working days of the written**	• Check appeal request • Witness statements / Comms Log	Appeal may uphold, vary or overturn the decision. Appeal hearing will normally be

	and supported by the evidence and whether relevant procedural or mitigating issues were properly considered.	**outcome**. Appeal should normally be heard by someone with no previous involvement; dismissal appeals should be heard by a differently constituted panel. Employee has the **statutory right to be accompanied**.	• Record on Every • Relevant professional standards • Medical certification • Maternity confirmation • Safeguarding process to continue • Record of meeting	arranged/notified within **14 working days of the appeal being registered**, where practicable, with normally at least **10 working days' notice**. Further submissions should normally be provided at least **5 working days before** the appeal hearing. Decision confirmed in writing without unreasonable delay and normally final within the Trust procedure.

Key points	Quick reference
Process is not always sequential	Serious matters, gross misconduct or safeguarding concerns may proceed directly to formal investigation.
Safeguarding	Safeguarding concerns must be managed under the Trust's safeguarding procedures and KCSIE. LADO, police, children's social care, DBS, TRA or other referrals will be made where required. Safeguarding and disciplinary processes are separate but may interact.
Non-attendance	The Trust should consider reasonable alternatives, adjustments and remote attendance where appropriate. If an employee remains unable or unwilling to attend after reasonable alternatives have been considered, the process may proceed in their absence, provided they have a reasonable opportunity to make written representations.
Companion	Statutory right to be accompanied applies to formal disciplinary and appeal hearings. Where a chosen companion cannot attend, a reasonable alternative date should normally be within **5 working days**, unless a longer period is reasonable.
Confidentiality and records	Information should be shared only where necessary, required/permitted by law or needed for safeguarding/regulatory responsibilities. Records must accurately distinguish allegations from findings and outcomes.
Reasonable adjustments	The Trust will consider reasonable adjustments where disability or another protected need may affect an employee's participation in the procedure.
Grievances	A complaint about the disciplinary process should normally be raised through the disciplinary hearing or appeal rather than a separate grievance. Genuinely unrelated grievances may be considered separately.
External referrals	External referrals may be made independently of the outcome of an internal disciplinary appeal where a statutory, safeguarding or regulatory duty has arisen.

Document Control

Changes History

Version	Date	Amended By	Details of Change
V2	07/05/2020	Principal/CEO	Scheduled review – terminology and tidying amendments throughout
V3	16/05/2024	E Frere-Smith	Scheduled review – terminology and tidying amendments throughout, removal of gender specific references, reference to Locality Committees.
V4	06/10/2026	E Frere-Smith	Complete reformat to include clearer distinction between informal and formal processes; updated safeguarding/KCSIE provisions; updated DBS and TRA referral wording; revised academy governance wording; strengthened appeal independence; clarified warning periods; updated suspension, records, conduct outside work and salary deduction provisions. Addition of quick guides

Approval

This policy will be reviewed annually by Head of Service People or as required by changes in legislation.

At every review, this policy will be approved by the Finances & Resources Committee.

The policy was last approved by the Finance & Resources Committee on 12/11/2026.

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