



# Disciplinary Policy

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### **Statement of Intent**

The Disciplinary Policy and Procedure is designed to help and encourage all employees to achieve and maintain appropriate standards of conduct.

This policy aims to ensure consistent and fair treatment to all employees in the Trust. The procedure provides a framework within which the Trust can work with employees to maintain satisfactory standards of conduct and encourage improvements where necessary. Through the effective operation of the procedure, we will ensure steps are taken to establish the facts and employees are given the opportunity to respond before taking any formal action.

This Policy and Procedure allow formal action to be taken up to and including dismissal. The intention is that investigatory processes and disciplinary matters are dealt with proactively, with a view to resolving problems as quickly as possible and as such each step and action under the procedure must be taken without unreasonable delay, by either the Trust or the employee.

Where the Trust has an obligation under legislation e.g. Safeguarding, it will refer the names of employees to the Disclosure and Barring Service and Teaching Regulation Agency as appropriate.

This policy does not form part of an employee's contract of employment and may be varied from time to time by the Trust.

## **1. Legal Framework**

- 1.1. This policy has due regard to all relevant legislation and statutory guidance including, but not limited to, the following:
  - The Education Act 2011
  - The Teachers' Disciplinary (England) Regulations 2012
  - DfE (2022) 'Teacher misconduct: the prohibition of teachers'
  - DfE 'Keeping children safe in education 2023'.
  - DfE 'Teachers' Standards'
  - DfE (2020) 'Teacher misconduct: disciplinary procedures for the teaching profession'
- 1.2. This document is based on the ACAS Statutory Code of Practice on discipline. In addition, we have used the ACAS guide entitled Discipline and Grievances at Work to formulate this procedure.
- 1.3. This policy should be read in conjunction with the following CIT policies:
  - Code of Conduct - Staff
  - Acceptable use of the Internet and IT Systems
  - Allegations of Abuse Against Staff
  - Data Protection Policy
  - Grievance Policy
  - Safer Recruitment Policy
  - Whistleblowing Policy
  - School Child Protection and Safeguarding Policies

## **2. Scope**

- 2.1. The procedure applies to all employees regardless of length of service, excluding those in their probationary period where separate arrangements apply. It does not apply to agency workers, volunteers or self-employed contractors.
- 2.2. This procedure is used to deal with misconduct. It does not apply to cases involving genuine sickness absence, proposed redundancies, the non-renewal of fixed term contracts or poor performance. In those cases, reference should be made to the appropriate policy or procedure.
- 2.3. The Trust reserves the right not to follow this Disciplinary Policy and Procedure in respect of employees with less than 2 years' continuous service with the Trust.
- 2.4. Minor conduct issues can often be resolved informally between employees and their line manager. These discussions should be held in private and without undue delay whenever there is cause for concern. Where appropriate, a note of any such informal discussions may be placed on the employee's personnel file. In some cases, an informal verbal warning, instruction or management guidance may be given, which will not form part of the disciplinary records but may be referred to as part of any future disciplinary proceedings where appropriate. Formal steps will be taken under this procedure if the matter is not resolved, or if informal discussion is not appropriate (for example, because of the seriousness of the allegation).

- 2.5. Employees will not normally be dismissed for a first act of misconduct, unless the Trust decides that the conduct amounts to gross misconduct, or the employee has not completed a probationary period.
- 2.6. As recognisable figures in the local community the behaviour and conduct of staff outside of work can impact on their employment, particularly if it may make an individual unsuitable to work with children. This is known as a transferable risk. Therefore, conduct outside work may be treated as a disciplinary matter if it is considered that it is relevant to the employee's employment.

### **3. Roles and Responsibilities**

- 3.1. The Trust Board will be responsible for:
  - 3.1.1. Establishing and maintaining the Scheme of Delegation setting out the delegated powers of approval for disciplinary and appeal hearings.
- 3.2. The People Committee will be responsible for:
  - 3.2.1. Monitoring and reviewing this policy on an annual basis to ensure its effectiveness.
- 3.3. The Director of HR will be responsible for:
  - 3.3.1. Ensuring that all members of staff have read and understand the provisions outlined in this policy.
  - 3.3.2. Ensuring this policy and associated procedure are readily available to all employees and can be accessed in an appropriate format.
  - 3.3.3. Supporting leaders with the assessment and management of disciplinary cases and conducting formal investigations as required.
  - 3.3.4. Ensuring an appropriate case investigator is appointed for all formal investigations.
  - 3.3.5. Ensuring adequate training is provided for case investigators and panel members.
  - 3.3.6. Ensuring a culture is established where employees are supported and assisted in achieving and maintaining the required standards of conduct.
  - 3.3.7. Ensuring records are kept of all disciplinary meetings and communications with employees.
  - 3.3.8. Ensuring the outcomes of disciplinary procedures are communicated to employees.
  - 3.3.9. Ensuring that all documentation relating to disciplinary issues is retained in accordance with the schools Records Management Policy.
- 3.4. Headteachers and ELT will be responsible for:
  - 3.4.1. The day-to-day implementation of this policy and maintaining discipline among all staff.
  - 3.4.2. Initiating disciplinary action, in conjunction with the CIT HR department, and deciding the appropriate level of action.
  - 3.4.3. If a matter concerns a safeguarding issue, ensuring the DSL has been notified.

