

Title	Disciplinary Procedure
Associated Policies	<ul style="list-style-type: none"> • Teaching Staff Performance Management (TPO/STA/17) • Non-Teaching Performance Management and Capability (TPO/STA/05) • Grievance Procedure (TPO/STA/23) • Complaints (TPO/QA/02) • Staff Absence (TPO/STA/13) • Professional and Safe Conduct (TPO/STA/10)

REVIEWED: APRIL 2017

NEXT REVIEW: APRIL 2019

1. Policy Statement

- 1.1 The Brooke Weston Trust adopts formal policies and procedures for dealing with staff conduct and discipline. A sound standard of discipline is essential for the efficient and effective management of the Academies and the Trust.
- 1.2 This procedure and its associated Disciplinary Rules are designed to set out the standards of conduct expected of all staff and to provide a framework within which Principals can work with employees to achieve and maintain satisfactory standards of behaviour and to encourage improvement where necessary. It is the Trust's policy to ensure that any disciplinary matter is dealt with consistently and fairly and that steps are taken to establish the facts and to give employees the opportunity to respond before taking any formal action.
- 1.3 As per the Equality Act (2010), Brooke Weston Trust will ensure that people are treated solely on the basis of their abilities and potential, regardless of race, colour, nationality, ethnic origin, religious or political belief or affiliation, trade union membership, age, gender, gender reassignment, marital status, sexual orientation, disability, socio-economic background, or any other inappropriate distinction.
- 1.4 This procedure does not form part of any employee's contract of employment and it may be amended at any time. We may also vary this procedure, including any time limits, as appropriate in any case.
- 1.5 It is important to read these procedures in conjunction with the associated policies (see above). Reference will be made to the Acas code of practice.
- 1.6 This procedure has been implemented following consultation with relevant staff including trade union representatives.

2. Who does this policy apply to?

- 2.1 This policy applies to all Brooke Weston Trust employees. It does not apply to agency workers, self-employed contractors or members of staff (support) under the probationary period.
- 2.2 At all stages within this policy and procedure, and in accordance with the Equality Act 2010, provision will be made for any reasonable adjustments to accommodate the needs of individuals attending meetings/hearings.
- 2.3 The implementation of this policy will be monitored by the Senior Leadership Team and the governors of the Academy and will remain under constant review by Brooke Weston Trust.

3. What is covered by the procedure?

- 3.1 This procedure is used to deal with misconduct.
- 3.2 Minor misconduct can often be resolved informally between employees and their line manager. Management advice may be given to the employee by a senior manager or a line manager. This

should be confirmed in a management note that is shared with the employee, which will be retained for reference purposes only. Action will be taken under the formal procedure (set out below) if the matter is not resolved, or there is repeated minor misconduct or, where informal action is not appropriate (for example, because of the seriousness of the allegation).

- 3.3** At each stage of the formal process, the employee will be informed at the first or final written warning the nature of the misconduct or poor performance and the change in behaviour or improvement in behaviour required (with timescales). The individual will be informed of the consequences of further misconduct, or failure to improve performance, within the set period following a final warning. This may result in dismissal.
- 3.4** A serious breach of the BWT Code of Conduct and/or Teachers Professional Standards (part 2) by a member of staff who is off-duty may be treated as a disciplinary matter.

4. Confidentiality

- 4.1** It is the aim of the Trust to deal with disciplinary matters sensitively and with due respect for the privacy of any individuals involved. All employees must treat as confidential any information communicated to them in connection with an investigation or disciplinary matter.
- 4.2** Employees, and anyone accompanying them (including witnesses), must not make electronic recordings of any meetings or hearings conducted under this procedure.
- 4.3** Employees will normally be told the names of any witnesses and provided with the evidence relevant to disciplinary proceedings against them, unless there is good reason that a witness's identity or particular evidence should remain confidential as advised by external agencies i.e. Police or where protected by whistleblowing or safeguarding legislation.

5. Roles and responsibilities

5.1 The Trust Board of Directors

- To set the strategic direction of the Academy and to approve policies and strategic actions for improvement, including conduct and standards of behaviour
- To delegate authority to individual Academy Local Governing Bodies to monitor the implementation of this policy at Academy level
- To provide overall policy direction and guidance to the Principal in relation to the management of disciplinary matters and to delegate responsibility for day to day management to the Principal
- To participate in disciplinary hearings and/or appeals as appropriate and to require participation by members of Local Governing Bodies as necessary
- To manage the Disciplinary Procedure with the Executive Principal/CEO when allegations are made against the Principal

5.2 Principal

- To take day to day leadership of employee conduct and behaviour
- To implement the disciplinary procedures as agreed by the Board.
- To be responsible for managing employees' conduct and behaviour, setting clear standards and expectations in these areas and for taking action accordingly and fairly where standards are not maintained.

