



Disciplinary Procedure

Approved	22.10.20
Version	5.0.1
Review	Sept 2024

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1.0 INTRODUCTION

- 1.1 The purpose of the procedure is to uphold the standards of conduct expected of The Diocese of Hereford Multi-Academy Trust (Trust) staff and to ensure fairness and consistency in the treatment of staff who are subject to disciplinary investigation and action. Copies of the procedure will be made available to all Trust staff.
- 1.2 This disciplinary procedure, agreed with the appropriate professional associations/trade unions representing staff employed in Trust academies, has been adopted by the Board of Directors of the Trust and is effective from **23rd April 2018**
- 1.3 The procedure is drawn up with a need to ensure compliance with relevant employment legislation, relevant regulations relating to academy governance and the relevant terms and conditions of service for staff employed within the Trust. It also fully reflects advice contained in the ACAS Code of Practice on Disciplinary and Grievance Procedures. Headteachers¹ and Local Academy Board (LAB)² members should seek HR advice on the operation of the procedure.
- 1.4 Headteachers have an obligation to advise their staff when their conduct falls below acceptable standards. Staff also have a right to be advised of management concerns, to have the opportunity to express views and opinions about the concerns, and, if necessary, be clearly advised what they need to do to rectify any failings.
- 1.5 This disciplinary procedure is not to be used for capability and sickness absence management matters. It should be used where staff have wilfully, or deliberately, refused to perform their duties in a satisfactory manner, or have committed an act of misconduct. These include negligence, lack of application on the part of the employee, or problems resulting from an employee's inappropriate attitude ('can but won't'). This is distinct from where the problems are due to the result of the employee's inability to undertake the duties of their post due to insufficient skill or aptitude ('would but can't'). A separate capability procedure should be used for dealing with such performance issues.

¹ Headteacher will also refer to Executive Headteachers, depending on the individual academy.

² LAB will also refer to a Strategic Task Group, depending on the individual academy

2.0 SCOPE

- 2.1 This procedure covers all academy-based Trust staff, other than the Headteacher.
- 2.2 The procedure will be applied fairly and consistently to such staff regardless of:
- Racial group
 - Gender
 - Disability
 - Marital or civil partnership status
 - Sexual orientation
 - Age
 - Religion or belief
 - Transgender
 - Trade union membership
 - Contract type (i.e., it applies to full time and part time staff and also to staff employed regularly on a temporary or fixed term contract, but not the non-renewal of such contract)

3.0 OVERVIEW

- 3.1 The disciplinary procedure is the means by which rules are observed and standards are maintained. The aim of the procedure is to encourage the employee to improve, rather than purely as a way of imposing punishment. This procedure is for managing conduct which falls short of the required standard.
- 3.2 The procedure should be applied fairly and consistently. The Headteacher, and other designated senior academy staff, should deal with issues promptly as they arise. This has the potential of stopping minor issues escalating into more serious cases.
- 3.3 There are two fundamental aspects of the disciplinary process: Informal Management Action and the Formal Disciplinary Action. In cases where the misconduct is minor, it is best dealt with through the informal route. However, in cases where the informal route has not had the desired effect, or the misconduct is considered too serious, the formal route should be followed. The formal route requires an investigation to be carried out.

4.0 GENERAL

- 4.1 This disciplinary procedure will be used when an employee's conduct at work is considered to be unacceptable. Disciplinary action may also be considered in relation to acts of misconduct which take place outside of work, depending on the nature of the misconduct in relation to the member of staff's role and responsibility to the academy. When considering action under this procedure because of concerns about an employee's conduct, the Headteacher should seek advice from HR. **In safeguarding cases, reference should be made to the Dealing with Allegations against Staff Procedure.**
- 4.2 The Board of Directors, on behalf of the Trust, has delegated its power to dismiss any member of staff at the academy to:
The Headteacher of the dismissing academy recommending to a Staff Dismissal Committee comprising a minimum of three members, to include one member of the LAB (usually the Chair) and Chief Executive Officer or Operations Manager of the Trust (as per the Scheme of Delegation).
- 4.3 Where a committee is convened to hear an appeal against disciplinary action taken by a committee, including dismissal, no members of the first decision making committee shall sit as members of the committee established to consider the appeal.
- 4.4 A committee acting in accordance with this procedure shall report, as necessary, on its actions to the Board of Directors and, when appropriate, the LAB.
- 4.5 This procedure shall not be construed as restricting the right of the Trust to dismiss a member of staff summarily after a hearing for gross misconduct, or as requiring the Trust to give notice in any case where a contract of employment is terminated by expiration of time, frustration or any other rule of law.
- 4.6 The objective of this procedure at all stages before consideration of dismissal, should be to encourage improvement in the member of staff's conduct. Both parties should adopt a constructive approach.
- 4.7 No formal disciplinary steps should be initiated against an official of a recognised trade union, unless the circumstances of the case have been discussed beforehand with a full-time paid official of the union concerned.

