

<b>Title</b>	Disciplinary Policy
<b>Associated Policies</b>	<ul style="list-style-type: none"> <li>• Teaching Staff Performance, Development and Career Progression (TPO/STA/17)</li> <li>• Support Staff Performance, Development and Career Progression (TPO/STA/05)</li> <li>• Grievance Procedure (TPO/STA/23)</li> <li>• Complaints (TPO/QA/02)</li> <li>• Staff Absence (TPO/STA/13)</li> <li>• Professional and Safe Conduct (TPO/STA/10)</li> <li>• Dealing with Allegations of Abuse against Staff (TPO/STA/21)</li> </ul>

REVIEWED: December 2020

NEXT REVIEW: December 2023

**1. Policy Statement**

**1.1** The Brooke Weston Trust believes that a fair, transparent and consistent disciplinary policy, which treats all staff as professionals, is a key element in effective school management that helps resolve concerns, problems or complaints and reduces the risk of discrimination.

The Trust recognises that a disciplinary policy is necessary to assist in maintaining standards of conduct and for promoting fairness and order in the treatment of employees. It should be used to promote orderly employment relations as well as fairness and consistency in the treatment of all employees. It should promote appropriate professional conduct and acceptable standards of behaviour.

**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 Senior Leaders 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** The Trust acknowledges that all stages in the policy will operate in accordance with the duties to promote equality, to eliminate discrimination and to promote good relations between staff with protected characteristics as required under the Equality Act 2010. The implementation and impact of this policy will be subject to an Equality Impact Assessment.

**1.4** This policy does not form part of any employee’s contract of employment and it may be amended at any time following consultation with staff and trade unions. Where staff are subject to TUPE, if they had more favourable terms under a policy that was contractual, then these will continue to apply.

**1.5** It is important to read these procedures in conjunction with the associated policies (see above). This policy will follow the Acas code of practice as a minimum. Actions under this policy will not prejudice the outcome of any linked policy.

**1.6** This procedure has been implemented following consultation with relevant staff including trade union representatives, and the application of the policy will be monitored with recognised Trade Unions.

**2. Who does this policy apply to?**

**2.1** This policy applies to all Brooke Weston Trust employees.

It also applies to all other staff, including supply teachers and volunteers, in respect to allegations that might indicate a person would pose a risk of harm if they continue to work in regular close contact with children (see section 7)

- 2.2** This policy also applies to members of the Central Team. If an allegation is raised against a member of the Central Team the below people will have the responsibilities as set out in this policy:  
Investigating Officer – Senior Member of the Central Team appointed by the CEO  
Authority to give warnings – CEO  
Authority to dismiss – Panel of three made up of CEO / Executive Principal / Board Member  
Appeals will be heard by an appeals panel of the Board.
- 2.3** When applying 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.
- 2.4** The implementation of this policy will be monitored by the Principals and Executive Leadership Team and will remain under constant review by Brooke Weston Trust and with the recognised Trade Unions.

### **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. Informal Management Advice may be given to the employee by a senior manager or a line manager. This should be confirmed in a letter that is shared with the employee, which will be retained on the personnel file for notification purposes only and will not be shared on any future reference requests. Informal Management Advice cannot be appealed by an employee, but an employee may choose to respond in writing to challenge the advice. 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 of the nature of the misconduct and the change in behaviour or improvement in conduct required (with timescales). Relevant support and training will be provided where appropriate and necessary. The individual will be informed of the consequences of further misconduct, 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** No attendee of the meeting may make an electronic recording without the consent of all parties. Any employee who does so without permission will be managed under the Disciplinary Policy.
- 4.3** Employees will 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 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 when allegations are made against the CEO/Executive Principals

## 5.2 Executive Principals

- To manage the Disciplinary Procedure when allegations are made against a Principal

## 5.3 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, setting clear standards and expectations in these areas and for taking appropriate and fair action accordingly and fairly where standards are not maintained
- To determine if a disciplinary investigation is required when an allegation is raised about an employee in their school
- Where disciplinary action is being considered against an employee who is a trade union representative the employer will make contact is made with an official employed by the trade union

## 5.4 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 conduct
- To make appropriate decisions and facilitate the implementation of the disciplinary procedure with advice from a HR representative/Principal/more senior manager
- To make provisions to facilitate the implementation of the policy by supporting with releasing staff, setting cover etc
- To provide any relevant information to the employee's representative if they choose to have one