5.3 Other line managers (including Principal)

- To treat matters fairly, sensitively and confidentially

- To be responsible for identifying problems and taking action where conduct has become unacceptable
- To emphasise to employees the importance of standards of behaviour and conduct
- To make decisions and where appropriate implement the disciplinary procedure with advice from a HR representative/Principal/more senior manager.

5.4 Employees

- To achieve the highest standard of conduct and behaviour
- To inform their line manager of any unacceptable behaviour of colleagues
- Where required, to participate fully in any disciplinary investigation and to cooperate with the investigating officer
- If subject to this procedure, to provide any relevant information to their companion if they choose to have one

5.5 Trade unions

- To represent and advise their members of all aspects of the policy
- Where requested by the employee, to act as a companion as determined by the procedure
- Where disciplinary action is being considered against an employee who is a trade union representative it is required that contact is made with an official employed by the trade union

5.6 HR representative/service

- To advise and support managers, attending any meeting as deemed appropriate
- Act as an advisor at all formal stages of the procedure

6. Allegations

- 6.1** Allegations may be brought to the individual academy or Trust's attention in a number of ways and through a variety of sources. The information will be referred to the appropriate senior person and will be given careful consideration.
- 6.2** As with disclosures made by children and young people, adults need to be aware that in making an allegation it is not always possible to keep the matter confidential. The Principal or appropriate manager will need to decide upon the most appropriate course of action and may choose to proceed with an investigation even if the person making the allegation does not want them to.
- 6.3** Allegations which involve issues of child protection and / or abuse of children by staff should be referred immediately to the Designated Officer at the relevant local authority. See Appendix 2 for further guidance on the management of this type of allegation. No further action under this procedure should be taken until the Designated Officer at the local authority has been consulted.

7. Investigations

- 7.1** Upon receiving any allegations against employees it is likely that further investigation will be required to establish what the next course of action should be. An appropriate manager, usually the Principal, should seek to establish the basic facts of the situation; this may involve, for example, looking at records, speaking to witnesses, reviewing CCTV.

7.2 Preliminary investigation meeting

A preliminary investigation meeting may be held with the employee to establish the basic facts of the circumstance and to enable the Principal to determine whether further investigation under this procedure is required. A preliminary meeting can often give reasonable explanation in response to

allegations which then enables the matter to be concluded. The allegations will need to be clearly stated including as much information as possible, for example time, date, place etc., to enable the employee to make a reasonable response. If the Principal is satisfied with the employee's response at this stage there may be no need for further investigation. The meeting should be arranged as soon as possible. The employee may wish to bring a trade union representative or colleague if they are available. The employee must answer any questions themselves and a record of the meeting should be kept and the employee should be asked to sign this as. A preliminary meeting will not be required in all cases and it is for the Principal to decide if this is appropriate.

7.3 Further investigation

The purpose of an investigation is to establish a fair and balanced view of the facts relating to any disciplinary allegations made against an employee, before deciding whether to proceed with a disciplinary hearing. The amount of investigation required will depend on the nature of the allegations and will vary from case to case. It may involve interviewing and taking statements from the employee and any witnesses, and/or reviewing relevant documents and other information. As each investigation will vary in length and complexity it will be completed in as short a time frame as possible.

7.4 Investigating Officer

Should the preliminary investigation determine further need for investigation or where there is a complaint of misconduct serious enough to warrant formal investigation immediately, the Principal will usually appoint an Investigating Officer to carry out the investigation. This will usually be a senior member of staff and will be appropriate to the nature of the allegations and the role of the employee. If the allegations are against the Principal, then the Chief Executive or Chair of the Board of Directors will be responsible for the management of the procedure and determining an appropriate investigating officer, who may be external.

7.5 Interviewing witnesses

It will often be necessary to interview witnesses who may have information that is relevant to the allegations. These interviews will be arranged as quickly as possible before memories and recollections fade. It will be explained to the witness why they are being spoken to and what the information that they provide will be used for. A record of the meeting will be made and the witness will have the opportunity to review the record, make amendments for clarification purposes and sign and date the record. The Trust recognises that some employees may find this difficult or worrying, however all employees are expected to fully participate in any such investigation.

7.6 Interviewing the employee

Investigation meetings are solely for the purpose of fact-finding and no decision on disciplinary action will be taken until after a disciplinary hearing has been held. The investigation meeting will enable the employee to provide their account of what has happened and allow the Investigating Officer to question the employee about the information that has been obtained during the course of the investigation. Employees do not normally have the right to bring a companion to an investigation meeting. However, employees may be allowed to bring a companion as a reasonable adjustment in respect of any disability, or any difficulty in understanding English. Employees are allowed to bring a trade union representative or work colleague to the investigation meeting if they are available. No rearrangements will be made to the time and date of the investigation meeting to enable a companion to attend. A record of the meeting will be made and the employee will have the opportunity to review the record, make amendments for clarification purposes and sign and date the record.

