



Disciplinary

Approved by: Board of Trustees

Last reviewed on: November 2024

Next review due by: As Required

Policy Outline

Reviewing the Policy

Inspire Multi Academy Trust will keep the operation of this policy under review and will make such changes to the policy as deemed appropriate following consultation with the trade unions, where appropriate.

Summary of Changes

The 2023 Disciplinary policy has been reviewed and there were no significant changes made to this model policy.

Equality Impact Assessment

As with all policies that affect service users, the wider community or employees, Academy Trusts should undertake an analysis of the potential equality impacts and record that assessment.

Contacts for help and assistance

Please contact the Inspire Multi Academy Trust Central Team for help and assistance in applying the content of this policy.

Contents

- 1** **Introduction**
- 2** **Scope of the Policy**
- 3** **Data Protection**
- 4** **Employee Health & Wellbeing**
- 5** **General Principles**
- 6** **Responsibilities**
- 7** **Informal Process**
- 8** **Investigation**
- 9** **Suspension**
 - 9.11 Reviewing suspension
 - 9.13 Ending a suspension
- 10** **Disciplinary Hearing**
 - 10.4 Postponing the Hearing
 - 10.6 The Hearing
 - 10.9 The Procedure
 - 10.10 Disciplinary Action
 - 10.12 Informal Action
 - 10.13 Formal Action - Stage 1 - First Written Warning
 - 10.15 Formal Action - Stage 2 - First Written Warning
 - 10.17 Formal Action - Stage 3 - Dismissal with Notice or Action Short of Dismissal
 - 10.19 Summary Dismissal
- 11** **Right of Appeal**
- 12** **Obligations in respect of External Bodies**
- 13** **Criminal Offences**
 - 13.2 Criminal Offences in Relation of an Employee's Employment
 - 13.4 Criminal Offences Committed Outside Employment
- 14** **Learning Lessons**

Appendices

Appendix 1: Examples of Misconduct and Gross Misconduct

Appendix 2: Record of Informal Discussion

1 Introduction

- 1.1 The aim of this policy is to support and encourage all our employees to achieve and maintain standards of conduct, and behaviour. The Trust will use this procedure to support employees in making improvement where standards fall below acceptable levels. However, there will be cases where there will be no option but to impose formal disciplinary action. This procedure has been designed to ensure that all disciplinary matters are dealt with in a fair, transparent, reasonable and consistent manner.
- 1.2 The Board of Trustees recognises its responsibility for ensuring equality and avoiding unlawful discrimination, both direct and indirect, against the 9 “protected characteristics” identified in the Equality Act 2012 of:
- Age;
 - Disability;
 - Gender Reassignment;
 - Pregnancy and maternity;
 - Race;
 - Religion or belief;
 - Sex;
 - Sexual Orientation; and
 - Marriage and civil partnership.

Allegations of a Safeguarding Nature

- 1.3 For details in relation to the management of allegations or concerns of a safeguarding nature, including any safeguarding concerns of a low level (low level concerns) it is important that this Disciplinary policy is read in conjunction with the **Managing Safeguarding Concerns/Allegations & Low-level Concerns Policy (“Managing Safeguarding Concerns Policy”)**.

This policy reflects statutory guidance as set-out within Keeping Children Safe in Education September 2024 (“KCSIE 2024”) and Working Together to Safeguard Children December 2023 (“WTSC 2023”).

2 Scope of the Policy

- 2.1 The provisions of this policy will apply to all staff directly employed by the Trust.
- 2.2 This policy does not apply to termination of employment on the grounds of redundancy or permanent ill-health, to the termination of a temporary contract of employment by completion or the expiry of a fixed term contract or where probationary employees do not reach required standards of performance within their probationary period.
- 2.3 Employees can request a copy of any additional policies referred to within the Disciplinary Policy from their line manager, the school office or the Trust’s central team.
- 2.4 Capability issues refer to the skills, knowledge and aptitude of an employee and where this can be clearly distinguished from their conduct or misconduct the matter

will be dealt with under the Capability procedure. If this distinction cannot be clearly made the matter should be considered as a disciplinary issue.

- 2.5 Where an employee raises a grievance during a disciplinary process the process may be temporarily suspended in order to deal with the grievance. However, where the issues are related then both matters may be considered concurrently.
- 2.6 Where disciplinary action is being considered against an employee who is a trade union representative the normal disciplinary procedure should be followed. No disciplinary action should be taken against Trade Union officials until the circumstances of the case have been discussed with a senior Trade Union representative or full-time official, after obtaining the employee's permission. This does not apply to cases where informal guidance/support is given. Consideration will be given to the appropriate person to hear the grievance in line with the Grievance Policy.