- 3.5. Employees will be responsible for:

- 3.5.1. Familiarising themselves with the standards outlined in the Staff Code of Conduct.
- 3.5.2. Adhering to the provisions outlined in this policy and cooperating with the disciplinary procedure.
- 3.5.3. Attending all meetings, interviews and hearings that take place in accordance with this policy and its associated procedure.
- 3.5.4. Lodging appeals to the relevant individual within five working days of receiving a decision.
- 3.5.5. If choosing to be accompanied to a disciplinary or appeal hearing, notifying the Disciplinary or Appeals Manager who their chosen companion is, in good time before the hearing.

#### **4. Confidentiality and Data Protection**

- 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 any information communicated to them in connection with an investigation or disciplinary matter as confidential during or after an investigation into an allegation.
- 4.2. A breach of confidentiality will be taken seriously and may warrant its own investigation.
- 4.3. Employees, and anyone accompanying them (including witnesses), must not make electronic recordings of any meetings or hearings conducted under this procedure.
- 4.4. Employees will normally be told the names of any witnesses whose evidence is relevant to disciplinary proceedings against them, unless there is good reason that a witness's identity should remain confidential.
- 4.5. The amended Education Act 2002 introduced reporting restrictions, in respect of any allegations made against a teacher, preventing the publication of any material that may lead to the identification of a teacher in a school who has been accused by or on behalf of, a pupil from the same school. This applies to parents and carers as well as the press. If for any reason the Trust needs to make parents aware of any allegations, they should equally make them and others aware there are restrictions on publishing information.
- 4.6. During informal action, formal investigation and any subsequent stages of the procedure, the Trust will collect, process and store personal data in accordance with our data protection policy. The data will be held securely and accessed by, and disclosed to, individuals only for the purposes of completing the disciplinary procedure. Records will be kept in accordance with our Records Retention Policy and in line with the requirements of Data Protection Legislation (being the UK General Data Protection Regulation and the Data Protection Act 2018) and any implementing laws, regulations and secondary legislation, as amended or updated from time to time. Any breach of data protection may constitute a disciplinary offence and be dealt with under this procedure.

#### **5. Allegations**

- 5.1. Allegations may be brought to the Trust's attention in a number of ways and through a variety of sources. Appendix 1 sets out the disciplinary rules. As with

disclosures made by children and young people, adults need to be aware that in making an allegation or raising a concern it is not always possible to keep the matter confidential. The Headteacher or ELT will 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.

- 5.2. Allegations which involve issues of child protection and/or abuse of children by staff should be referred immediately to the Designated Officer of the Local Authority. See the Allegations of Abuse Against Staff Policy for further guidance on the management of this type of allegation. No further action under this procedure will usually be taken until the Local Authority Designated Officer (LADO) has been consulted.

## **Process**

### **6. Initial Fact-Finding**

- 6.1. When an allegation comes to light, an initial informal Fact-Finding exercise should be undertaken to establish if the allegation does constitute a breach in the Disciplinary Policy and Procedure.
- 6.2. The fact-finding should not normally include formal questioning but may involve taking a statement from the employee to gather the basic facts, speaking to key individuals and assessing any relevant evidence such as CCTV footage, signing in sheets or incident reports.
- 6.3. Fact-Finding can be conducted by employees from a different department or school.
- 6.4. Following the Fact-Finding exercise, the manager should submit all the relevant documents to Central HR for review. The Central HR team will review the evidence and provide guidance on the appropriate next steps which may include:
  - No Further Action
  - Informal Action, e.g. issue Management Guidance
  - Formal Action
  - Agreed Outcome
- 6.5. A Fact-Finding exercise will not be required in all cases, and it is for Headteachers and ELT, in conjunction with CIT HR to decide if this stage is appropriate.

### **7. No Further Action**

- 7.1. Following the review of the initial Fact-Finding documentation, it may be decided that no further action is required.
- 7.2. If there is a reasonable belief that the allegation may have been vexatious or frivolous, the Trust may instigate further disciplinary proceedings against those employees making the allegations.

### **8. Informal Action**

- 8.1. Where incidents of misconduct are considered low level or a Fact-Finding exercise has concluded that no formal action is required, it may be appropriate for managers to handle the case informally. This would involve an informal

conversation with the employee and, where appropriate, a note of any such informal discussions may be placed on the employee's personnel file.

- 8.2. The Trust reserves the right to issue an informal Management Guidance letter setting out any concerns and actions going forward. This would remain live on the employee's personnel file for 6 months. However, they may be referred to in any future disciplinary matters where they are deemed to be relevant.