- 4.8 The procedure is based upon the assumption that the investigation of disciplinary matters is normally carried out by an appropriate person, appointed by the Headteacher. The investigation will be conducted in accordance with the investigation section on this procedure.
- 4.9 The Trust reserve the right to seek assistance from suitably experienced and/or qualified external experts at any stage in the procedure, in the interests of seeking a satisfactory outcome for all those concerned.

5.0 INFORMAL MANAGEMENT ACTION

- 5.1 This procedure allows for the Headteacher, and other designated senior academy staff, to deal with matters of concern about a member of staff's conduct on an informal basis, where appropriate. In such cases, the member of staff should be spoken to privately and at an early opportunity. The cause for concern should be outlined and the member of staff should be given a right of reply. The desirability of giving a member of staff reasonable time to improve his/her conduct is emphasised. Advice to Headteachers, and other designated senior academy staff, on dealing with matters of conduct on an informal basis is given in Appendix A.

In all other circumstances where concerns have been raised, an investigation must be conducted as set out in this procedure.

6.0 SUSPENSION FROM DUTY

- 6.1 The Headteacher and the Chair of the LAB both have the power to suspend, without loss of emoluments, any member of staff where, in their opinion, exclusion from the academy is required. **It is the duty of the Headteacher or Chair of the LAB, prior to exercising that power, to inform the CEO.** This procedure assumes that an action to suspend will be instigated by the Headteacher, in consultation with the Chair of the LAB and/or the CEO. Any suspension may only be ended by the Chair of the LAB and/or the CEO. The Chair of the LAB, on ending a suspension, shall immediately inform the Headteacher and CEO.
- 6.2 A member of staff may be suspended in cases where they are thought to have committed an act of gross misconduct, or where misconduct may have occurred and there are grounds for doubt as to the suitability of the person to continue at work, pending an investigation. In the latter case, this could include where it is considered that through remaining at work the member of staff could impede a full and fair investigation, or it may be detrimental to their wellbeing.

- 6.3 Suspension will not be imposed automatically, consideration will be given to the particular circumstances and the feasibility of alternative action, such as temporary transfer of duties. **HR advice must be taken in all cases where the suspension of a member of staff is being considered.** Suspension will be confirmed in writing, within one working day of the employee being suspended and will include specific reasons for the suspension. A suspension decision will consider the potential professional reputational damage to the employee that can result from suspension where an allegation may later be found to be unsubstantiated, unfounded or malicious.
- 6.4 Wherever possible, a member of staff, if he/she is a trade union/professional association member, will be given opportunity to have a representative present at any meeting where suspension is to be considered. Where this is not possible, a meeting to include a representative will then be organised to discuss the terms of suspension. In an emergency where immediate HR advice is not available, the Headteacher may send a member of staff home whilst advice is sought over whether a suspension is required. If the member of staff is an official of a recognised trade union, then prior to suspension there should be discussion with a full-time paid official of the union concerned. Guidelines for suspension are in Appendix E.
- 6.5 Suspension, in itself, does not constitute disciplinary action; it is intended to be a neutral act. During a period of suspension, a member of staff will (normally) continue to receive contractual pay in accordance with their terms and conditions of employment, provided they comply with the conditions outlined in the letter of suspension. Suspensions will be reviewed regularly and where the suspension period extends longer than 4 weeks, the suspension will be reviewed monthly thereafter.
- 6.6 If the Trust, or any of its academies, receive notification from the Teaching Regulation Agency (TRA) that a member of staff is prohibited from teaching (including an interim prohibition order), the member of staff will be immediately removed from teaching and called to a consideration of suspension meeting. The timescale and process followed thereafter would be in line with any information received from the TRA.

- 6.7 On being suspended, a member of staff will be assigned a named Support Officer as a point of contact, who is not involved in the investigation, with whom the member of staff may keep in contact throughout the period of their suspension. They will also have support available to them from the Trust's Employee Assistance Programme (EAP). The employee must not contact other employees, partners, LAB members, pupils, parents or members of the Trust or access Trust/Academy communication and information networks without prior consent from the Headteacher. The employee must comply with any requests from their Headteacher or support officer to return items or property, for example keys, IT equipment etc. for the period of suspension.
- 6.8 If during suspension, there is a change in the member of staff's contact address or other personal circumstances, he/she must notify their named contact immediately. They must also be available during the period of the suspension to attend an interview at any time during normal working hours. This includes attendance at an interview with the investigating officer and any formal disciplinary hearing.
- 6.9 If the member of staff is certified as sick, and produces a medical certificate during their suspension, this will be treated as sickness in accordance with the rules of the relevant sick pay scheme. The terms of the suspension will continue to apply during any such period of sickness but medical certificates must be sent promptly to the academy.
- 6.10 If it is agreed that the employee will return to work following suspension, their return will be carefully planned to ensure that this is managed as sensitively as possible for all individuals affected.