3 Data Protection

- 3.1 Inspire Multi Academy Trust processes personal data collected during the investigation stage and any subsequent stages of disciplinary action in accordance with its data protection policy. In particular, data collected as part of the investigation stage and any subsequent stages of disciplinary action is held securely and accessed by, and disclosed to, individuals only for the purposes of completing the disciplinary procedure. Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with the Trust's data protection policy immediately. It may also constitute a disciplinary offence, which will be dealt with under this disciplinary procedure.
- 3.2 **The Data Protection Act (DPA) and UK GDPR do not prevent the sharing of information for the purposes of keeping children safe.** The Trust will therefore, disclose information about employees to third parties where they are legally obliged to do so or where they need to comply with their contractual duties, for instance where it needs to refer certain information to the Designate Officer, Disclosure and Barring Service, Teaching Regulation Agency or the police, in line with KCSIE.

4 Employee Health & Wellbeing

- 4.1 Throughout this policy it sets out the measures which the Trust will take to support all employees in maintaining their health and wellbeing at work whilst involved in any disciplinary matters. We are committed to creating an environment that promotes good mental health and where staff can thrive and feel supported. However, we recognise that whilst going through a disciplinary process it can be a difficult time for all staff involved.
- 4.2 Ultimately it is the Board of Trustees who are responsible for ensuring, so far as reasonably practicable, that the health and wellbeing of the affected employees is considered at all times and that the relevant officer(s) appointed to deal with disciplinary matters are continuing to support our wellbeing strategy.
- 4.3 The Board of Trustees are also responsible for ensuring that the health and wellbeing of those officers handling disciplinary matters feel supported throughout the process.

5 General Principles

5.1 In handling disciplinary cases employers must act fairly, reasonably and consistently. The school will treat all employees in accordance with the following core principles of reasonable behavior:

- The Trust must deal with disciplinary issues promptly and must not unreasonably delay investigations, meetings, decisions or the confirmation of decisions.
- No disciplinary action will be taken against an employee until the case has been fully investigated. Unless it is not practicable different people should carry out the investigation and disciplinary hearing.
- When an employee is requested to attend a disciplinary hearing, they will be fully informed of the nature of any allegation(s) made against them in writing and provided with the supporting documentation, where appropriate. They will be given the opportunity to state their case before any decision is made at a disciplinary hearing.
- At all stages of the procedure the relevant employee will have the right to be accompanied by a Trade Union representative or a work colleague of their choice, who does not have a conflict of interest. Consideration will be given to all requests for reasonable adjustments in respect of the appropriate person to accompany the employee, in order to ensure they have a fair opportunity to state their case.
- The procedure may be implemented at any stage if the employee's alleged misconduct warrants this. However, no employee will be dismissed for a first breach of discipline, except in the case of gross misconduct.
- An employee will have the right to appeal against any formal disciplinary action.
- Employees will be provided with a written explanation for any disciplinary action taken and what improvement and/or standards of performance is expected.

5.2 Remote Proceedings

Where it is not possible to hold a face-to-face meeting under this procedure, the process may be conducted remotely, where all agree the fairness of the process will not be compromised. The Trust will ensure that employees and their representatives have access to the necessary technology to fully participate in the process and any reasonable adjustments to allow this will be considered. The Trust will ensure that the procedure remains fair and reasonable.

6 Responsibilities

6.1 All employees have a responsibility to conduct themselves to the highest standards at all times, to work within the Trust's policies and procedures and the Code of

Conduct, as well as working within any professional standards applicable to their role.

- 6.2 Misconduct is conduct that falls below the Trust's expected standards of behaviour. Examples of misconduct for which disciplinary action is appropriate (but not limited to) are set out in [Appendix 1](#). Gross misconduct is conduct that is so serious that it justifies dismissal without notice or payment in lieu of notice, although the school will consider the circumstances of any case before declining on the appropriate penalty. Examples of gross misconduct are detailed (but not limited to) in [Appendix 1](#). Actions outside of work (including use of social media) may be considered to be gross misconduct, or misconduct, if they affect an employee's ability to carry out their role or have a negative effect on the Trust's reputation.
- 6.3 Any employee involved in a case should not unreasonably delay meetings or other parts of the procedure.
- 6.4 Disciplinary cases are usually handled by line managers. Line management arrangements are as follows:
- School based employees are line managed by the academy Headteacher.
 - Headteachers and Lead Headteachers are line managed by the Chief Executive Headteacher.
 - Central team employees are line managed by the Executive Bursar or Chief Executive Headteacher.
 - The Chief Executive Headteacher is line managed by the Chair of Trustees.
- 6.5 The line manager or Investigating Officer (as appropriate) will endeavor to support all employees who are involved in a disciplinary process. The employee should be advised to contact their Trade Union representative at the earliest opportunity so that the union can offer them appropriate advice, guidance and support.
- 6.6 In addition, it may be necessary throughout the process to suggest that the employee seek additional advice support, counselling from their GP and the Trust's occupational health provider, where appropriate.