### **Formal Action**

#### **9. Case Investigator**

- 9.1. When an initial Fact-Finding exercise has concluded that formal disciplinary action is required, or where the concerns have been deemed as serious enough to warrant full investigation immediately, a Case Investigator will be appointed. This should be a suitably trained manager who has not been involved with the individual(s) or in the case previously. A Case Investigator may be appointed from another school within CIT or, in serious cases, from an external source.
- 9.2. For cases involving members of the ELT, it may be appropriate for an external investigator to be appointed. This decision would require the approval of the CEO.
- 9.3. For cases involving the CEO or HR Director an external investigator will be appointed. This decision would require the approval of the Chair of the Trust Board

#### **10. Confirmation of Investigation**

- 10.1. Before the investigation commences, the employee will be met with to advise them of the allegation(s) to be investigated and inform them that an investigation will be carried out to gather the facts regarding the alleged misconduct.
- 10.2. This meeting will normally be conducted by a Headteacher or member of the ELT. However, they can designate a suitably senior member of staff to conduct this meeting.
- 10.3. During the meeting the employee should be made aware of the details, as they are known at that point, regarding the allegation. E.g. names and dates.
- 10.4. Employees should be made aware that the investigation is an objective inquiry into the facts of the allegation(s), and that the purpose is to gather evidence that confirms or disproves the allegation(s).
- 10.5. The employee will be informed of the name of the person who is the Case Investigator and the possible outcomes an investigation may lead to.
- 10.6. Confirmation of the allegation(s) and the need for an investigation must be provided in writing. Copies of the Disciplinary Policy and Procedure should be enclosed with the letter, unless already provided in the meeting. The letter must set out the detail of the allegations to be investigated.

#### **11. Suspension**



- 11.1. There may be instances where it's necessary to consider whether an employee should be suspended from the workplace. The Trust will only consider suspension in the following circumstances:
  - 11.1.1. where there are reasonable grounds for concern that evidence may be tampered with/destroyed.
  - 11.1.2. witnesses may be pressurised.
  - 11.1.3. there is a potential risk to the Trust, pupils or other employees in allowing the employee to remain at work.
  - 11.1.4. the allegations are so serious that they would constitute gross misconduct if proven.
- 11.2. Suspension will not be an automatic response and a decision to suspend will only be taken after careful consideration of all alternatives to suspension such as re-organisation of duties, work location or temporary redeployment to another role. Suspension does not in itself constitute disciplinary action or imply any decision or judgement as to guilt.
- 11.3. 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 in consultation with the Local Authority Designated Officer (LADO), including the views of the police and social care.
- 11.4. During suspension, or alternative duties, the employee will continue to receive their normal pay. However, the Trust reserves the right to withhold pay in exceptional circumstances.
- 11.5. The decision whether to suspend will be made by the CEO or Director of Education with advice from the Central HR Team. Any decision to suspend without pay must be formally agreed by the CEO and HR Director. The discussions must include consideration of alternatives to suspension, prior to a decision being made. In all cases suspension will be kept under review and will be kept as short as possible.
- 11.6. If the CEO is unavailable to make a suspension without pay decision, then a majority ELT agreement will be required.
- 11.7. If suspension is deemed necessary, an appropriate manager must be identified to act as the named contact for the employee for the duration of their suspension.
- 11.8. At the meeting the employee will be told the following:
  - 11.8.1. The basic allegation and why a suspension is regarded as necessary.
  - 11.8.2. Who their named contact will be for the duration of the suspension, if known. If this has not been established yet, the employee will be informed that they will be told this as soon as the named contact has been identified.
  - 11.8.3. That they will remain on full pay or:
  - 11.8.4. That the Trust has exercised its right to withhold pay in exceptional circumstances.
  - 11.8.5. That their suspension will be confirmed in writing.
- 11.9. Full details of the suspension must be confirmed in writing as soon as possible following the meeting or within one working day if in relation to a safeguarding concern or allegation.

- 11.10. If the allegation is against the CEO, any decision to suspend must be made by the Chair of the Trust Board. A decision to suspend without pay would require a majority Board agreement.
- 11.11. The decision whether to suspend will be assessed at the start of the disciplinary process, as part of the fact-finding stage. However, this decision can be reviewed at any time during the process.
- 11.12. Suspension will normally be for the duration of an investigation process. However, any suspension will be kept under review as the investigation progresses. As information is gathered it may become appropriate to lift the suspension during the investigation or prior to any disciplinary hearing.
- 11.13. The Trust will not prevent social contact with work colleagues and friends during the suspension unless there is evidence to suggest this may prejudice the gathering of evidence.
- 11.14. The Trust has no authority or power to suspend a member of agency staff where an allegation is made against them. Instead, the Trust will cease to use the services of that member of agency staff or self-employed contractor but not without first finding out the facts and liaising with the LADO, where necessary, to determine a suitable outcome.

## **Investigation Process**

### **12. Investigation Meetings**

- 12.1. The Case Investigator will be responsible for establishing the scope of the investigation and working with CIT HR to make all necessary arrangements.
- 12.2. The individual against whom the allegation is made must be formally invited to attend an investigation. There is no requirement for the employee to be given 5 working days' notice prior to an investigation meeting.
- 12.3. The employee against whom the allegation is made will have the right to be accompanied by a Trade Union Representative or an appropriate workplace colleague at any investigation meeting. However, as this is not a statutory right there is no requirement for the Trust to rearrange the date and time of an investigation meeting to enable a companion to attend.
- 12.4. The employee will be provided with a statement following the meeting to review before signing and dating.
- 12.5. The Case Investigator will write to each witness requesting them to attend an investigation meeting. There is no requirement for witnesses to be given 5 working days' notice and witnesses do not have the right to be accompanied. Requests from witnesses to be accompanied at an investigation meeting will be handled on a case-by-case basis.
- 12.6. If requested to attend an investigation meeting, an employee is expected to do so as this is viewed as a reasonable request by the Trust. Witnesses will be informed that their statements given during the interview may be used in a disciplinary hearing, and they may be called upon to read their statement and answer

questions around this. Witnesses will be given a copy of their statement following the conclusion of the meeting to review before signing and dating.