7.0 CONDUCTING THE INVESTIGATION – ROLE OF INVESTIGATING OFFICER

- 7.1 The Headteacher will appoint an investigating officer whose role will be to establish, as far as possible, the facts of the case through collection and collation of evidence calling on assistance as necessary to do so. Staff conduct matters will be dealt with and investigated as quickly as possible, but any investigation will be as thorough as is necessary and reasonable in the circumstances. The investigating officer will ensure all interviewed during the investigation are aware of the importance of confidentiality.

- 7.2 The investigating officer will interview relevant witnesses who are likely to be in a position to give direct, or when appropriate indirect, evidence. Witnesses will be informed that their evidence will be included in a report of the investigation which could then be subject to consideration at a formal disciplinary hearing. Consideration will be given to whether witnesses are offered the option of being accompanied at the interview, e.g., by a work colleague or representative, in order that they feel secure and supported. If pupils are to be interviewed as witnesses, particular consideration will be given to who should support them. The investigating officer will ensure that the evidence of witnesses is supported by signed and dated written statements, or through them signing and dating a record of the interview held.
- 7.3 The investigating officer will interview the member of staff whose conduct is the cause for concern. Prior to the interview, the member of staff will be informed of the nature of the concerns and that they can be accompanied to the interview by a professional association/trade union representative or work colleague. The investigating officer will confirm to the member of staff that the purpose of the investigation interview is to establish any facts surrounding the matter(s) of concern, and not to make a decision about further action
- 7.4 On completion of all the interviews, the investigating officer will prepare a written report for consideration by the Headteacher. The report will set out the findings arising from the investigation and will include signed statements from the interviewees and any other relevant documentation. The investigating officer will draw specific attention within the report of any breach of relevant standards, policies/procedures, specific rules or aspects of the Trust's Code of Conduct which have been evidence. The investigating officer will not include in the report any recommendation or advice on action which should be taken by the Headteacher

8.0 PROCEDURE AT AND AFTER FORMAL DISCIPLINARY HEARINGS

- 8.1 Following an investigation in accordance with this procedure, it may be necessary to hold a formal disciplinary hearing. This is a matter for the Headteacher's professional judgement. In exceptional circumstances the Headteacher may decide, following the investigation, to deal with the matter under informal management action.

- 8.2 When a formal disciplinary hearing is deemed necessary the member of staff must receive notice of such a hearing in writing at least five clear working days (Monday to Friday excluding bank holidays) in advance of the date and time of the hearing. The allegations giving rise to concern will be confirmed in sufficient detail for a response at hearing to be prepared. A copy of the investigation report and this disciplinary procedure should also be attached to the letter requiring the member of staff to attend. The letter should be delivered by hand or by prepaid recorded delivery to the individual's last notified home address. Action under this paragraph will normally only be taken following consultation with HR.
- 8.3 There may be circumstances where following consideration of the report of the investigation the Headteacher feels it appropriate to refer the matter for consideration by the Staff Dismissal Committee without firstly conducting a formal disciplinary hearing. This procedure allows such action in the following circumstances:
- the Headteacher feels that there is clear evidence that an act constituting gross misconduct has been committed.
 - the Headteacher feels that there is clear evidence of misconduct on the part of a member of staff for whom a final written warning, issued under the disciplinary procedure, is in place; or
 - the matters of concern relate to a member of staff's conduct towards the Headteacher and it is therefore considered that it would be inappropriate for the Headteacher to sit in judgement of any action.
- 8.4 Prior to deciding to take action in accordance with this paragraph the Headteacher will take advice from HR. Where it is then decided to directly refer on the matter as described a meeting of the Staff Dismissal Committee will be arranged.
- 8.5 Where the Headteacher decides to hold a formal disciplinary hearing the member of staff must be informed in the letter that he/she may be accompanied by a trade union/professional association representative or work colleague.
- 8.6 The disciplinary hearing shall be postponed for a reasonable period if the Headteacher is satisfied on medical or other grounds that the member of staff is unavailable, or is unable to be represented at the time given. The member of staff must make all reasonable efforts to attend any formal disciplinary hearing.
- Where a member of staff fails to attend without proper reason, is unable or unwilling to attend the hearing without good cause and is unable to substitute a proposed alternative date, within 5 working days, then the hearing may proceed in

the member of staff's absence and a decision may be made on the basis of the available evidence.

In such circumstances the member of staff would be given opportunity to submit written representations and informed in writing the hearing may proceed in their absence.