7 Informal Process

- 7.1 The Trust will always seek to resolve concerns of minor misconduct informally where possible and where appropriate.
- 7.2 Where it is initially considered that the informal process may be the most appropriate route based on the information available, it is important to hold a meeting with the employee in order to establish the facts. Where the manager determines that the matter does not require any further action or can be resolved with informal action, it is usually appropriate to provide the employee with a written record of this decision. Should further evidence be obtained that would make the informal route inappropriate, the manager will seek to address the matter under the formal process.
- 7.3 In many cases, where there are concerns of minor misconduct, an informal discussion held in the right way will often be a more satisfactory way of dealing with issues. This involves a two-way conversation, aimed at discussing possible shortcomings in conduct and encouraging improvement. The manager will ensure that the employee understands the standards expected of them, how their conduct

will be reviewed and the timescale for review; such 'management advice' should be confirmed in writing. The employee should be informed that any written confirmation of informal action/advice does not constitute a formal written warning. There is no legal right for an employee to have representation at this stage however, both representation and HR involvement may be agreed in certain cases.

- 7.4 In cases of repeated misconduct, and where the repeat is dealt with formally, any records of previous informal discussions will not be used to determine the appropriate level of formal sanction, should it subsequently be determined after an investigation and hearing that a formal warning is required. However, it may be deemed reasonable for the underlying misconduct to be considered as background information as part of the formal process.
- 7.5 An informal meeting to establish the initial facts of the case will also not preclude the manager from being appointed Investigating Officer should the case progress to a formal investigation, providing the manager has had no prior involvement in the matter as set out in paragraph 8.6 of this policy.

8 Investigation

- 8.1 Where a concern or an allegation of a safeguarding nature is made against a member of staff, the line manager should refer to the Managing Safeguarding Concerns Policy to determine if a referral to the Designated Officer (DO) is necessary, prior to commencing formal investigation. Section 7 of the Managing Safeguarding Concerns Policy should be read in conjunction with this section.
- 8.2 It is important to recognise that whilst it is usually necessary for the line manager to act quickly, the line manager cannot investigate a safeguarding allegation itself, or interview staff or the pupils, without the prior agreement of the Designated Officer (DO). The Managing Safeguarding Concern policy identifies what initial evidence gathering may be necessary ahead of making a referral to the DO.
- 8.3 To determine whether a formal investigation is necessary, the Trust should consider various factors, such as:
- whether an informal resolution is appropriate and practical
 - the seriousness of the matter
 - if any Trust policies require the matter to be investigated
 - whether a preliminary fact find is required
- 8.4 When instigating an investigation, the Trust should decide what the precise purpose and scope of the investigation will be. Terms of reference should be drafted that clearly explain the scope of the investigation, and the expectations of the investigating officer.
- 8.5 Where suspension may be considered necessary Section 9 of this policy should be referred to and the line manager should consult with HR, wherever possible, prior to the suspension of any employee. Suspension may be considered necessary at any stage of an investigation process depending on the evidence available.
- 8.6 Investigations of potential disciplinary matters will be carried out by an appropriate senior manager who will be appointed the Investigating Officer. The Investigating Officer should not have any conflict of interest or connection with the case. For

example, they should not investigate matters in relation to close friends or family members or those matters in which they may be required to give a statement as a witness for example. Having carried out an initial informal investigation in relation to the matter would not preclude the investigating manager from then being appointed Investigating Officer. In cases where an allegation has been made against the line manager or where the line manager's appointment as Investigating Officer would result in a conflict of interest, the Chair or Vice Chair of the Trust Board or Chair of an Local Governing Body will usually undertake the role of Investigating Officer. A HR representative will normally support the investigation and can provide advice in relation to appointing an appropriate Investigating Officer.