## 5.5 Employees

- To achieve the expected standard of conduct
- To inform their line manager of any suspected unacceptable behaviour of colleagues
- Where required, to make every effort 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

## 5.6 HR Manager / External HR Providers

- To advise and support managers attending any meeting as deemed appropriate

- Act as an advisor at all formal stages of the procedure
- In rare circumstances, where there is deemed no other suitable Senior Manager, the Trust HR Manager may be appointed to carry out an investigation. In these situations, the Trust HR Manager is unable to offer the school HR advice, and this must be sought from their external HR advisers.
- On rare occasions it may be deemed appropriate to appoint an external investigator.

**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.
- 6.3 Allegations which involve issues of child protection and / or abuse of children by staff as set out in Keeping Children Safe in Education should be referred immediately to the Designated Officer at the relevant local authority. The definitions are set out below;
- 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.
  - behaved or may have behaved in a way that indicates they may not be suitable to work with children.

See Dealing with Allegations of Abuse against Staff (TPO/STA/21) 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. Supply Teachers and Agency Staff**

- 7.1 In some circumstances the Trust may have to consider an allegation against an individual not directly employed by them, where the disciplinary procedures do not fully apply, for example, supply teachers provided by an employment agency.
- 7.2 The Trust must ensure allegations are dealt with properly. A school should not decide to cease to use a supply teacher due to safeguarding concerns, without finding out the facts and liaising with the local authority designated officer to determine a suitable outcome. The School should discuss with the agency whether it is appropriate to suspend the supply teacher whilst they carry out their investigations (using the Suspension Risk Assessment to aid their decision.)
- 7.3 Agencies should be fully involved and co-operate in any enquiries from the LADO, but the School will usually take the lead in carrying out investigations into the allegations. Supply teachers, whilst not employed by the Trust, are under the supervision, direction and control of the Trust when working in the school or college
- 7.4 When using an agency, schools and colleges should inform the agency of its process for managing allegations. This should include inviting the agency’s human resource manager or equivalent to meetings and keeping them up to date with information about its policies

**8. Informal Stages**

- 8.1 Upon receiving an allegation against an employee it is likely that initial investigations will be required to establish what the next course of action should be. An appropriate manager, usually a member of the SLT, should seek to establish the basic facts of the situation; this may involve, for example, looking

at records, speaking to witnesses, reviewing CCTV (where appropriate and with reference to GDPR – please speak to DPO for further advice). This should aim to be completed within 5 working days of an allegation being made.

- 8.2** A preliminary fact-finding meeting with an appropriate manager, may be held with the employee to establish the basic facts of the circumstance and to enable the Principal to determine whether an Investigation under this procedure is required. A fact-finding meeting can often give reasonable explanation in response to allegations which then enables the matter to be concluded. If the complaint is minor, it may be appropriate to hold an informal discussion instead. Where a member of staff commits a minor infringement, the line manager or Principal can give advice for the purpose of improving the future conduct of the member of staff. In these circumstances, the member of staff will be given any reasonable support and assistance to support with improvement. Minor complaints dealt with informally as above will be expunged from any formal record if not proven

## 9. Investigations

### 9.1 Investigating Officer

Should the fact-finding meeting determine further need for investigation, or where there is a complaint of misconduct serious enough to warrant investigation immediately, the Principal will formally 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. The Investigating Officer will have been appropriately trained. If the allegations are against the Principal, then the Executive Principal will be responsible for the management of the procedure and determining an appropriate investigating officer, who may be external. 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.

### 9.2 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 should make every effort to participate in any such investigation. Witnesses will be offered the opportunity to bring a workplace colleague or Trade Union Representative, however meetings will not be unduly delayed to facilitate this. The school will make provisions for them to attend the meetings.

### 9.3 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 are allowed to bring a trade union representative or work colleague to the investigation meeting if they are available however an investigation meeting should not be unreasonably delayed to accommodate this. 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.

If an employee requires reasonable adjustments for any reason under the Equality Act 2010, then extra care should be taken during the investigation to ensure the behaviour is not as a result of their protected characteristic. If this is the case then other steps should be considered to manage this situation, such as reviewing reasonable adjustments.