- 12.7. If, having given a statement, a witness refuses to sign that statement or withdraws their statement, it should be made clear that the statement will still make up part of the investigation report, although it will be highlighted that it is not signed.
- 12.8. All employees involved in an investigation will be informed of their continuing duty to maintain confidentiality. Breaches of confidentiality may result in disciplinary action being taken.
- 12.9. During the investigation, the Case Investigator should continually consider the range of options for progressing the case. This will be whether the case should proceed to a formal disciplinary hearing, whether the case would in fact be better progressed using a different policy, or whether there is insufficient evidence for there to be a case to answer. In some cases, it may be necessary to call additional witnesses in light of the information obtained during the initial investigation interviews.
- 12.10. In some instances, it will become apparent before the end of an investigation that there is no case to answer. In these instances, a summarised report may be written up to explain and confirm reasons as to why an investigation has been closed.

### **13. Participating in the Process**

- 13.1. Being absent from work does not necessarily mean an employee is unable to participate in the investigatory process. Where appropriate, Occupational Health should be involved to assess whether an employee is fit to attend.
- 13.2. If an employee is unable to attend an investigation meeting due to a long-term absence it may be necessary to proceed in the employee's absence. If the decision is made to do this, the employee will be invited to submit a written statement to be used in the investigation report. It may also be appropriate to pause the investigation process until the employee is able to participate fully.
- 13.3. Employees should be given one chance to rearrange the agreed date of any investigation meeting. However, if at short notice (i.e. on the day) either party cannot attend for an unforeseeable reason which is judged reasonable, the interview should be rearranged.

### **14. Investigation Report**

- 14.1. Following the completion of the Investigation Process the Case Investigator, working with CIT HR, will produce a formal investigation report.
- 14.2. An investigation report will contain the following information:
  - 14.2.1. The individual's role and service history.
  - 14.2.2. Details of the allegation(s).
  - 14.2.3. The steps taken in the investigation including who was interviewed.
  - 14.2.4. The facts established during the investigation.
  - 14.2.5. The conclusion and rationale for the decision regarding the next steps.

14.3. A Case Investigator may take the following actions:

- 14.3.1. Assess that there is no case to answer and revert the case to an informal process\*.
- 14.3.2. Recommend that an agreed outcome is offered to the employee.
- 14.3.3. Recommend that the case goes to a disciplinary hearing.

\*If there is reasonable evidence to suggest that the allegations have been vexatious or frivolous, the Case Investigator may recommend subsequent disciplinary action.

## **15. Agreed Outcome Warning**

- 15.1. An agreed outcome warning can be issued when the employee accepts their misconduct and agrees to accept a warning. CIT HR and Case Investigators can agree to offer an agreed outcome after reviewing the initial Fact-Finding documentation or following a formal investigation.
- 15.2. An agreed outcome meeting must be held with the employee, at which they are entitled to be accompanied, and the full details of the outcome explained. This meeting will normally be conducted by relevant senior management, CIT HR or the Case Investigator.
- 15.3. An employee must be given a reasonable period of time to consider their options before responding to an agreed outcome offer and a minimum of 24 hours.
- 15.4. The following outcomes can be applied as an agreed outcome [see 20.2 for more details]:
  - 15.4.1. First Written Warning
  - 15.4.2. Final Written Warning
- 15.5. An agreed outcome cannot be used in cases of potential gross misconduct where dismissal is a possible outcome or cases of a safeguarding nature.
- 15.6. If an employee accepts an Agreed Outcome this must be confirmed in writing and signed by the employee.
- 15.7. By accepting an agreed outcome and employee loses their right to appeal the outcome.
- 15.8. If the employee does not accept the warning, then the disciplinary process will continue.

## **Hearing**

## **16. Disciplinary Hearing**

- 16.1. A Disciplinary Manager will be assigned for all cases that require a formal hearing. The Disciplinary Manager should be a Headteacher, a member of the Executive Leadership Team (ELT), the CEO or a member of the Trust Board's People Committee. The Disciplinary Manager, working with CIT HR, will be responsible for making the arrangements for the hearing. The Disciplinary Manager must have

the appropriate powers, as per the Trust Scheme of Delegation, to make a decision at the hearing.

- 16.2. If the allegation is against a member of the ELT, it may be appropriate for an external Disciplinary Manager to be appointed.
- 16.3. If the allegation is against the CEO an external, independent, Disciplinary Manager will be appointed.
- 16.4. The Disciplinary Manager will be separate from the Case Investigator and will chair the hearing and make any decisions regarding disciplinary sanctions.
- 16.5. All hearings will require a panel of at least 2 (including the Disciplinary Manager) supported by a note taker and an HR representative. Panels should include the Disciplinary Manager who will be accompanied by either a Senior Manager, Headteacher, a member of the ELT, a Local School Board member, a Member of the Trust Board or a suitable external member.
- 16.6. A panel does not need to be made up of employees from the same school as the employee under investigation.
- 16.7. Being off sick from work does not necessarily mean an employee is unable to attend a disciplinary hearing. If there is any question as to the employee's fitness to attend a hearing, consideration should be given to seeking a medical report from an appropriate medical practitioner.
- 16.8. The Trust will consider any requests for reasonable adjustments to the disciplinary process such as using video conference facilities to enable the process to proceed with the employee's participation.
- 16.9. If an employee is unable to attend a hearing due to illness, in the case of long-term absence it may be necessary to proceed in the employee's absence. If the decision is made to do this, the employee will be invited to submit a written statement or for their case to be presented by a Trade Union Representative or a work colleague. The Disciplinary Manager will make the decision to proceed and confirm their decision in the outcome letter.
- 16.10. Employees should be given one chance to re-arrange the hearing if the date given to them is unsuitable due to prior commitments which cannot be changed. However, if at short notice (i.e. on the day) the employee cannot attend for an unforeseeable reason which is judged reasonable, the hearing should be rearranged.
- 16.11. Employees who have been invited to attend a disciplinary hearing will have the right to be accompanied by a Trade Union Representative or a work colleague.