- 8.7 In cases where the alleged misconduct relates to more than one element, it may be necessary to have more than one investigation ongoing concurrently. In these cases, the Investigation Officer should discuss the most appropriate course of action with HR and the employee be kept informed as to any decisions in relation to separate investigating officers.
- 8.8 In line with paragraph 6.10 of the Academy Trust Handbook, the board of Trustees must notify ESFA, as soon as possible, of all instances of fraud, theft and/or irregularity exceeding £5,000 individually, or £5,000 cumulatively in any financial year. It may, in these circumstances be appropriate to commission an independent audit investigation. The findings of any audit investigation should be issued to the Investigating Officer upon completion. The Investigating Officer will then consider if any further investigation is necessary before drawing conclusions and making recommendations as to whether it is deemed appropriate for a disciplinary hearing to be convened. For any further investigation necessary, the rest of this section will apply.
- 8.9 The investigation will be carried out without unreasonable delay and will include:
- Enquiring into the circumstances and establishing the facts of the case
 - Giving the employee a chance to offer an explanation
 - Gathering of evidence relating to the case
 - Taking a balanced view on whether there are sufficient grounds for an allegation of misconduct.
- 8.10 In most cases the investigation process will involve an investigatory interview with the employee against whom the allegations have been made and any potential witnesses. Employees can be accompanied by a trade union representative or a work colleague of their choice. In advance of the investigative meeting, the employee should inform the Investigating Officer of who will be accompanying them. On occasion, it may be reasonable to request that the employee chooses another person to accompany them at the meeting, for example, if the person chosen may prejudice the process or may be required to provide a statement as a witness. An investigatory meeting will not of itself result in disciplinary action.
- 8.11 The Investigating Officer will produce a report describing the findings and conclusions and contain recommendations as to whether it is deemed appropriate for a disciplinary hearing to be convened. The investigating officer **will not** make recommendations regarding the scope of the disciplinary action to be taken but should aim to arrange their evidence into those facts which are uncontested, those facts which are contested and unsubstantiated claims.

- 8.12 The outcome of the investigation may be no further action, informal discussion, a letter of management advice or a recommendation that a disciplinary hearing be convened. The employee should be informed of this decision in writing as soon as possible once the decision is made. In the event that a disciplinary hearing is convened the report will form the basis of the employer's case to be presented at the hearing.
- 8.13 Once the Investigating Officer has made their recommendations, it should be the decision maker i.e., the line manager or Chair of the Relevant Committee who makes the final decision as to whether or not a disciplinary hearing will be held. This is usually the person or committee who would be conducting the disciplinary process. If their decision differs from the Investigating Officers recommendation, the reasons for this should be recorded and included as an addendum to the report.
- 8.14 The investigating Officer will normally be expected to present the findings of their report at the disciplinary hearing and any subsequent appeal. They will also be expected to answer to their prepared report in any hearing.

9 Suspension

- 9.1 Suspension is not a form of disciplinary action and must be without prejudice i.e., meaning there is no pre-judgement of any outcome and no assumption of guilt. Suspension is intended to allow a full and fair investigation of the circumstances to take place. Suspended employees will receive full pay during the time of the suspension.
- 9.2 The line manager should seek to gather some initial facts, which in most cases will include speaking to the employee about the concerns before making a decision to suspend. The Headteacher should consult with HR, wherever possible, prior to the suspension of any employee.
- 9.3 Suspension will not be an automatic response and alternatives to suspension will be considered such as a paid leave of absence or providing the employee with alternative duties/place of work, where practicable. It may be necessary to make such short-term arrangements in order that preliminary investigations can take place, before determining if suspension is appropriate. The period of suspension should be kept as brief as possible and should be reviewed periodically. Details of any considerations around alternatives to suspension should be recorded by the line manager.
- 9.4 Where it is deemed necessary to suspend an employee this is usually carried out orally by the line manager. The suspension will then be confirmed in writing, stating, in broad terms, the reason for the suspension and/or the allegations made against the employee, what alternatives to suspension have been considered and why they were not deemed appropriate.
- 9.5 Examples of where suspension is necessary (but not limited to) include where:
- there is cause to suspect a child or other children at the school are at risk of harm*;
 - the allegations are so serious that dismissal for gross misconduct is possible,
 - there are potential risks to other employee's or the school's property or its responsibilities to other parties,

- there is a police or criminal investigation proceeding in relation to a sufficiently serious allegation that could affect whether they can do their job or cause damage to the reputation of the school.
- working relationships have severely broken down.
- the employee could tamper with evidence, influence witnesses and/or sway the investigation into the allegation.