- 9.4 Employees should 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.

## 10. Criminal charges

- 10.1 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.
- 10.2 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.
- 10.3 The Trust will seek advice and guidance as to whether or not it is appropriate to 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, the employer, having considered the facts and available evidence, will make a balanced judgement as to whether the conduct is sufficiently serious to warrant disciplinary proceedings.
- 10.4 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.
- 10.5 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.

## 11. Suspension

- 11.1 Suspension is not a disciplinary sanction and does not mean an individual has done something wrong, or an employer believes an individual has done something wrong. Suspension will be kept under constant review and for no longer than is reasonably necessary, recognising the impact suspension can have on an individual.
- 11.2 Suspension will only be carried out after a suspension risk assessment is completed and discussed with the Trust HR Manager. Only the Principal, Executive Principal, CEO, or the Chair of the Board have the power to suspend. The Suspension Risk Assessment is included in Appendix 2.
- 11.3 The Principal has the authority to suspend in most cases. If the suspension of the Principal is required, then the Executive Principal will suspend. If the suspension of the Executive Principal is required, then the CEO will suspend. If the suspension of the CEO is required, the Chair of the Board will suspend.
- 11.4 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. An appropriate contact person within the Academy or Central Team 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.

- 11.5 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 on full pay.
- 11.6 Alternatives to suspension, for example re-organisation of duties, work location, temporary redeployment to another role etc. must be explored 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.
- 11.7 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 Dealing with Allegations of Abuse against Staff (TPO/STA/21).
- 11.8 Suspension and the reason for it will be kept confidential, as appropriate, and an agreed explanation prepared for other relevant parties.
- 11.9 Where suspension has taken place, that suspension may only be lifted by the Principal, Executive Principal, CEO or Chair of the Board (with consideration given to appropriate reporting lines).

## 12. Disciplinary hearing

- 12.1 After the investigation is complete, the senior manager who conducted it will produce a report and submit this to the Principal, recommending 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 a formal disciplinary hearing is recommended, the Principal will require the employee 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 ten calendar days in advance of a disciplinary hearing 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 their trade union or workplace colleague
- Their right to call witnesses on their behalf
- The name and office of any adviser who will accompany the senior manager to the hearing
- Appropriate time scales for the employee to submit evidence as part of the hearing bundle

The following will also be included where appropriate:

- A summary of relevant information gathered during the investigation
- A copy of any original documents to be used as evidence in upholding or undermining the allegations
- The names of any witnesses to be called and information on how an employee can request their own witnesses
- A copy of any original witness statements, except in exceptional circumstances where a witness's identity is to be kept confidential, in which case as much of the original information as possible will be provided while maintaining confidentiality

**12.2** 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 in appropriate time to discuss this with their representative.

**13. The right to be accompanied**

**13.1** The employee may bring a companion to any meeting under this procedure, however where the meeting is part of the investigative stages it should not be unreasonably delayed to accommodate this. 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 as soon as reasonably practicable.

An employee may ask for a reasonable delay to the hearing to allow a Trade Union Representative to attend, this is not normally more than 5 working days. Should an employee not be able to reasonably arrange for a Union Representative to attend a hearing in good time, the meeting may go ahead in their absence.

**13.2** 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.

**13.3** Where disciplinary action is being considered against an employee who is a trade union representative the employer will make contact is made with an official employed by the trade union before instigating any action under the policy

**13.4** The school will ensure copies of all documentation are provided to the representative in good time.

**13.5** A work colleague 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.

**13.6** 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.

**14. Procedure at disciplinary hearing**

**14.1** If the employee and / or their companion cannot attend the hearing they should inform the Principal / Manager immediately and an alternative date will be sought normally within 5 working days of the original hearing. Employees must make every effort to attend the hearing. 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.

**14.2** If the employee chooses not to attend the hearing they may choose to send a written statement for consideration at the hearing.