## **17. The Hearing Process**

- 17.1. The employee will be invited to attend the hearing and will be given 5 working days' notice. The invitation will confirm the date, time, venue, panel members for the hearing (if known) and details of any witnesses to be called. The employee will be informed in writing of the allegations against them, the basis for these allegations and what the likely consequences could be if it was decided that the

allegations are true. The following documents will also be included where appropriate.

- 17.1.1. A summary of relevant information gathered during the investigation.
  - 17.1.2. A copy of any relevant documents which will be used at the disciplinary hearing including the investigation report.
  - 17.1.3. A copy of relevant witness statements, except where a witness's identity is to be kept confidential, in which case as much information will be provided as possible whilst maintaining confidentiality.
- 17.2. The Disciplinary Manager, working with CIT HR, will invite witnesses if required, and ensure they are available to attend on the date of the hearing. The employee answering the allegations must notify the Disciplinary Manager of the details of any witnesses they may wish to bring. It is the responsibility of each party to contact their own witnesses and arrange for them to attend.
- 17.3. All hearings will take place during school term time and on a normal working day of the employee under investigation.
- 17.4. The employee is required to submit any documentation, including a list of any witnesses they intend to call, and details as to whether they will be accompanied at least 2 working days prior to the hearing.
- 17.5. The Trust reserves the right, in exceptional circumstances and with agreement of the employee, to reduce the timescale for a hearing to be arranged.
- 17.6. A note-taker will be present at all hearings and the panel may be supported by a HR representative.
- 17.7. A hearing will usually follow the following process:
- Case Investigator will present case – witnesses will be called if necessary.
  - Questions of case by employee.
  - Questions of case by Disciplinary Manager and panel.
  - Employee presents case – witnesses will be called if necessary.
  - Questions by Case Investigator.
  - Questions of case by Disciplinary Manager and panel.
  - Case Investigator sums up key points.
  - Employee sums up case.
  - Case Investigator, employee and representative leave the hearing.
  - Panel makes a decision.
  - Decision is delivered\* (see 20.3).
- 17.8. The employee will be given the opportunity to respond to any information given by a witness however, they 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.
- 17.9. The Disciplinary Manager 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.

## **18. Role of Companion at Meetings and Hearings**

- 18.1. An employee may bring a companion to all meetings where a formal warning or dismissal may be a potential outcome. The companion may be either a Trade Union Representative or a workplace colleague. The employee should inform the Case Investigator or Disciplinary Manager conducting the meeting/hearing who their chosen companion is at least 2 working days before the date of the meeting/hearing.
- 18.2. 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.
- 18.3. Acting as a companion is voluntary and colleagues are under no obligation to do so. If they agree to do so they will be allowed reasonable time off from duties without loss of pay to act as a companion.
- 18.4. If the choice of companion is unreasonable the employee can be asked to choose someone else, for example:
  - 18.4.1. if they have a conflict of interest or may prejudice the meeting; or
  - 18.4.2. if the companion works at another site and someone reasonably suitable is available at the site at which the employee works; or
  - 18.4.3. if the companion is not available at the time a meeting is scheduled and will not be available for more than 5 working days afterwards.
- 18.5. A companion may make representations, ask questions, and sum up the employee's position, but will not be allowed to answer questions on the employee's behalf. The employee may confer privately with their companion at any time during a meeting.
- 18.6. The Trust will consider requests for an employee to bring a companion who is not a workplace colleague or union representative (for example, a member of family) as a reasonable adjustment if the employee has a disability. This will be assessed on a case-by-case basis and the Trust is under no obligation to agree to these requests. If permission is granted the role the individual can play in the hearing will be clearly stated, i.e. they may be able to confer privately with the employee but not ask any questions.