**In cases where there is cause to suspect a child or other children at the school are at risk of harm this section must be read in conjunction with the Managing Safeguarding Concerns Policy.*

- 9.6 The Trust recognises that a period of suspension can be a difficult time for employees. During suspension employees will be allocated a contact person within the Trust who should ensure that regular discussions take place with the employee in terms of their health and wellbeing and should signpost or facilitate additional support for the employee when needed. The contact officer will also be responsible for keeping the employee updated in terms of things such as workplace developments, training opportunities and job vacancies. In addition, either the Investigating Officer (referred to as the Case Manager for Safeguarding investigations) or the contact person (as appropriate) should keep the employee regularly updated about their suspension, the ongoing reasons for it, and how much longer it is likely to last. The arrangements for contact during suspension should be agreed and confirmed as early as possible following suspension. It may be appropriate at this point to discuss with the employee a communication strategy around the reasons for their absence at work too.
- 9.7 It may be appropriate for the employee to be required to return Trust property during the period of suspension i.e., security passes, ICT equipment and their access to work email and the network may be removed.
- 9.8 The Trust will make decisions to suspend in accordance with its scheme of delegation.
- 9.9 Suspended employees must not report to the workplace or discuss the case with colleagues or service users, with the exception of the identified contact person, without the prior written consent of the line manager. It is however recognised that the employee needs to cooperate with those conducting the investigation and may also need to discuss their circumstances with parties who are assisting them within the process, for example, the person who is accompanying them to meetings. However, the employee should not discuss any aspect of the case with other Trust employees or other parties connected with the investigation or with any other inappropriate parties. Social contact with the employee and their colleagues and work friends should not be precluded, except where it is likely to be prejudicial to the investigation and presentation of evidence, and where the need for confidentiality can't be maintained. An employee must remain available for work during their normal working hours and attend meetings as requested.
- 9.10 Employees who ordinarily work all-year round and are required to request annual leave can request to take annual leave during a period of suspension subject to the usual approval process. Where such requests are agreed, the number of days taken should be deducted from the employee's leave entitlement. The employee will not be expected to be available for work or attend meetings during a period of annual leave taken whilst suspended from duty. The employee will remain subject to the terms of suspension during the period of leave. Where a leave request is submitted after an employee has been invited to attend a meeting and where that request includes the

date of that meeting the school will refuse the request, other than in exceptional circumstances.

Reviewing suspension

- 9.11 A period of suspension should not be any longer than necessary and every effort should be made to ensure that it is as brief as possible. During the period of suspension, the employee should be kept informed of progress, including any subsequent review of the suspension and the likely timescale of the investigation. A note of this contact should be kept. HR advice should be sought with regard to any on-going suspensions.
- 9.12 If an employee becomes ill during the suspension the normal contractual sick pay entitlements will come into force for the period of the illness. Employees should comply with the sickness absence reporting procedures in full. However, the suspension will continue, and the rules of the suspension will remain unchanged. The Trust's usual attendance management procedure will also be followed.

Ending a suspension

- 9.13 The Trust will make decisions to end a suspension in accordance with its scheme of delegation.
- 9.14 Once a suspension comes to an end, the employee should return to work immediately.
- 9.15 The line manager should arrange a return-to-work meeting on the employee's first day back, or as early as possible. This meeting can be used as an opportunity to discuss any support required and/or to discuss and resolve any concerns the employee may have, including the opportunity to discuss and agree a communication strategy where appropriate.

10 Disciplinary Hearing

- 10.1 If it is determined that an employee should be required to attend a disciplinary hearing, the employee should receive at least 5 working days' notice of the disciplinary hearing. The employee will receive notification in writing of the full allegation(s), given copies of the documentary evidence to be used at the hearing (including a copy of the Disciplinary Policy) and notified of their right to be accompanied by a trade union representative or an appropriate work colleague. An employee under 18 years of age shall also have the right to be accompanied by their parent(s) or legal guardian(s).
- 10.2 Where one or more of the allegations are of a safeguarding nature the employee should be provided with a copy of the Managing Safeguarding Concerns Policy in addition to the Disciplinary Policy.
- 10.3 The letter of notification will state if dismissal is a possible consequence arising from the hearing.

Postponing the Hearing

- 10.4 If the employee advises that they cannot attend on the given date, the hearing will normally be rescheduled, which may be within 5 working days of the original date. Should the employee propose an alternative date outside the 5 working days from the original date, HR advice will be sought. Where a date has already been

rescheduled once at the employee's request and they request a further rescheduled date, depending on the individual circumstances, they may be advised that the hearing will proceed in their absence on the date given if they do not attend, and where all reasonable attempts to facilitate attendance have been made.

- 10.5 Employees and their representatives should make every effort to attend the hearing on the date given. Where an employee does not attend a hearing without good cause and has not informed the school that they cannot attend, after making any reasonable attempts to determine why the employee has failed to attend, the hearing may take place in the employee's absence and a decision made on the evidence available.