- 8.7 If a member of staff has a disability, or their fluency in English is restricted and in either case their ability to represent themselves during the disciplinary process may be affected, the member of staff should notify the Headteacher or HR immediately. The Headteacher will then consider what, if any, steps it can take to ensure that the member of staff is not unreasonably disadvantaged during the disciplinary process.
- 8.8 Members of staff are entitled to know the evidence which has given rise to the disciplinary hearing. Any documentary evidence which the investigating officer or Hearing Officer wishes to introduce into the proceedings shall be supplied to the member of staff and his/her representative. The Headteacher must ensure that all evidence and documentation being relied upon at a formal disciplinary hearing is included as part of this disciplinary documentation. Where other employees, pupils or individuals are named it may not be appropriate to release complete documents but an extract must be provided sufficient to enable the member of staff to respond to the matters which have given rise to the disciplinary hearing. This documentary evidence will normally be attached to or included in the letter convening the hearing.
- 8.9 Witnesses will not normally be called at formal disciplinary hearings, although the report by the Hearing Officer or investigating officer, should give sufficient detail about information provided by witnesses which is relevant to the proceedings.
- 8.10 Each hearing held within this procedure shall normally be conducted on the basis set out at Appendix B. A HR representative will normally attend the hearing in order to provide advice.
- 8.11 Where, after a formal disciplinary hearing, the Hearing Officer is satisfied that the grounds for complaint against the member of staff have not been substantiated, no disciplinary action shall be taken. The Hearing Officer will be responsible for ensuring that all papers relating to the matters giving rise to the hearing are removed from the member of staff's file. The individual shall be notified of the position in writing.

8.12 Where the Hearing Officer decides that disciplinary action short of dismissal is appropriate, he/she will make a decision, taking into account any advice received from HR. Wherever possible an oral decision will be given following the hearing and followed up in writing. Where this is not possible confirmation of the decision should be sent by letter to the member of staff as soon as possible after the hearing, with a copy provided for the member of staff to give to the representative involved, if he/she so wishes. A copy should also be sent to the HR representative. The decision will be one of the following:

1. no further formal action (although advice as to the employee's future conduct may be necessary and an archive record may be retained on the personal file);
2. formal verbal warning (confirmed in writing);
3. formal written warning;
4. formal final written warning;
5. alternatives to dismissal

8.13 Where the decision of the Hearing Officer is to issue the member of staff with a warning, the letter confirming the decision should include:

1. confirmation of the status of the warning;
2. a summary of the reasons for the decision;
3. clear details of the corrective action required of the member of staff;
4. confirmation of the period over which the warning will be reviewed;
5. a statement of the consequences of failing to achieve the desired improvement. This will usually involve reference to further disciplinary action being considered, or, in the case of a final written warning, to the possibility of dismissal;
6. confirmation of the member of staff's right of appeal against the decision.

8.14 Where following the disciplinary hearing the Hearing Officer decides that consideration should be given by the Staff Dismissal Committee to dismissal, the Hearing Officer will refer the matter for consideration by the Staff Dismissal Committee. Wherever the question of dismissal is referred to the Staff Dismissal Committee the Hearing Officer shall wherever possible inform the member of staff orally following the hearing. Where this is not possible the Hearing Officer shall write and confirm his/her decision as soon as possible after the hearing and provide a second copy of the letter for the member of staff to give to the representative involved, if he/she so wishes. A copy should also be sent to the HR representative.

- 8.15 In any case a record of the hearing will be prepared and attached to the letter, or if this is not practicable, provided as soon as possible. The record will reflect the content of the hearing but will not be a verbatim report. If the member of staff is dissatisfied with the record of the hearing, the reasons for his/her dissatisfaction shall be considered and, unless satisfactorily resolved, shall be recorded.

9.0 FORMAL DISCIPLINARY WARNINGS

- 9.1 If the circumstances warrant following the procedure set out above, the member of staff will be given a formal warning in accordance with the warning set out below unless it is a case where dismissal is regarded as the appropriate disciplinary action. The reason for the warning, the period of review and the corrective action required must be stated clearly.
- 9.2 **Formal verbal warning** - Where the Headteacher is satisfied that the employee's conduct has been below the required standard, a formal verbal warning may be issued and confirmed in writing. The record of this warning will be retained on the personal file and the record will no longer be considered as current after a period of six months' satisfactory conduct. The employee's conduct will not be deemed to have been satisfactory if any further warning has been issued within the six-month period.
- 9.3 **Formal written warning** - In more serious cases, or where one or more recorded verbal warnings appear not to have had the desired effect, a formal written warning may be issued. The record of this warning will be retained on the personal file and will no longer be considered as current after a period of 12 months' satisfactory conduct. The employee's conduct will not be deemed to have been satisfactory if any further warning has been issued within the 12-month period.
- 9.4 **Formal final written warning** - A formal final written warning may be issued after more than one formal warning, or in circumstances where the misconduct is sufficiently serious to warrant such action. The letter to the employee must make it clear that any further unsatisfactory conduct could result in dismissal. The record of this warning will be retained on the personal file and will no longer be considered as current after a period of two years' satisfactory conduct. Conduct will not be deemed to have been satisfactory if any further warning has been issued within the two-year period.
- 9.5 Written records of the investigation, report, hearing and sanction will be retained on an employee's file. It will only be considered as a current record for the duration of any disciplinary sanction.