7.7 Employees must co-operate fully and promptly in any investigation. This will include providing the names of any relevant witnesses, disclosing any relevant documents or information and attending investigative interviews if required.

8. Criminal charges

- 8.1 Where conduct is the subject of a criminal investigation, charge or conviction the facts will be investigated before deciding whether to take formal disciplinary action. Disciplinary action will not be automatic and will depend upon the circumstances.
- 8.2 Employees should inform the Principal and/or direct line manager at the earliest opportunity if they are the subject of a criminal investigation, or are subject to a charge or conviction.
- 8.3 The Trust will not usually wait for the outcome of any prosecution before deciding what action, if any, to take. Where employees are unable or have been advised not to attend an investigation meeting or disciplinary hearing or say anything about a pending criminal matter, a decision may have to be made based on the available evidence.
- 8.4 A criminal investigation, charge or conviction relating to conduct outside work may be treated as a disciplinary matter if it is considered that it is relevant to the employee's employment.
- 8.5 Where a criminal investigation relates to allegations of abuse of children or young people the Trust will co-operate and share information about the employee with other relevant agencies as appropriate.

9. Suspension

- 9.1 In some circumstances it may be necessary to suspend the employee from work. The period of suspension should be kept as brief as possible and **will be for no longer than is necessary to investigate the allegations and conclude the disciplinary process**. It will be kept under regular review with the employee and as information is gathered it may become appropriate to lift the suspension during the course of the investigation or prior to any disciplinary hearing. The arrangements will be confirmed to the employee in writing within one working day. While suspended employees should not visit any of the Trust's premises or contact any parents, pupils, governors or staff, regarding the allegations or their suspension, unless authorised to do so by the Principal. This will not usually prevent social contact with friends. A contact person within the Academy will be nominated and their contact details provided to the suspended employee. The contact person will keep the employee informed of any relevant information. The employee should contact the nominated person if they need to make contact with the individual academy or the Trust.
- 9.2 Suspension should only be applied where the circumstances of the case make it unacceptable for the employee to remain in the Academy while the facts are ascertained. Suspension of this kind is not a disciplinary penalty and does not imply that any decision has been made about the allegations. Suspension is normally on full pay.
- 9.3 Suspension may only be carried out by the Principal, Executive Principal, Chief Executive Officer or the Board of Directors.
- 9.4 Alternatives to suspension, for example re-organisation of duties, work location, temporary redeployment to another role etc. will be explored where relevant before a decision to suspend is made. The nature and severity of the allegations will need to be considered as will the employee's role within the Trust.
- 9.5 Where allegations are made that involve the protection of children suspension will not be considered to be automatic. A reasoned decision will be made based on all available information. Additional information on the management of these allegations is available in Appendix 2.
- 9.6 Where suspension has taken place, that suspension may only be lifted by the Executive Principal/CEO.

10. Disciplinary hearing

- 10.1 After the investigation is complete, the senior manager who conducted it will produce a report and submit this to the Principal for him/her to decide whether or not there is a case to answer. If there is no case to answer, then the matter will be closed and the employee informed in writing.

If the senior manager considers on the facts of the case that formal disciplinary action for misconduct is necessary, the employee will be required to attend a disciplinary hearing. The hearing will be arranged as soon as is practicably possible.

The employee will be informed in writing at least five working days in advance of a disciplinary hearing to provide the employee with a reasonable amount of time to prepare their case, setting out:

- The date, time and place of the disciplinary hearing (which will be mutually agreed, where possible)
- The allegations against them
- The basis for those allegations and what the likely range of consequences will be if it is decided at the hearing the allegations are true
- The employee's right to be accompanied by a representative of his/her trade union or workplace colleague
- His/her right to call witnesses on his/her behalf
- The name and office of any adviser who will accompany the senior manager to the hearing

The following will also be included where appropriate:

- A summary of relevant information gathered during the investigation
- A copy of any relevant documents to be used as evidence
- The names of any witnesses to be called
- A copy of any relevant witness statements, except where a witness's identity is to be kept confidential, in which case as much information as possible will be provided while maintaining confidentiality

10.2 The Principal and/or Manager will be responsible for ensuring that all of the arrangements for the hearing are made and that the employee receives the appropriate paperwork and notice of the hearing.

11. The right to be accompanied

11.1 The employee may bring a companion to any disciplinary hearing or appeal hearing under this procedure. The companion may be either a trade union representative or a colleague. The employee must tell the Principal/Manager conducting the hearing who their chosen companion is, in good time before the hearing.

11.2 The statutory right is to be accompanied by a fellow work colleague, a trade union representative, or an official employed by a trade union. Further information regarding the right to be accompanied can be found in section 10 of the Employment Relations Act 1999. A trade union representative who is not an employed official must have been certified by their union as being competent to accompany an employee. Employees may also alter their choice of companion if they wish. As a matter of good practice, in making their choice employees should bear in mind the practicalities of the arrangements. For instance, an employee may choose to be accompanied by a companion who is suitable, willing and available on site rather than someone from a geographically remote location.