The Hearing

- 10.6 During the hearing the employee will be allowed to set out their case and answer any allegations that have been made. The employee will also be given a reasonable opportunity to ask questions, present evidence, present a written statement (should they wish to do so) and call relevant witnesses.
- 10.7 The role of the person accompanying the employee is not to answer questions on behalf of the employee, however, they will be allowed to make an opening statement, take notes, ask questions to clarify issues, ask for reasonable adjournments, and make a closing statement.
- 10.8 The Investigating Officer may be required to attend the hearing in order to provide facts in relation to the investigation they have undertaken, as set out in their report. However, they will not be required to give their opinion on the matter **and will not** make recommendation regarding the scope of the disciplinary action to be taken.

The Procedure

- 10.9 The procedure to be followed at the hearing will be as follows:
- The procedure to be followed will be explained to all present
 - The Investigating Officer presents facts as outlined in the investigation report, including the calling of any witnesses.
 - The employee and/or representative are given the opportunity to ask the Investigating Officer questions for clarification and/or to raise points about any information provided by witnesses.
 - The Hearing Officer/Hearing Panel are then given the opportunity to ask the Investigating Officer questions for clarification and to question any information provided by witnesses.
 - The employee and/or representative then present their case including the calling of any witnesses.
 - The Hearing Officer/Hearing Panel are then given the opportunity to ask the employee questions for clarification and to question any information provided by witnesses.
 - Both parties will be given the opportunity to sum up, with the Investigating Officer providing a summary of the facts only and provided no new material is introduced. The individual and/or their representative will make the final submission.
 - The Investigating Officer, employee and/or representative are then requested to leave the meeting whilst the Hearing Officer/Hearing Panel make their decision, with HR support and advice.
 - The Investigating Officer, employee and/or representative are then recalled, and the decision announced by the Hearing Officer/Chair of the Panel.

Disciplinary Outcome

10.10 The possible outcomes following a Disciplinary Hearing include:

- No further action – where there is no case to answer.
- Informal action – where it is deemed that the misconduct is not serious enough to merit formal action.
- Formal disciplinary action.

10.11 These outcomes should not be seen as a stage by stage process. Depending on the degree or nature of the misconduct, the decision may be to conclude that any one of the outcomes is appropriate.

A time limited sanction which has expired will not be taken into consideration when deciding the outcome or appropriate level of sanction at the disciplinary hearing. However, it may be deemed reasonable for the underlying misconduct to be taken into account when considering the misconduct. Whilst a sanction is time-limited and will expire 12 months from the date of issuing the warning, the misconduct and guidance which was provided at the time, does not.

Informal Action

10.12 Although management advice may be issued outside of a disciplinary hearing, it can also be given as an outcome of a hearing in cases where it is found that the misconduct is not serious enough to merit formal action but there still needs to be an acknowledgement of the misconduct. Issues of concern should be discussed and, as necessary, methods to resolve the issues identified and targets set, with timescales, so that the employee fully understands what improvements are required, by when and the potential consequences if these improvements are not made. It may be appropriate for the panel to request that the management guidance is provided at a separate meeting, and it may be appropriate to delegate this stage to an alternative person, such as the Headteacher, Lead Headteacher, Chief Executive Headteacher or Chair of Trustees. A record of the informal action taken should be made (via letter of management guidance/record of discussion), which the employee should be asked to sign and be provided with a copy. A copy of the record will be held on the employee's personal file.

Formal Action - Stage 1 - First Written Warning

10.13 Where an employee has been found guilty of misconduct, and where the conduct or behaviour is unsatisfactory, the employee may be given a written warning. The warning will be considered to be disregarded for disciplinary purposes after 12 months satisfactory conduct from the date of the warning.

10.14 In cases where there is already a “live” first written warning on the employee file, after consideration of all of the facts, a decision may be taken to extend the period, up to a further 12 months, that a first written warning will remain “live”. This will be dependent on the individual circumstances and will be confirmed in writing to the employee.

Formal Action - Stage 2 - Final Written Warning

10.15 Where an employee has been found guilty of misconduct and where the matter is sufficiently serious or there is further misconduct or a failure to improve conduct or behaviour to the required level whilst the prior warning is still “live”, a final written warning may be issued. The warning will be considered to be disregarded for

disciplinary purposes after 12 months satisfactory conduct from the date of the warning.

- 10.16 In cases where there is already a “live” final written warning on the employee file, after consideration of all of the facts, a decision may be taken to extend the period, up to a further 12 months, that a final written warning will remain “live”. This will be dependent on the individual circumstances and will be confirmed in writing to the employee.