Where no action is taken records will be retained on file for six months.

- 9.6 It should not be considered that there is a graduated system of warnings which will apply in all cases. Depending on the nature of the offence, it may be appropriate to issue a warning at any of the levels described.

9.7 Alternatives to dismissal

In some cases, it may be appropriate for consideration of the following alternatives to dismissal:

- Demotion
- Transfer to another department or job
- A period of suspension without pay
- Loss of seniority
- Reduction in pay
- Loss of future pay increment or bonus
- Loss of overtime

- 9.8 **Dismissal** - A decision to dismiss a member of staff may follow an earlier warning or warnings to which the member of staff has failed to respond or to respond adequately. In a case of gross misconduct, however, a member of staff may be dismissed without a prior warning. Where the reason for dismissal is other than for gross misconduct, the member of staff's statutory and contractual notice entitlements shall be observed, although payment in lieu of notice may be appropriate.

- 9.9 Acts of gross misconduct fundamentally breach the trust and confidence required in any employment relationship and will normally lead to dismissal without notice. Whilst such acts cannot be comprehensively defined, the following list gives examples of offences which are deemed to fall into this category and may warrant dismissal:

- a) theft, fraud, unauthorised possession of academy property, deliberate falsification of records or any other form of dishonesty.
- b) acts or threats of physical violence, obscene or abusive behaviour.
- c) acts that seriously breach the academy's adopted Equality policy, including any form of unlawful discrimination, victimisation, bullying or harassment of pupils or colleagues.

- d) Making a false declaration or failing to disclose information in relation to being disqualified from the provision of childcare, or becoming disqualified from providing childcare.
- e) deliberate and/or serious damage or misuse of academy property.
- f) deliberate and/or serious misuse or abuse of the academy's ICT facilities or equipment.
- g) serious acts of insubordination.
- h) incapability whilst on duty through use of alcohol or illegal or non-prescribed drugs.
- i) unauthorised disclosure of confidential information, bringing the academy into serious disrepute.
- j) Conviction of a criminal offence which adversely affects the reputation of the Council and its interests. (Subject to the nature of the offence).
- k) malicious transmitting of confidential information pertaining to the organisation.
- l) unauthorised access to computer records and/or misuse of the computer, email or internet facilities.
- m) serious negligence or breach of health and safety rules which may cause unacceptable loss, damage or injury.
- n) Abandoning duty without notification.
- o) Unauthorised absence.

9.10 Where a member of staff is dismissed, a referral to the TRA will be considered. If a referral is made the member of staff will be informed in writing.

9.11 If a member of staff is dismissed as a result of safeguarding concerns, a referral to the Disclosure and Barring Service will be considered. If a referral is made the member of staff will be informed in writing.

10.0 REFERRAL TO THE STAFF DISMISSAL COMMITTEE

10.1 Where the Headteacher decides that consideration should be given by the Staff Dismissal Committee to dismiss; a meeting of the Committee will be arranged in order for the case to be heard.

10.2 A meeting of the Staff Dismissal Committee will be convened as soon as practicable giving the parties at least ten working days' notice of the hearing. A

HR representative will attend the hearing in an advisory capacity. The hearing will normally be held during working hours.

10.3 The procedure to be followed at the hearing shall be as set out at Appendix C.

Where the Headteacher has referred concerns over a member of staff's conduct without firstly holding a formal disciplinary hearing both the Headteacher and the investigating officer will attend the hearing. The member of staff may be accompanied at the hearing by a trade union/professional association representative or work colleague.

The decision shall be one of the following:

- a) to exonerate the employee and direct that all references to the matter be removed from their personal file;
- b) to find that the allegations are proven in whole or in part and accordingly:
 - resolve that no action be taken, or
 - issue a warning in accordance with the formal disciplinary warning section above, or
 - determine that the employee ceases to work at the academy and is summarily dismissed (without notice) or dismissed with notice or pay in lieu of notice from their employment with the Trust.

10.4 The decision of the Staff Dismissal Committee will, wherever possible, be issued orally at the conclusion of the hearing. Any decision of the Committee must be confirmed by the Chair of the Committee in a letter sent to the member of staff and in the case of dismissal must clearly state the grounds of dismissal, the date the dismissal takes effect, and his/her right of appeal. Two copies of the letter will be sent to the member of staff who should be asked to sign and return one copy as an acknowledgement. Notice will be withdrawn should an appeal be successful.

11.0 APPEAL PROCESS

11.1 A member of staff shall have a right of appeal to the Appeals Committee against any formal disciplinary action, including a decision of dismissal taken against him/her (excluding a decision to suspend), and must be notified of this right in the written confirmation of the action taken. In all cases an intention to appeal must be notified in writing to the CEO, stating the grounds of appeal within five working days of receipt of the letter confirming the disciplinary action that has been taken.