## **19. Disciplinary Action**

- 19.1. Disciplinary action taken will be dependent on the facts of the case, the seriousness of the misconduct, whether the employee has any previous disciplinary warnings that are still current, and any mitigating factors raised by the employee.
- 19.2. 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.
- 19.3. Action may be taken as shown below:



|                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
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| <b>No Action</b>             | The panel may find that there is no case to answer or may refer the case back to an informal process.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| <b>Management Guidance</b>   | This action is normally used in cases of minor misconduct and would be live for a period of 6 months. Employees will be written to confirming this outcome, the right of appeal and a management guidance note will be added to the employee file.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| <b>First Written Warning</b> | <p>A first written warning will usually be appropriate for a first act of misconduct where there are no other active written warnings on the employee's disciplinary record.</p> <p>This will be issued in writing and set out the nature of the misconduct, the change in behaviour required, the period for which the warning will remain active, the likely consequences of further misconduct in that active period and the right of appeal. A record of the warning will remain active for 9 months.</p> <p>A first written warning can be an agreed outcome.</p>                                                                                                                                                                                                                                                                                                                              |
| <b>Final Written Warning</b> | <p>A final written warning will usually be appropriate for:</p> <ul style="list-style-type: none"> <li>• misconduct where there is already an active written warning on the employee's record; or</li> <li>• misconduct that is considered sufficiently serious to warrant a final written warning even though there are no other active warnings on the record.</li> </ul> <p>This will be issued in writing and set out the nature of the misconduct, the change in behaviour required, the period for which the warning will remain active, the likely consequences of further misconduct in that active period and the right of appeal. A record of the warning remains active for 12 months. However, in very serious matters a final written warning may be given for a period longer than 12 months but no more than 24 months.</p> <p>A final written warning can be an agreed outcome.</p> |
| <b>Dismissal</b>             | <p>Dismissal or other action short of dismissal will usually only be appropriate for:</p> <ul style="list-style-type: none"> <li>• further misconduct where there is an active final written warning on the record; or</li> <li>• 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).</li> </ul> <p>Notice of dismissal will be provided in writing with the reasons for dismissal, the date on which the employment will terminate, and the right of appeal.</p>                                                                                                                                                                                                                                                                      |



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|  | <p><b>Alternatives to Dismissal</b></p> <p>At the Trust's discretion, action short of dismissal may be considered and would usually be accompanied by a final written warning. Where this is imposed the employee will receive details of the sanction and will be warned that dismissal could result if there is no satisfactory improvement and will be advised of the right of appeal. In these situations, a record of the warning remains active for 12 months. However, in very serious matters a final written warning may be given for a period longer than 12 months but no more than 24 months.</p> <p>Alternatives to dismissal include:</p> <ul style="list-style-type: none"><li>• Demotion</li><li>• Transfer to another department or job</li><li>• Loss of seniority</li><li>• Reduction in pay</li></ul> <p>These sanctions can only be applied with the employee's agreement and, if offered and refused, the dismissal will stand.</p> |
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- 19.4. The outcome of the disciplinary hearing will be confirmed in writing, usually within 5 working days, and will set out the procedure for appeal. Where possible, this information will also be explained to the employee in person.
- 19.5. Whilst current, any written warning would be referred to in any employment reference.
- 19.6. Warnings may be live for a longer period than specified above depending on the seriousness of the misconduct and the wider circumstances of the case. 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.

## **Appeal Process**

### **20. Appeals**

- 20.1. The employee has the right to appeal against the disciplinary action taken against them. This must be in writing, stating the full grounds of appeal and sent to the individual named in the formal outcome letter within 5 working days of the date on which the employee was informed of the decision.
- 20.2. 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.
- 20.3. On receipt of a written appeal, an Appeals Manager who has had no previous involvement in the case, will be appointed and an appeal hearing convened. An

Appeals Manager will, where possible, be a more senior manager than the Disciplinary Manager.

- 20.4. If the appeal is from a member of the ELT or the CEO the Trust will appoint an external, independent, Appeals Manager. In these cases, it may be appropriate for the entire appeals panel to be external to CIT.
- 20.5. For school-based staff the Appeals Manager can be a member of the ELT. For central staff, members of a leadership team, or Headteachers the Appeals Manager will be appointed from the Board of Trustees.
- 20.6. The employee must be given written notice of the date, time and place of the appeal hearing. This will normally be no less than 5 working days.
- 20.7. All appeal hearings will take place during school term time and on a normal working day of the employee under investigation.
- 20.8. Employees who have been invited to attend an appeal hearing will have the right to be accompanied by a Trade Union Representative or a work colleague.
- 20.9. Appeal hearings will require a panel of 3 and a note taker will also be in attendance. Panels should be made of the Appeals Manager and a senior manager, Headteacher, a member of the ELT, a member of a Local School Board, a member of the Trust Board or a suitable external member.
- 20.10. The hearing will not normally be a complete re-hearing and will focus solely on the grounds for appeal 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 Appeals Manager's discretion depending on the circumstances of the case. In any event, the appeal will be dealt with as impartially as possible.
- 20.11. If any new matters are raised in the appeal hearing, further investigation may need to be carried out. The Appeals Manager 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. 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 is reconvened.
- 20.12. Following the appeal hearing, the Appeals Manager may:
  - 20.12.1. confirm the original decision; or
  - 20.12.2. revoke the original decision; or
  - 20.12.3. substitute a different penalty. Ordinarily a penalty will not be increased on appeal unless there is new information or evidence available that requires further investigation.
- 20.13. The employee will be informed in writing of the decision and the reasons for it, usually within 5 working days of the appeal hearing. Where possible, this information will also be explained to the employee in person. There is no further right to appeal.