Formal Action - Stage 3 - Dismissal with Notice or Action Short of Dismissal

- 10.17 If the behaviour or conduct has failed to improve to the required level whilst the prior warning is still “live”, the employee may be dismissed with notice. Action short of dismissal is at the school’s discretion and may involve a compulsory transfer to another post or location and/or demotion. This action should also be combined with the issuing of a Final Written Warning. Such cases may occur where there is evidence of gross misconduct and dismissal would therefore be appropriate, but some mitigating factors have been taken into account.
- 10.18 No employee will be dismissed for a first breach of discipline except in cases of gross misconduct.

Summary Dismissal

- 10.19 Some acts, termed gross misconduct, are so serious in themselves or have such serious consequences that they may call for dismissal, without notice, for a first offence. Gross misconduct is conduct by an employee of such a nature that it fundamentally breaches the contract of employment and leaves no trust or confidence in the employee. A fair disciplinary process, including a full investigation, should always be followed before dismissing for gross misconduct. Examples of potential gross misconduct are provided in [Appendix 1](#).
- 10.20 Where a formal disciplinary sanction is issued, the employee will receive a written explanation of the decision taken and the reasons for this decision, a copy of this letter will be retained on the employee's personal file. Except where the outcome is dismissal, the employee will also be informed of any improvements or change expected and advised that any further incidents of misconduct or failure to improve will result in further disciplinary action being taken, which could result in dismissal and advised how long the warning will remain "live" for disciplinary purposes. The employee will also be notified in writing of the right to appeal against the decision.
- 10.21 Once the hearing has concluded and the Committee has made its decision, it should consider if there are any obligations with respect to external bodies as covered within [section 12](#) of this policy.

11 Right of Appeal

- 11.1 The employee will have the right to appeal against any formal disciplinary action.
- 11.2 To appeal, an employee must notify the Clerk to the Board of Trustees in writing setting out that they wish to appeal the decision within 10 working days from receipt of the letter confirming the decision. In exceptional circumstances and where there is a valid reason, it may be necessary to consider an extension to the period for the employee to submit their appeal. The employee must also submit a written statement setting out the detail of their grounds for appeal, including if they are

appealing against the decision of each allegation considered or against certain allegations in particular, or against the level of sanction issued. The employee will have a further 5 working days to submit this written statement to the Clerk to the Board of Trustees.

- 11.3 After receipt of the written statement outlining the grounds of appeal, an appropriate Appeal Hearing will then be arranged without unreasonable delay. The employee will be invited to the Appeal Hearing in writing, which will include notification of their right to be accompanied by a trade union representative or an appropriate work colleague. The person (line manager or Chair of Committee) who made the decision at the previous hearing will be present at the appeal to explain their decision.
- 11.4 Appeals will be heard by the appropriate Committee of the Board of Trustees.
- 11.5 In advance of the Appeal Hearing, it may be appropriate to discuss with the appellant and/or their representative the procedure to be followed at the Appeal Hearing. For example, in cases where more than one allegation has been considered and the appellant is not appealing against the decision made for every allegation, it may not be appropriate to re-hear the entire case.
- 11.6 Usually, the procedure to be followed at the appeal hearing will be as follows:
- The procedure to be followed will be explained to all present.
 - The appellant and/or their representative will present their case to the hearing, indicating the basis of their appeal and the ways in which they believe the conclusions of the original hearing were flawed.
 - The Committee are given the opportunity to ask the appellant questions for clarification.
 - The Hearing Officer may be requested to explain the conclusions reached at the hearing and/or the evidence on which those conclusions were based.
 - The appellant and/or their representative are given the opportunity to ask the Hearing Officer questions for clarification.
 - The Committee are given the opportunity to ask the Hearing Officer questions for clarification.
 - Both parties are given the opportunity for summing up, with the hearing Officer providing a summary of the facts and provided no new material is introduced.
 - The appellant and/or representative and original Hearing Officer are then requested to leave the meeting whilst the Committee make their decision, with HR support and advice.
 - The appellant and/or representative, are then recalled, and the decision announced by the Chair of the Committee. It may also be appropriate to have the original Hearing Officer return to the meeting while the decision is announced.
- 11.7 The decision made at the Appeal Hearing will be confirmed in writing to the employee, without unreasonable delay, and will be final with no further internal right of appeal. It may also be necessary, in cases where a referral to an external body has been made, to provide an update on the case and its conclusion.
- 11.8 Where any decision has been overturned, the Appeal Committee may give consideration to any other implications such as training requirements.

- 11.9 If you are appealing against dismissal and your appeal is upheld, you will normally be treated as having continued in employment pending the hearing of the appeal and will be reinstated with back pay. However, if your appeal is not successful, the original date of your dismissal will stand.