11.2 The grounds of appeal should make it clear whether the appellant contests the evidence put forward by way of new evidence, or otherwise, or whether the appeal is on the grounds of undue severity or inconsistency of the disciplinary sanction. The hearing will normally be held during working hours.

- 11.3 The appeal will hear the grounds of appeal and a review of the evidence, including any new evidence arising. Evidence which has been submitted at the earlier hearing should be circulated in advance of the appeal. Where possible this should indicate where evidence is disputed.
- 11.4 The procedure to be followed at the hearing will be as set out at Appendix D. The member of staff may be accompanied by a trade union/professional association representative or work colleague. A HR representative will attend the hearing in an advisory capacity.
- 11.5 The grounds on which the employee can appeal are:
- This procedure was not followed, and/or
 - The outcome of the disciplinary hearing was unreasonable or inappropriate, and/or
 - New, or additional, information has come to light which was not available at the time of the hearing.
- 11.6 The appeal panel will decide either that:
- The disciplinary outcome was appropriate and should stand; or,
 - The disciplinary outcome should not have been imposed, or the outcome was inappropriate, in which case they will determine what measure is appropriate.

12.0 REVIEW AND REMOVAL OF WARNINGS

- 12.1 Other than in the case of a final written warning, where it will be indicated that any further misconduct may lead to dismissal, it will be appropriate for future disciplinary purposes only to remove and disregard a warning on a member of staff's record after the period of satisfactory conduct.
- 12.2 During the period of the warning the member of staff's conduct should be monitored. Review meetings should take place halfway through, and at the end of the review period. Immediately prior to each review meeting, a written report on the member of staff's conduct should be provided for consideration at the meeting. If a review indicates that there has been a satisfactory improvement in conduct, a note to that effect should be placed on the member of staff's personal file. If the review indicates insufficient improvement in conduct, further disciplinary steps may need to be initiated in accordance with this procedure.
- 12.3 When deciding what disciplinary action is to be taken against a member of staff, after an earlier formal warning (or warnings), the Headteacher will consider all relevant factors, including periods of satisfactory service, the length of time which

has elapsed since any disciplinary action, any instructions previously issued, and any pattern in conduct which is a cause for concern.

- 12.4 In the case of a final written warning a review meeting should be held following a period of one year and again one month before the period terminates. If the Headteacher decides not to remove the warning following the final review meeting, the member of staff may request a written statement of the reasons for the decision and shall be entitled to appeal against the decision to the Appeals Committee with delegated responsibility for hearing appeals under this procedure.
- 12.5 Other than where on an appeal the Committee decides that a final written warning should remain in force for a specified period, the Headteacher shall thereafter review the warning normally at intervals of two years and inform the member of staff of his/her decision. At each such review, if dissatisfied with the Headteacher's decision, the member of staff shall be entitled to appeal as above.
- 12.6 Where it is decided to remove and disregard a disciplinary warning for future disciplinary purposes, a note recording this decision shall be placed on the member of staff's personal file. A copy will be sent to them for information.
- 12.7 If, for any reason, the member of staff is absent from work for a period of one month or more, then the duration of any warning will be automatically extended by the amount of time that they are absent.

13.0 RETENTION OF DOCUMENTS

- 13.1 The records of any meetings concerned with discipline are likely to be classified as sensitive data and will be kept confidentially and securely.

14.0 COMPLIANCE

- 14.1 Failure to follow this procedure may impact on good employee relations and the reputation of the Trust and/or it's academies as a good employer. In addition, it may result in the Trust breaching employment legislation, incurring financial penalties and/or damage to it's reputation.
- 14.2 Headteachers who fail to manage in accordance with this policy will be investigated by the LAB and this may lead to formal disciplinary action under the Headteacher disciplinary procedure.

INFORMAL MANAGEMENT ACTION

- A.1 The Headteacher has a responsibility for the leadership, internal organisation, management and control of the academy. This duty will require the Headteacher from time to time to use informal management action (advice or admonition) in relation to the conduct of staff.
- A.2 In discharging the responsibility, the Headteacher may need to take informal management action in relation to staff in cases of minor misconduct. (Such action will include constructive criticism and providing support and advice as appropriate). This informal management action will be directed towards registering with the individual the nature of the concern in order to bring about improvement. The Headteacher may delegate this process to a senior member of the academy staff.
- A.3 The aim of such action is to resolve the issue informally to avoid escalating to the formal procedure. Informal management action is a two-way dialogue to constructively discuss the issue, to ascertain what action, support, training and advice is appropriate, to enable the Headteacher and employee to agree that sustained improvement needs to be made.
- A.4 The member of staff should be verbally invited to an informal meeting with reasonable notice where possible. The aim of the informal meeting is to adopt a positive approach to the issue through direct dialogue between Headteacher (or other senior manager) and member of staff.
- A.5 Where the attention of a member of staff is drawn to an aspect of his/her conduct an appropriate note of the cause of concern, together with any response from the member of staff and any remedial action proposed or taken, may be included on his/her personal file. It is expected that such action will be taken by the Headteacher and no further report will be required. Any such note must state clearly that it relates to informal management action only, and a copy be given to the member of staff concerned. It is agreed that it will be appropriate for the Headteacher to remove from the file and disregard material relating to informal action after a period of satisfactory conduct, which should be no longer than 3 months from the date of the meeting. The Headteacher should notify the member of staff of the decision to remove from the file the note of the informal action. If the matter being considered is related to a safeguarding issue, the Headteacher may decide to retain a copy of the note.
- A.6 If following informal action there is a continuing need to address matters of conduct, the Headteacher will consider whether further informal action is appropriate or whether to take action under the formal disciplinary procedure.