11.3 To exercise the statutory right to be accompanied employees must make a reasonable request. What is reasonable will depend on the circumstances of each individual case. A request to be accompanied does not have to be in writing or within a certain timeframe. However, an employee should provide enough time for the employer to deal with the companion's attendance at the meeting. Employees should also consider how they make their request so that it is clearly understood, for instance by

letting the employer know in advance the name of the companion where possible and whether they are a fellow employee or trade union official or representative.

- 11.4 Should the employee choose to bring a companion to the hearing they will be responsible for making these arrangements and for providing their companion with any paperwork that they require for the hearing.
- 11.5 A companion is allowed reasonable time off from duties without loss of pay but no-one is obliged to act as a companion if they do not wish to do so.
- 11.6 A companion who is not a colleague or trade union representative may be allowed to attend as a reasonable adjustment in respect of a disability, or if the employee has difficulty understanding English. This will be at the discretion of the Principal/Manager.

12. Procedure at disciplinary hearing

- 12.1 If the employee and / or their companion cannot attend the hearing they should inform the Principal / Manager immediately and consideration will be given to arranging an alternative time. Employees must make every effort to attend the hearing, and failure to attend without good reason may be treated as misconduct in itself. Failure to attend without good reason, or persistent inability to do so (for example for health reasons), may lead to a decision being taken based on the available evidence.
- 12.2 If the employee chooses not to attend the hearing they may choose to send a written statement for consideration at the hearing.
- 12.3 The hearing will be chaired by the Principal / Manager. The Investigating Officer and/or a representative from the Trust's HR adviser will also be present. The employee may bring a companion with them to the disciplinary hearing (see paragraph 11).
- 12.4 At the disciplinary hearing the Investigating Officer will go through the allegations against the employee and the evidence that has been gathered. The employee will be able to respond and present any evidence of their own. The companion may make representations to the person or panel conducting the hearing and ask questions, but should not answer questions on the employee's behalf. The employee may confer privately with the companion at any time during the hearing.
- 12.5 Relevant witnesses may be asked by the Investigating Officer or the employee to appear at the hearing. The employee must give sufficient advance notice if they wish to call witnesses to ensure that there is time to arrange their attendance. The employee will be given the opportunity to respond to any information given by a witness. The employee and his/her representative will be given the opportunity to question the senior manager and any witnesses. However, the employee will not normally be permitted to cross-examine witnesses unless, in exceptional circumstances, the Chair decides that a fair hearing could not be held otherwise.
- 12.6 The Chair may adjourn the disciplinary hearing if there is a need to carry out any further investigations such as re-interviewing witnesses in the light of any new points that have been raised at the hearing. The employee will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.
- 12.7 The employee will be informed in writing of the decision and the reasons for it, usually within 5 working days of the disciplinary hearing to the employee and his/her representative (See Model Letter 5. Where possible this information will also be explained to the employee in person.

13. Disciplinary penalties

- 13.1 The person or panel conducting the hearing may find that there is no case to answer and refer the case back to an informal process. Alternatively they may choose to give the employee a disciplinary warning or dismiss them.
- 13.2 The usual penalties for misconduct are set out below. No penalty should be imposed without a hearing. The Trust aims to treat all employees fairly and consistently, and a penalty imposed on

another employee for similar misconduct will usually be taken into account but should not be treated as a precedent. Each case will be assessed on its own merits.

13.3 First written warning

A first written warning may be authorised by Principal/senior manager and will usually be appropriate for a first act of misconduct where there are no other active written warnings on the employee's disciplinary warning. The warning will set out the nature of misconduct, the change in behaviour required, the period for which the warning will remain active (usually for twelve months) and will include a statement that any further complaint of misconduct occurring within the next twelve months and found justified after a disciplinary hearing, will lead to a final warning, unless there are mitigating circumstances. The conduct will be reviewed at the end of a warning's active period and if it has not improved sufficiently the active period may be extended.

13.4 Final Written Warning

A final written warning may be authorised by Principal/Senior Manager. It will usually be appropriate for:

- Misconduct where there is already an active written warning on the employee's record; or
- Misconduct that is considered sufficiently serious to warrant a final written warning, even though there are no other active warnings on the record.

The warning will set out the nature of misconduct, the change in behaviour required, the period for which the warning will remain active (usually for two years) and will include a statement that any further complaint of misconduct, occurring within the next twelve months and found justified after a disciplinary hearing, will lead to dismissal, unless there are mitigating circumstances. In exceptional cases verging on gross misconduct or where there have been dangerous breaches of health and safety, a final written warning may state that it will remain active indefinitely. The conduct will be reviewed at the end of a warning's active period and if it has not improved sufficiently the active period may be extended.