**Other**

**21. Grievances raised against the taking of Disciplinary Action**

- 21.1. Occasionally, an employee may consider that disciplinary action is not being, or was not, taken against them by reason of their conduct, but instead wholly or mainly by reason of something else.
- 21.2. If the employee wishes to raise a concern about the taking of disciplinary action, they should do so by raising a grievance under the Trust's Grievance Policy. Any issues raised under a grievance relating to an existing disciplinary investigation or process will be considered in the disciplinary hearing or appeal rather than separately and lodging a grievance will not delay a disciplinary process.
- 21.3. If the grievance is not directly related to the disciplinary process but is deemed to be connected significantly enough to have a potential bearing on the disciplinary process, then the grievance should be investigated and completed before the disciplinary proceeds.
- 21.4. If the grievance is of a completely separate nature, then both processes will continue separately following the relevant policy and procedure.
- 21.5. CIT HR must be consulted in all cases when a grievance is raised by an employee who is part of an active disciplinary investigation.

**22. Allegations of Abuse made against Teachers and Support Staff**

- 22.1. Please refer to the Trust's policy Allegations of Abuse Against Staff for further information on the management of these allegations.

**23. Criminal Charges**

- 23.1. Where conduct is the subject of a criminal investigation, arrest, 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. Employees should inform their Headteacher or CIT HR immediately if they are involved in a criminal investigation, arrest or are subject to a charge or conviction. Failure to notify their line manager may result in disciplinary action.
- 23.2. 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.
- 23.3. 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.
- 23.4. 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.

## **24. Referrals to External Bodies**

- 24.1. In cases where employees in regulated activity are dismissed, or removed due to safeguarding concerns or would have done had they not resigned during a disciplinary process, a referral should be made as soon as possible to the Disclosure and Barring Service (all staff) and Secretary of State (teachers only - Teaching Regulation Agency), where the thresholds for referral are met. This could also include when an individual is suspended and redeployed into work that is not regulated activity. A failure to do so when the criteria is met is a criminal offence.

## **25. Records**

- 25.1. Records kept in relation to disciplinary action will be treated as confidential and be kept no longer than necessary in accordance with the Data Protection Act.

## **26. Review of Policy**

- 26.1. This policy is reviewed annually by the Trust. We will monitor the application and outcomes of this policy to ensure it is working effectively.

## **Appendix 1 – Disciplinary Rules**

The aim of the Disciplinary Rules and Disciplinary Procedure is to set out the standards of conduct expected of all staff and to provide a framework within which Headteachers, ELT and line managers can work with staff to maintain those standards and encourage improvement where necessary.

If any employee is in any doubt as to their responsibilities or the standards of conduct expected they should speak to their line manager or a member of Human Resources.

In some cases, employee conduct outside of work may be considered as misconduct or gross misconduct for the purposes of their employment contract. Examples include the inappropriate use of social media which names CIT or colleagues in a derogatory way, action that may bring the Trust into disrepute, police investigations or safeguarding concerns.

### **1. Standard of Expected Conduct**

- 1.1. As employees that represent the Trust, the highest standards of conduct are required at all times to ensure the Trust retains its high reputation. This includes maintaining high levels of both professional and personal conduct. In particular staff should:
  - 1.1.1. Observe the terms and conditions of their contract, particularly with regards to:
    - 1.1.1.1. Hours of work
    - 1.1.1.2. Confidentiality
  - 1.1.2. Ensure they have read and understand the Trust Code of Conduct – Staff
  - 1.1.3. observe all the Trust's policies, procedures and regulations which are available on the CIT website <https://citacademies.co.uk/cit-policies>
  - 1.1.4. take reasonable care in respect of the health and safety of colleagues, pupils and third parties and comply with our Health and Safety Policy.
  - 1.1.5. comply with all reasonable instructions given by management.
  - 1.1.6. act at all times in good faith and in the best interests of the Trust and those of our pupils and staff; and
  - 1.1.7. ensure that you never behave in a way, either inside or outside of work, that indicates you may pose a risk of harm to children/not be suitable to work with children.
- 1.2. Failure to maintain satisfactory standards of conduct may result in action being taken under the Disciplinary Procedure.

### **2. Misconduct**

- 2.1. The following are examples of matters that will normally be regarded as misconduct and will be dealt with under the Disciplinary Procedure:
  - 2.1.1. Minor breaches of the Trust's policies including, but not limited to, the Absence Management Policy, Acceptable use of the Internet and IT systems policy, Code of Conduct – Staff, Communications Policy, Data Protection Policy, Health and Safety Policy, Photography Policy and Social Media Policy.
  - 2.1.2. Minor breaches of an employee's contract of employment.
  - 2.1.3. Damage to, or unauthorised use of, the Trust's property.
  - 2.1.4. Poor timekeeping or time wasting.