- A.7 The disciplinary procedure envisages the exercise of management functions by the Headteacher as indicated above where the concerns which arise are such that they warrant being addressed on an informal basis.
- A.8 If it appears during the meeting that the issue is more serious than at first anticipated the meeting should be terminated and the formal process started.

PROCEDURE AT FORMAL DISCIPLINARY HEARING

- B.1 The Hearing Officer, normally the Headteacher, will introduce those present, and confirm the status and purpose of the hearing.
- B.2 The Investigating Officer will present a report setting out the grounds for complaint against the employee.
- B.3 The Hearing Officer may ask questions of the investigating officer if a report has been presented in this way.
- B.4 The employee together with his/her representative may ask questions of the investigating officer.
- B.5 The employee or his/her representative may make an oral or written statement.
- B.6 The Hearing Officer (and the investigating officer) may ask questions of the employee and his/her representative.
- B.7 The Investigating Officer will be invited to sum up the case.
- B.8 The employee or his/her representative will be invited to sum up the case.
- B.9 At the conclusion of the hearing the parties and any other persons present with the exception of the HR representative, shall withdraw whilst the Hearing Officer deliberates. Arrangements for the decision to be communicated will be communicated prior to the parties' withdrawal.

Notes:

- Arrangements will be made for a record of the hearing to be taken. This record will not normally be a verbatim report but should aim to accurately reflect the content of the hearing and will be provided for both parties' information.
- Either party may present documentary evidence, copies of which shall be served upon the other party at least five working days in advance of the hearing date.
- Any party may call for an adjournment during proceedings. Whenever possible a room will be provided for the employee and his/her representative for use outside of the hearing.

STAFF DISMISSAL COMMITTEE

- C.1 The Chair will introduce those present, confirm the purpose of the hearing and process to be followed and confirm that either side may request an adjournment at any stage of the proceedings.
- C.2 The Headteacher will be invited to present the case (calling such witnesses as may be necessary) *.
- C.3 The employee, or his/her representative, may ask questions of the witnesses (where called) and of the Headteacher.
- C.4 The Headteacher may re-examine the witnesses (where called).
- C.5 The employee, or his/her representative, will be invited to present the case (calling such witnesses as may be necessary).
- C.6 The Headteacher may ask questions of the witnesses (where called), the employee and, where the employee's representative gives evidence, of the representative.
- C.7 The employee or his/her representative may re-examine the witnesses (where called).
- C.8 Members of the Committee may ask questions of the parties or witnesses at any stage but will seek to confine questioning until after questioning of witnesses is completed and prior to re-examination of the parties.
- C.9 The Headteacher will be invited to sum up the case.
- C.10 The employee or his/her representative will be invited to sum up the case.
- C.11 At the conclusion of the hearing the parties and any other persons present with the exception of the HR representative, shall withdraw whilst the Committee deliberates. Arrangements for the decision to be communicated will be communicated prior to the parties' withdrawal.

*NB. Where the hearing has been called by the Headteacher without a formal disciplinary interview first being held, the Headteacher will be accompanied by any investigating officer who will be considered as a "witness" for the purpose of above proceedings.

Notes:

- Arrangements will be made for a record of the hearing to be taken. This record will not normally be a verbatim report but should aim to accurately reflect the content of the hearing and will be provided for both parties' information.
- The Chair of the Committee may during the process above recall witnesses or call for further evidence on specific points but if it becomes necessary to act in this way following conclusion of the hearing then both parties must be recalled.
- Either party may present documentary evidence, copies of which shall be served upon the other party at least five working days in advance of the hearing date.
- The employee, in addition to his/her representative or friend who may present his/her case, may be accompanied by one other assistant who takes no active part in the proceedings. The Headteacher, in addition to making use of a clerical assistant, may receive advice from a representative or friend who will take no active part in the proceedings.
- Witnesses shall only be present whilst giving evidence unless the Chair of the Committee directs otherwise.
- Any party may call for an adjournment during proceedings. Whenever possible a room will be provided for the employee and his/her representative for use outside of the hearing.
- Where the Committee decide that dismissal is not appropriate, they may impose a sanction short of dismissal in accordance with this procedure. There will be a right of appeal against a sanction short of dismissal in accordance with this procedure.