- 13.5 Where a formal sanction has been issued, a record should be kept on the employee's personal file until such time as the warning has expired. However, where disciplinary sanctions relate to the safety and wellbeing of children and young people, records will be retained on the employee's personal file permanently.

In accordance with The Education (Teachers) Regulations 1993, where a person is dismissed from relevant employment on grounds of their misconduct (whether or not they are convicted of a criminal offence) or they would have been dismissed, or dismissal was being considered, but for their resignation, the employer shall report the facts of the case to the Secretary of State.

13.6 Dismissal

Dismissal may be authorised by the Principal accompanied by an HR adviser where appropriate. It will usually only be appropriate for:

- Any misconduct during the probationary period;
- Further misconduct where there is an active final written warning on the record; or
- Any gross misconduct regardless of whether there are active warnings on the record. Gross misconduct will usually result in immediate dismissal without notice or payment in lieu of notice (summary dismissal). Examples of gross misconduct are set out in the Disciplinary Rules, which is available from any Academy Principal's office or via the Trust's website.

14. The Appeal Process

- 14.1 An employee has the right to appeal against the disciplinary action taken against them to the Trust appeals committee. This must be in writing to the Clerk to the Board of Directors within five working

days of the date on which they were informed of the decision. The letter should state the full grounds of appeal i.e.:

- It is against the findings of the previous panel;
- It is against the form of disciplinary action taken;
- It is alleged that the disciplinary procedure has been applied defectively or unfairly;
- New evidence has come to light which was not available at the disciplinary hearing and which may make a difference to the original decision;

- 14.2** If the employee is appealing against dismissal, the date on which dismissal takes effect will not be delayed pending the outcome of the appeal. However, if the appeal is successful they will be reinstated with no loss of continuity or pay.
- 14.3** If any new matters are raised in the appeal hearing further investigation may need to be carried out. If any new information comes to light this will be provided to the employee with a summary including, where appropriate, copies of additional relevant documents and witness statements. The employee will have a reasonable opportunity to consider this information before the hearing.
- 14.4** The employee will be informed in writing of the place, date and time of the hearing at least 5 working days in advance of the date of the appeal hearing (see Model letter 6).
- 14.5** Evidence presented to the appeals committee must relate to any of the four reasons stated above and must enable the assessment of whether or not the allegations against the employee were accurate, justified and substantiated and whether the disciplinary action was appropriate in all the circumstances.
- 14.6** The appeal hearing may be a complete re-hearing of the matter or it may be a review of the fairness of the original decision in the light of the procedure that was followed and any new information that may have come to light. This will be at the Chair's discretion depending on the circumstances of the case. In any event the appeal will be dealt with as impartially as possible.
- 14.7** The appeal hearing will be heard by the Trust appeals committee; where possible this will consist of a different panel of governors who have not previously been involved in the case. The Investigating Officer and/or a HR representative and/or the manager who conducted the disciplinary hearing will also usually be present. The appeals committee may call upon an HR Adviser to be in attendance in an advisory capacity to the panel only. The employee may bring a companion to the appeal hearing (see paragraph 11).
- 14.8** The Chair may adjourn the appeal hearing if there is a need to carry out any further investigations such as re-interviewing witnesses in the light of any new points that have been raised at the hearing. The employee will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.
- 14.9** The agenda of the meeting will follow the format in Appendix 3.
- 14.10** The appeals committee will deliberate in private, with the HR Adviser if one is in attendance, only recalling the parties to clear points of uncertainty on evidence already given.
- 14.11** Following the appeal hearing, the Panel may:
- Confirm the original decision;
 - Revoke the original decision; or
 - Substitute a different penalty. Ordinarily a penalty will not be increased on appeal unless there is new information or evidence being available that requires further investigation.
- 14.12** The decision will be announced at the close of the hearing whenever possible. The chair of the appeals committee will confirm the decision in writing and the reasons for it within 5 working days of the appeal hearing (see Model Letter 7). There is no further right to appeal.

15. Referrals to external bodies

- 15.1 In cases where employees are dismissed or resign during a disciplinary process a referral to the Disclosure and Barring Service and Secretary of State will be made where the thresholds for referral are met.

16. Policy Review

- 16.1 This policy will be monitored as part of the Academy's annual internal review and reviewed on a three year cycle or as required by legislature changes.

APPENDIX 1: Definitions of Misconduct and Gross Misconduct

1. Gross Misconduct

Gross misconduct is the committing of an act which renders it inadvisable for the employee to be allowed to remain at work. Any employee suspected of committing an act of gross misconduct, as indicated in the list below, will be suspended with full pay pending investigation. If after proper investigation it is decided that the employee has committed an act of gross misconduct or if the act is admitted by the employee, s/he will be dismissed without further warning, unless there are mitigating circumstances. The disciplinary procedure must be followed in all cases. The list of examples below is not intended to be exclusive or exhaustive and offences of a similar gravity will receive the same treatment.