- 2.1.5. Unauthorised absence from work.
- 2.1.6. Refusal to follow instructions.
- 2.1.7. Excessive use of the Trust's telephones, email or internet usage for personal reasons.
- 2.1.8. Inappropriate or other offensive behaviour, including using obscene language, victimisation or harassment of other members of staff or pupils.
- 2.1.9. Negligence in the performance of duties.
- 2.1.10. Minor breaches of confidentiality.
- 2.1.11. Smoking in no-smoking areas, which applies to anything that can be smoked and includes, but is not limited to, cigarettes, electronic cigarettes, pipes (including water pipes such as shisha and hookah pipes), cigars and herbal cigarettes; or
- 2.1.12. Failing to follow the Teachers Standards, especially Part Two: Personal and Professional Conduct (Teaching staff only)

2.2. This list is intended as a guide and is not exhaustive.

### **3. Gross Misconduct**

- 3.1. Gross misconduct is a serious breach of contract and includes misconduct which, in the opinion of the Trust, is likely to prejudice its business or reputation or irreparably damage the working relationship and trust between the Trust and the employee. Gross misconduct will be dealt with under the Disciplinary Procedure and may lead to dismissal without notice or pay in lieu of notice (summary dismissal).
- 3.2. The following are examples of issues which might constitute gross misconduct.
- 3.3. These are illustrative only and do not constitute an exhaustive list:
  - 3.3.1. A fundamental and/or wilful breach of the Trust rules, regulations and policies.
  - 3.3.2. Behaving in a way, either inside or outside of work, which could cause harm to a child, or could indicate that you pose a risk of harm to children/may not be suitable to work with children.
  - 3.3.3. Gross negligence or dangerous behaviour, which causes or may cause unacceptable loss, damage or injury.
  - 3.3.4. Grossly indecent or immoral behaviour.
  - 3.3.5. Threatening or violent behaviour, fighting or physical or verbal assault or behaviour which provokes violence.
  - 3.3.6. Fraud, forgery or other dishonesty, including fabrication of expense claims and time sheets, pupil's work, examinations or assessments.
  - 3.3.7. Acceptance or bribes or other secret payments.
  - 3.3.8. Giving false information as to qualifications, entitlement to work (including immigration status), information required on a DBS check or employment references.
  - 3.3.9. Failure to declare a financial interest in contracts deemed a conflict of interest.
  - 3.3.10. Making a false declaration or failing to disclose information in relation to the disqualification from childcare requirements or becoming disqualified from providing childcare.
  - 3.3.11. Undertaking private work on the premises during working hours.

- 3.3.12. Unauthorised access, use or disclosure of confidential information or failure to ensure that confidential information in your possession is kept secure.
- 3.3.13. Theft or misappropriation of money or property whether belonging to the Trust, another employee or a third party.
- 3.3.14. Being under the influence of alcohol, illegal drugs or other substances during working hours or not being capable of fulfilling your duties because of the effects of alcohol or illegal drugs or other substances.
- 3.3.15. Possession, use, supply or attempted supply of illegal drugs.
- 3.3.16. Destruction/sabotage of Trust buildings, property or equipment or damage to any property of a colleague, contractor, pupil or member of the public.
- 3.3.17. Serious or repeated breach of health and safety rules or serious misuse of safety equipment.
- 3.3.18. Repeated or serious failure to obey instructions, or any other serious act of insubordination.
- 3.3.19. Allowing or assisting any unauthorised person to gain entry to the premises.
- 3.3.20. Serious neglect of duties, or a serious or deliberate breach of your contract or operating procedures.
- 3.3.21. Deliberately driving on Trust business without an appropriate licence and/or the appropriate insurance.
- 3.3.22. Harassment of, or discrimination against, employees, pupils, parents or members of the public, related to any of the protected characteristics contrary to the Trust's Equal Opportunities and Diversity at Work Policy for Employees.
- 3.3.23. Conviction or caution for a criminal offence that in the opinion of the Trust may affect our reputation or our relationships with our staff, pupils, parents or the public, or otherwise affects the employee's suitability to continue to work for the Trust.
- 3.3.24. Failure to inform the Senior Leadership Team of any criminal charges/convictions or police cautions that are relevant to the employee's employment.
- 3.3.25. Serious failure to follow the Trust's or School's Safeguarding and Child Protection Policy and Procedure.
- 3.3.26. Inappropriate conduct with children or young people, including failing to maintain appropriate professional boundaries.
- 3.3.27. Serious breaches of the Trust's Communication Policy, Data Protection Policy, Acceptable use of the Internet and IT systems Policy, Photography Policy and Social Media Policy.
- 3.3.28. In respect of teaching staff, a serious breach of the standards of professional conduct as set out in the Teacher's Standards or unacceptable professional conduct.
- 3.3.29. Any conduct which indicates that the employee no longer intends to be bound by his or her duties or which calls into question the mutual bond of trust and confidence that must exist between the employer and the employee.
- 3.3.30. Making a disclosure of false or misleading information under our Whistleblowing Policy maliciously, for personal gain, or otherwise in bad faith.
- 3.3.31. Making untrue, or malicious, allegations in bad faith.
- 3.3.32. Victimising a colleague who has raised concerns, made a complaint or given evidence information under the Whistleblowing Policy, Grievance Policy, Disciplinary Policy or otherwise.

- 3.3.33. Making covert recordings of colleagues or managers.
  - 3.3.34. Serious misuse of the Trust's property or name.
  - 3.3.35. Deliberately accessing internet sites at work or at home, using Trust equipment, which contain pornographic, offensive or obscene material.
  - 3.3.36. Brining the Trust into serious disrepute.
  - 3.3.37. Unauthorised use, processing or disclosure of personal data contrary to our Data Protection Policy.
  - 3.3.38. Intentionally failing to escalate a concern regarding an incident of sexual harassment at work
- 3.4. In some instances, offences which would normally constitute gross misconduct may be considered as misconduct because of mitigating circumstances. Similarly, issues which would normally be treated as misconduct may, in certain circumstances, be considered so serious that they constitute gross misconduct.