APPEAL HEARING PROCEDURE

Under this procedure the Committee has the power to confirm or vary any decision of the Headteacher, taking into account any advice from HR representative at their hearing. Their decision is final.

- D.1 The Chair will introduce those present, confirm the purpose of the hearing and process to be followed and confirm that either side may request an adjournment at any stage of the proceedings.
- D.2 The employee or his/her representative will be asked to present the grounds for the appeal (calling such witnesses as may be necessary).
- D.3 The Headteacher may ask questions of the witnesses (where called), the employee and, where the employee's representative gives evidence, of the representative.
- D.4 The employee or his/her representative may re-examine the witnesses (where called).
- D.5 The Headteacher will present the case (calling any witnesses as may be necessary).
- D.6 The employee or his/her representative may ask questions of the witnesses (where called) and the Headteacher.
- D.7 The Headteacher may re-examine the witnesses (where called).
- D.8 Members of the Committee may ask questions of the parties or witnesses at any stage but will seek to confine questioning until after questioning of witnesses by the parties is completed.
- D.9 The Headteacher will be invited to sum up the case.
- D.10 The employee or his/her representative will be invited to sum up the case.
- D.11 At the conclusion of the hearing the parties and any other persons present, with the exception of the HR representative providing advice, shall withdraw whilst the Committee deliberates.

Notes:

- Arrangements will be made for a record of the hearing to be taken. This record will not normally be a verbatim report but should aim to accurately reflect the content of the hearing and will be provided for both parties' information.
- The Chair of the Committee may during the proceedings above recall witnesses or call for further evidence on specific points but if it becomes necessary to act in this way following conclusion of the hearing both parties must be recalled.
- Either party may present documentary evidence, copies of which shall be served upon the other party at least five working days in advance of the hearing date.
- Witnesses shall only be present whilst giving evidence unless the Chair of the Committee directs otherwise.
- Any party may call for an adjournment during proceedings. Whenever possible a room will be provided for the employee and his/her representative for use outside of the hearing.
- In the event that the appeal is against action short of dismissal by the Staff Discipline/Dismissal Committee, then the procedure in this Appendix will be followed save that the role of the Headteacher is taken by the Chair of the Committee responsible for the decision.

GUIDELINES FOR SUSPENSION

- E.1 Suspension from duty is not intended as a disciplinary measure in itself and should not be seen as punitive or pre-judging the outcome of any investigation. Suspension should be seen as a neutral act.
- E.2 Suspension should not be an automatic response when an allegation is reported careful thought should be given to each case and will be dependent on the circumstances.
- E.3 Suspension is usually only appropriate:
- In cases which appear to involve gross misconduct; or
 - In order to allow a thorough and unhindered investigation to take place; or
 - For reasons of safety
- E.4 At the suspension meeting the Headteacher or nominated representative should:
- a) Confirm the status of the meeting is a consideration of suspension meeting and not a disciplinary hearing.
 - b) Inform the employee of the concerns/allegations made against them, being as specific as possible.
 - c) Spell out which concerns/allegations, if any, constitute gross misconduct, or otherwise explain why the suspension is necessary.
 - d) Ask the employee for any response to the concerns/allegations prior to confirming a decision to suspend. If the employee responds an adjournment may be necessary to consider the information prior to confirming suspension.
 - e) Explain that the suspension is immediate, but that it is neither an indication of perceived guilt, nor a disciplinary penalty.
 - f) Explain that an investigation into the concerns/allegations is being undertaken and that the outcome of the investigation could lead to informal action, a formal disciplinary hearing, other management action, or no further action.
 - g) Either give the employee a date, time and venue for an investigatory meeting or let them know when they may expect to receive these details.

- i) Advise them that they should stay away from work premises, avoid using the information networks such as email, and avoid contact with pupils, parents and other employees until the matter is resolved, using the support officer for contact where necessary. The employee should be made aware of who is the investigating officer where this is someone other than the Headteacher.
 - j) Explain that they should make themselves available during normal working hours.
 - k) Advise them that, if pressed for information by pupils, parents or other employees, they should simply explain that they are away for a short time while some work matters are resolved.
 - l) Secure the return of any Trust or academy property and explain that this will be returned to the employee, if appropriate, as soon as the matter is resolved. Check if the employee needs to collect any personal belongings and agree/make necessary arrangements.
 - m) Check the employee's home address and contact numbers and instruct them to notify the support officer immediately of any changes, including notification of sickness, which occur during the suspension.
 - n) Handle any enquiries about the suspension, but do not be drawn into the detail of the investigation.
 - o) Inform them they may wish to contact their trade union representative, if not present.
- E.5 Following the meeting, the employee must receive confirmation of the suspension in writing within one working day of the suspension meeting. A copy of the disciplinary procedure will also be provided if not provided at the meeting.