- i. **Dishonesty associated with place of work or job being undertaken.**
 - a) Theft of property belonging to the School, contractor, an employee or pupil, or member of the public.
 - b) Deliberate falsification of timesheets or expenses claims for pecuniary advantage.
 - c) Demanding or accepting monies or other considerations as a bribe for the use of School property, provision of School service or the showing of favour on behalf of the School.
 - d) Falsification of any information given on an application form for a post to gain advantage whether pecuniary or otherwise.
 - e) Failure to disclose criminal convictions cautions bindovers or warnings.
 - f) Falsification of registration of pupils or students for pecuniary gain.
- ii. **Deliberate refusal to carry out a reasonable, lawful and safe instruction or the normal agreed defined duties of the post.**
- iii. **Gross negligence in failing to attend to or carry out the agreed duties of the post.**
- iv. **Wilfully ignoring responsibilities/instructions thus placing other employees/pupils or students in danger, e.g. ignoring handling instructions/safety regulations in respect of chemicals, machinery, equipment, food.**
- v. **Being unfit to perform duties associated with the post as a result of taking drugs, other than in accordance with medical advice, or taking alcohol.**
- vi. **Wilful unauthorised disclosure of information (classified as confidential), by employees who, in the course of their duties, have access to such information which, by its release, could be harmful to pupils/students, other employees, governors or the reputation of the school.**
- vii. **Acts of violence or vandalism in the course of employment.**
 - a) Malicious damage to school/contractor/other employees/pupils'/students' property.
 - b) Physical violence towards pupils/students, staff/governors/parents/volunteers/ members of the public.
- viii. **Sexual misconduct at work.**
 - a) Sexual misconduct whether criminal or not.
 - b) Sexual behaviour towards or relations with students.
- ix. **Off-duty misconduct.**
 - a) An act of criminal sexual misconduct by an employee.
 - b) Drug offences committed by employees whose job brings them into contact with young people.
 - c) Sexual behaviour towards or relations with students, or young persons.
- x. **Misuse of the internet or email or phone facilities of the school.**
 - a) Using the internet to access unseemly or sexually explicit material.

- b) Using email for communicating unseemly or sexually explicit material
- c) Using phones for communicating unseemly or sexually explicit material

2. Misconduct

Misconduct is of a degree less serious than that which would warrant immediate suspension from duty for a first offence but which could nevertheless lead to dismissal if persistent. The disciplinary procedure must be followed when dealing with misconduct. Some more serious acts of misconduct might justify omitting the first stage of disciplinary procedures by issuing a final warning in the first instance, if there is no satisfactory explanation. Only when it can be shown that the warnings have not been heeded will misconduct lead to action being taken which will lead to an employee's dismissal. The list of examples below is not intended to be exclusive or exhaustive and offences of a similar gravity will receive the same treatment.

- i. Absenteeism and lateness, for example:**
 - a) failure to remain at the place of work during normal working hours without permission or sufficient cause for absence;
 - b) frequent failure to attend work punctually;
 - c) failure to comply with the sickness absence reporting procedure;
- ii. Dishonesty - petty wrongs, for example:**
 - a) making unauthorised private telephone calls and/or sending personal mail at the school's expense;
 - b) failure to report any loss and/or damage to any property issued to or by the employee in connection with his/her employment.
 - c) using the school's telephone, computer, fax, email or internet for unauthorised personal purposes.
- iii. Neglect of duty, for example:**
 - a) failure to adopt safe working practices/use protective equipment where required by law or management;
 - b) negligent use of school property in such a way as is likely to cause serious damage or loss;
 - c) failure to discharge without sufficient cause the obligations which statute or the contract of employment places on the employee
 - d) insubordination;
 - e) failure to exercise proper control or supervision of pupils or students.
- iv. Abusive behaviour/offensive language which arises directly out of or in connection with work and which is directed at pupils, colleagues, governors, contractors, volunteers or members of the public.**
- v. Bullying harassment or victimisation of pupils/students, other employees, volunteers, governors or contractors in the course of duty.**
- vi. Unlawful discrimination against pupils/students, other employees, volunteers, governors or contractors in the course of duty.**
- vii. Discrimination, whether unlawful or not, in the course of duty against pupils/students, other employees, volunteers, governors or contractors on the grounds of age, sex, marital or civil partnership status, race, disability or sexual orientation, gender reassignment, pregnancy or maternity, religion, faith or belief.**
- viii. Undertaking additional employment outside normal working hours which would be detrimental to the work to be performed as a full time employee of the school.**

APPENDIX 2 - MANAGING ALLEGATIONS OF ABUSE AGAINST TEACHERS AND OTHER STAFF

In dealing with allegations of abuse against employees there is guidance that needs to be followed to ensure that children and young people are not at risk of harm as well as supporting employees through the relevant processes.