- 14.3** 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 section 13).
- 14.4** The agenda of the meeting will follow the format in Appendix 4.
- 14.5** 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, summarise the case and ask questions of the Investigating Officer or any witnesses. The companion should not answer questions on the employee's behalf. The employee may confer privately with the companion at any time during the hearing.
- 14.6** Both parties will have made it clear prior to the hearing if any relevant witnesses are to be called, and this will be included as part of the meeting bundle. The employee will be given the opportunity to respond to any information given by a witness. The employee and their representative will be given the opportunity to question the senior manager and any witnesses.
- 14.7** 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 at least 5 calendar days to consider any new information obtained before the hearing is reconvened.
- 14.8** The employee will be informed in writing of the decision and the reasons for it, usually within 5 working days, but no later than 10 calendar days, of the disciplinary hearing, this will also include their right to appeal the decision and how to do so. A copy will be provided to the employee and their representative. Where possible this information will also be explained to the employee in person.

## 15. Disciplinary penalties

- 15.1** The person or panel conducting the hearing may find that there is no case to answer and dismiss the allegation, this will be expunged from the employee's personnel file. Alternatively, they may choose to give the employee a disciplinary warning or dismiss them, depending on the serious nature of the allegation.
- 15.2** 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.
- 15.3 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 record. The warning will set out the nature of misconduct, the change in behaviour required, the period for which the warning will remain active (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.
- 15.4 Final Written Warning**  
A final written warning may be authorised by the Principal/ Executive Principal / CEO. 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 (18 months) and will include a statement that any further complaint of misconduct, occurring within the next 18 months and found justified after a disciplinary hearing, may lead to dismissal, 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.

- 15.5** 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, at which point it will no longer be used in subsequent meetings. 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 Teaching Regulation Agency.

#### **15.6 Dismissal**

Dismissal may be authorised by a Disciplinary Panel, made up of three Principals across the appropriate phase (Primary / Secondary) accompanied by an HR adviser where appropriate. It will usually only be appropriate for:

- Any misconduct during the probationary period (support staff only);
- 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 (Appendix 1)

## **16. The Appeal Process**

- 16.1** An employee has the right to appeal against the disciplinary action taken against them to the Trust appeals committee. The form in Appendix 3 should be completed and submitted to the Clerk to the Board of The Trust within five working days of the date on which they were informed of the decision.
- 16.2** If the employee is appealing against dismissal for Gross Misconduct, 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.
- 16.3** 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 be given at least 5 calendar days to consider any new information obtained before the hearing is reconvened
- 16.4** 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.
- 16.5** 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.
- 16.6** 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.

- 16.7** The appeal hearing will be heard by the Trust appeals committee; where possible this will consist of a different panel who have not previously been involved in the case and can include the Executive Principal where necessary. The Investigating Officer and/or a HR representative and/or the manager who chaired 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 section 13).
- 16.8** 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 at least 5 calendar days to consider any new information obtained before the hearing is reconvened
- 16.9** The agenda of the meeting will follow the format in Appendix 5.
- 16.10** 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.
- 16.11** 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.
- 16.12** 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. There is no further right to appeal.

## **17. Referrals to external bodies**

- 17.1** 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.

## **18. Policy Review**

- 18.1** 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. This will be undertaken in consultation with the recognised trade unions

## APPENDIX 1: Definitions of Misconduct and Gross Misconduct

### 1. Gross Misconduct

When making the judgement if an act of misconduct may meet the threshold for gross misconduct, the context will always be taken into consideration as the employee's conduct must involve a deliberate and wilful or repeated contravention of the policy or an act of gross negligence.

A risk assessment will be carried out to determine if suspension is appropriate.

After a full investigation if an allegation of Gross Misconduct is found to be upheld at a disciplinary hearing or if the act is admitted by the employee, they may be dismissed without further warning or notice.

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 and evidence, 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
- xi. **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.**

## 2. Misconduct

Misconduct is of a degree less serious than that which would warrant 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.

- xii. **Absenteeism and lateness, for example:**
  - a) persistent failure to remain at the place of work during normal working hours without permission or sufficient cause for absence;
  - b) persistent failure to attend work punctually;
  - c) persistent to comply with the sickness absence reporting procedure;
- xiii. **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.
- xiv. **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.
- xv. **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.**
- xvi. **Bullying harassment or victimisation of pupils/students, other employees, volunteers, governors or contractors in the course of duty.**
- xvii. **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 – Suspension Risk Assessment

Part 1: Suspension should only be considered if one or more of the following apply:

Question	Yes	No	Notes/Considerations
If there is a strong likelihood that if the allegations are substantiated then the matter will amount to gross misconduct?			
Is there a threat or risk of harm to employees?			
Is it difficult to fully investigate the allegation if the employee remains at work (e.g. is the employee likely to destroy evidence or attempt to influence/intimidate witnesses?)			
Have relationships at work broken down?			
Is there likely to be a detrimental effect on the employer/school if the employee remains in work or continues to interact with pupils, parents, or employees?			
Is there a risk of harm to pupil(s) or, is the allegation related to safeguarding?			If the answer is yes – please refer to <b>Part 2</b> of the assessment below, which provides a table for completion with additional considerations in respect of allegations of abuse.
If the answer is yes to any of the above questions, please complete Part 3			

## Part 2: Safeguarding

### Additional considerations for allegations of abuse made against an employee

Please refer to DfE Statutory Guidance Keeping Children Safe in Education Part Four

Information About the Allegation	Notes/Considerations
<ul style="list-style-type: none"> <li>– Nature of the allegation.</li> <li>– Duration and frequency of allegation.</li> <li>– Extent of pre-meditation.</li> <li>– Degree and nature of alleged harm or risk to pupils.</li> </ul>	
Information About the Employee	
<ul style="list-style-type: none"> <li>– Previous concerns.</li> <li>– Previous allegations.</li> <li>– Disciplinary record.</li> <li>– Length of service.</li> <li>– Contact with pupil(s) concerned.</li> </ul>	
Health and Safety	
<ul style="list-style-type: none"> <li>– Potential risks to the person’s health and safety should they remain in school (impact of threats from parents/carers/potential press interest etc.).</li> </ul>	

## Part 3: Alternatives to suspension and a record of the decision

### Alternatives to Suspension:

Explore and assess any alternatives, e.g. redeployment, supervision, working from home etc.

### Particular Views of Those Concerned:

(E.g. Headteacher/Designated Safeguarding Lead/ Designated Officer/HR Adviser etc.)

### Decision to Suspend:

Yes:  No:  Date:

### If the decision is to suspend, record your grounds for suspension:

The employee will need to be notified of the reason(s) for suspension in writing.



Name and job title of person responsible for the decision:	
Name and job title of person completing assessment:	
(If applicable) Name of person responsible for communicating decision to suspend the employee: This should be communicated in writing as soon as practicable. Please refer to the EPM template suspension letter available from your HR Adviser:	
Name and job title of person nominated to keep suspension under review:	

## APPENDIX 3 – Appeal Form

### Employee Details

Full Name	<input type="text"/>
Job Title	<input type="text"/>
Academy	<input type="text"/>

### Appeal Information

Please indicate which of the grounds you wish to appeal against in relation to the outcome disciplinary hearing by ticking one or more of the following boxes.

1.	<input type="checkbox"/> New evidence has come to light that should be investigated	<input type="checkbox"/>
2.	<input type="checkbox"/> The sanction imposed was disproportionate to the misconduct	<input type="checkbox"/>
3.	<input type="checkbox"/> There was unfairness or bias among the original decision-makers	<input type="checkbox"/>
4.	<input type="checkbox"/> The disciplinary procedure has been applied defectively or unfairly	<input type="checkbox"/>
5.	<input type="checkbox"/> Other	<input type="checkbox"/>

### Appeal Details

Please include below further information on your grounds for appeal, proving as much detail as possible

Signed:

Dated:

Please return this form addressed confidentially to the Clerk to the Board of the Trust at Brooke Weston Trust, Coomb Road, Corby, NN18 8LA or email to [achambers@brookewestontrust.org](mailto:achambers@brookewestontrust.org)

## APPENDIX 4 – MODEL AGENDA FOR DISCIPLINARY HEARING

### 1. Introductions

The Principal/Senior Manager/chair of the Disciplinary Panel introduces themselves and invites all others to introduce themselves. The Principal/Senior Manager/ Chair of the Disciplinary Panel runs through the agenda.

### 2. Nature of the complaint

The Principal/ Senior Manager/ Chair of the Disciplinary Panel 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/ Panel Members

The Principal/ Senior Manager/panel members 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/Panel Members

Principal/ Senior Manager/Panel Members 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/Panel 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/Panel need to clarify any point.

## 13. Adjournments

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

## APPENDIX 5 – 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.