1. SCOPE

- 1.1 This guidance will be used alongside the Disciplinary Procedure where allegations have been made that might indicate a person would pose a risk of harm if they continue to work in regular or close contact with children in their present position, or in any capacity.
- 1.2 It will be used in respect of all cases in which it is alleged that an employee has:
- behaved in a way that has harmed a child, or may have harmed a child;
 - possibly committed a criminal offence against or related to a child; or
 - behaved towards a child or children in a way that indicates that they would pose a risk of harm if they work regularly or closely with children.
- 1.3 As with other conduct issues the behaviour of employees outside of work may impact on their role within the Academy Trust. Therefore if concerns are brought to the Academy's attention about an employee's behaviour in regard to their own children or any other child/ children outside of the Academy, consideration will be given to any implications for children with whom the employee has contact with at work.

2. INITIAL CONSIDERATIONS

- 2.1 Where the Principal (or Chair of Governors if the Principal is the subject of the allegation) determines that the allegations meet the criteria above they will immediately contact the Designated Officer at the local authority (LADO) and provide them with all relevant information.
- 2.2 The LADO and the Principal (or Chair of Governors) will consider the nature, content and context of the allegation and agree a course of action. The Designated Officer may ask for further relevant information to be provided or obtained such as previous history, whether the child or their family have made similar allegations, and the individual's current contact with children.
- 2.3 Outcomes of initial considerations;
- 2.31 No further action by external agencies or the Academy is to be taken in regard to the individual facing the allegation. The decision and reasons for this will be recorded. The Principal will agree with the Designated Officer what information should be put in writing to the employee and what if any action is appropriate to take in respect of the person making the allegation. After consulting the Designated Officer the Principal will inform the employee about the allegation and provide them with as much information as possible at the time.
- OR
- 2.32 No further action by external agencies, but the Principal determines further action is required and will refer to the Disciplinary Procedure.
- OR
- 2.33 The Designated Officer determines that a strategy discussion is needed, or police or local authority's social care services need to be involved. The Designated Officer will coordinate the appropriate arrangements and will inform the Principal. The Principal should not provide any further information to the employee. The strategy discussion will determine what action will be taken and by whom. The point at which the Academy can continue with its own disciplinary procedures will be determined. No further investigation should be carried out until agreed through this process.

3.0 SUSPENSION

- 3.1 Suspension will not be an automatic response when an allegation is reported and alternative arrangements will be considered. The risks of the employee remaining in the Academy during any process of investigation will be carefully evaluated. In cases where there is cause to suspect children at the Academy or Trust are at risk of significant harm, or the allegation warrants investigation by the police, or is so serious that it might be grounds for dismissal the employee will usually be suspended.
- 3.2 Suspension will be managed as per the Disciplinary Procedure.
- 3.3 The Principal will consider the advice of the local authority children's social care services or the police with regard to suspension, but will make their own informed decision with regard to the suspension of any employee.

4.0 SUPPORT FOR STAFF

- 4.1 Where an employee is the subject of an allegation of abuse the Academy recognises that in most circumstances this will be a time of stress and anxiety. Employees are advised to seek support from their trade union representative or an appropriate colleague. In some cases a referral to the Trust's occupational health provider and/or counselling service may be offered.
- 4.2 The employee will be kept informed of the likely course of action as the case progresses unless there is an objection by the local authority social care services or the police.

5.0 CONFIDENTIALITY

- 5.1 The provisions in the Disciplinary Procedure regarding confidentiality apply to cases where allegations of abuse are made. The Trust will make every effort to maintain confidentiality and guard against unwanted publicity. During the process of managing these types of allegation the Trust will only release information to the wider Academy/Trust community for the purposes of reducing speculation.

6.0 INVESTIGATIONS

- 6.1 Investigations under the Disciplinary Procedure will not commence until agreement from the Designated Officer and any other external agencies involved in dealing with the allegations have agreed that the Academy can proceed. The provisions in the Disciplinary Procedure regarding investigations apply where allegations of abuse are made. Those undertaking investigations into allegations of abuse should be alert to any sign or pattern which suggests that the abuse is more widespread or organised than it appears at first sight, or that it involves other perpetrators or institutions. It is important not to assume that initial signs will necessarily be related directly to abuse, and to consider occasions where boundaries have been blurred, inappropriate behaviour has taken place, and matters such as fraud, deception or pornography have been involved.
- 6.2 Interviewing pupils. The Investigating Officer will avoid interviewing pupils unnecessarily. Information will be gathered from the local authority social services and the police where available and accessible.
- 6.3 Photographing pupils. The Investigating Officer or any other person at the Academy/Trust will not take photographs of pupils to support allegations of abuse. In cases where the appropriate manager determines it appropriate to record injuries to a pupil they will use the appropriate procedure, e.g. body mapping, or refer to the Designated Officer, the local authority social services or the police for advice. Photographs and other information provided by external agencies may be used as a part of the investigation process if appropriate and authorised by the relevant agency.

7.0 POSSIBLE OUTCOMES

On the conclusion of the investigation one of the following four outcomes will be determined:

- Substantiated: there is sufficient evidence to prove the allegation (on the balance of probability)

- Malicious: there is sufficient evidence to disprove the allegation and there has been a deliberate act to deceive
- False: there is sufficient evidence to disprove the allegation
- Unsubstantiated: there is insufficient evidence to either prove or disprove the allegation. The term, therefore, does not imply guilt or innocence

8.0 MALICIOUS ALLEGATIONS

8.1 The Trust consider the making of malicious allegations to be unacceptable. Any allegations found to not have been made in good faith by a pupil, parent, other employee or any other person may result in action being taken. Any allegation that is found to be malicious will be removed from the file of the employee that has been accused. Any allegations by students which are found to be malicious are highly likely to result in permanent exclusion of the individual(s) concerned.

9.0 RECORDS AND REFERENCES

9.1 A record of the allegations, any investigation and the outcome will be kept on the employee's file. The employee will be provided with copies of any records held. These records will remain on file until normal retirement age or for a period of 10 years from the date of the allegation if that is longer. Details of allegations that are proven to be unsubstantiated, unfounded or malicious will not be referred to in any reference that the Trust provides for the employee concerned.

APPENDIX 3 – MODEL AGENDA FOR DISCIPLINARY HEARING

1. Introductions

The Principal/Senior Manager/chair of the committee introduces him/herself and invites all others to introduce themselves. The Principal/Senior Manager/chair of the committee runs through the agenda.

2. Nature of the complaint

The Principal/ Senior Manager/chair of the committee specifies the allegation and checks that all parties have the relevant documents.

3. Presentation by management

The person nominated to carry out the investigation presents the management's case and calls any witnesses.

4. Questions by member of staff

The employee and/or representative may question the person presenting the management's case and each of the management's witnesses after they have given their primary evidence.

5. Questions by Principal/ Senior Manager/committee members

The Principal/ Senior Manager/members of the committee may question the person presenting the management's case and each of the management's witnesses after they have given their primary evidence and been asked any questions by or on behalf of the employee.

6. Presentation by member of staff

The employee and/or the representative presents their case. Witnesses may be called.

7. Questions by the person presenting the management's case

The person presenting the management's case may question the employee and each of the employee's witnesses after they have given their primary evidence.

8. Questions by Principal/ Senior Manager/committee members

Principal/ Senior Manager/Members of the committee may question the employee, representative and each of the employee's witnesses after they have given their primary evidence and have been asked any questions by the person presenting the management's case.

9. Final statement by management

The person presenting the management's case may make a final statement.

10. Examining of witnesses

Each side may re-examine their witnesses after they have been asked questions by the other side.

11. Final statement by employee

The employee and/or representative may make a final statement.

12. Withdrawal

Both parties withdraw to allow the Principal/ Senior Manager/committee to discuss findings and come to a decision. The clerk to the committee and/or HR representative remain. The parties may be asked to remain available in case the Principal/ Senior Manager/committee need to clarify any point.

13. Adjournments

Either party may request adjournments during the course of the hearing.

APPENDIX 4 – MODEL AGENDA FOR APPEAL HEARING

1. Introductions

The chair of the Appeal Committee introduces him/herself and invites all others to introduce themselves. The chair of the Appeal Committee runs through the agenda.

2. Nature of the complaint

The chair of the Appeal Committee specifies the allegation and checks that all parties have the relevant documents.

3. Presentation by member of staff

The employee and/or representative present their case. Witnesses may be called.

4. Questions by Principal or his/her representative

The person presenting the management's case may question the employee and each of the employee's witnesses after they have given their chief evidence.

5. Questions by committee members

Members of the committee may question the member of staff and each of the employee's witnesses after they have given their chief evidence and have been asked any questions by the person presenting the management's case.

6. Presentation by management

The Principal or their representative presents the management's case and calls any witnesses.

7. Questions by member of staff

The employee and/or representative may question the Principal or person presenting the management's case and each of the management's witnesses after they have given their chief evidence.

8. Questions by committee members

Members of the committee may question the person presenting the management's case and each of the management's witnesses after they have given their chief evidence and been asked any questions by or on behalf of the employee.

9. Examining of witnesses

Each side may re-examine their witnesses after they have been asked questions by the other side.

10. Final statement by employee

The employee and/or representative may make a final statement.

11. Final statement by management

The Principal or their representative may make a final statement.

12. Withdrawal

Both parties withdraw to allow the Appeals Committee to discuss findings and come to a decision. The clerk to the committee and HR representative remain. The parties may be asked to remain available in case the committee need to clarify any point.

13. Adjournments

Either party may request adjournments during the hearing.