12 Obligations in respect of External Bodies

- 12.1 Where concern(s)/allegation(s) of a safeguarding nature are substantiated and the employee is dismissed or the school ceases to use the person's services, or the employee resigns or otherwise ceases to provide his or her services, the Committee and/or case manager as appropriate should discuss with the DO and HR whether the Trust will decide to make a referral to the Disclosure and Barring Service (DBS) for consideration of whether inclusion on the barred lists is required; and, in the case of a member of teaching staff, whether to refer the matter to the Teaching Regulation Agency (TRA) to consider prohibiting the individual from teaching. Please refer to the relevant section of the Managing Safeguarding Concerns Policy.
- 12.2 **KCSIE requires that the Trust must make a referral to the Disclosure and Barring Service (DBS) if a person in regulated activity has been dismissed or removed due to safeguarding allegations/concerns, or would have been had they not resigned [Section 35 of the Safeguarding Vulnerable Groups Act 2006].** This is a legal duty and failure to refer when the criteria are met is a criminal offence [Section 38 of the Safeguarding Vulnerable Groups Act 2006].
- 12.3 Where an employer has a duty to make a referral, they have a statutory duty to make reports, and to provide all relevant information to the relevant body. Referrals will be made as soon as possible, and ordinarily on conclusion of an investigation. However, this may also include when an individual is removed from working in regulated activity, which could include being suspended, or is redeployed to work that is not regulated activity.
- 12.4 The Managing Safeguarding Concerns Policy sets out obligations in respect of malicious or unsubstantiated allegations.

13 Criminal Offences

- 13.1 Where it appears that an employee may be or may have been involved in an act or activity that may be a criminal offence, the line manager should liaise with HR for advice on how to proceed.

Criminal Offences in Relation to an Employee's Employment

- 13.2 Where it appears that an employee may be involved in any financial irregularity including theft, fraud, child protection offences or embezzlement in relation to their employment, the circumstances should be discussed with HR to determine whether the matter should be referred to the police for investigation.
- 13.3 It is not always necessary to await the outcome of any subsequent criminal proceedings prior to carrying out an internal investigation and holding a disciplinary hearing. This may not be possible in some cases e.g., if the police feel that this would impede a criminal investigation such as in a child protection case and advice should be sought in relation to this e.g., from the DO in relation to child protection cases.

Criminal Offences Committed Outside Employment

- 13.4 If an employee is suspected of, under investigation, cautioned, charged or convicted of, a criminal offence, this is not normally in itself reason for disciplinary action unless it could affect whether they can do their job or cause damage to the reputation of the school. In such cases, and even where the police have taken no further action, the school should consider whether the employee's conduct, caution, or conviction merits internal investigation because of its employment implications. Consideration needs to be given to what effect the charge or conviction has on the employee's suitability to do the job and their relationship with the school, colleagues and customers.
- 13.5 Where the conduct requires prompt attention, the Trust need not await the outcome of the prosecution before taking fair and reasonable action. This may, however, not be possible in some cases, e.g., if the police feel that this would impede a criminal investigation such as child protection matters, and advice should be sought from the appropriate people in relation to this.

14 Learning Lessons

- 14.1 Throughout the process of handling disciplinary matters (including the handling of safeguarding concerns), and at conclusion of a case, regardless of the outcome, it may be beneficial to review the circumstances of the case to determine whether any lessons can be learned and if any improvements can be made. This should include where an employee has been suspended, and to consider how future investigations of a similar nature could possibly be carried out without suspending the individual.

Misconduct

Examples of misconduct for which disciplinary action is appropriate (but are not limited to) include:

- Persistent poor timekeeping.
- Breach of absence reporting procedures.
- Insulting, offensive or hostile behaviour/language towards others (including fellow employees, pupils, parents, or members of the public) not amounting to serious harassment or bullying.
- Damage to Trust/school property.
- Time-wasting, including taking excessive breaks.
- Refusal to follow a reasonable management instruction.
- Negligence in the performance of duties.
- Absenteeism and leaving the workplace without permission.
- Breach of health and safety rules.
- Being under the influence of drink or other intoxicants.
- Failure to declare personal interests as set out in the Code of Conduct
- Unauthorised use of the school's facilities – premises, email, internet, and other equipment.

Actions outside of work (including use of social media) may be considered to be gross misconduct, or misconduct, if they affect an employee's ability to carry out their role or have a negative effect on the Trust's reputation.

Gross misconduct

Gross misconduct is conduct by an employee of such a nature that it fundamentally breaches the contract of employment and leaves no trust or confidence in the employee. The following list provides some examples which are normally regarded as gross misconduct:

- Theft, fraud, corruption or embezzlement in relation to their employment.
- Unauthorised absence.
- A serious breach of trust or confidence in employees, which may arise because of their actions in relation to their employment or their actions outside of work.
- Physical violence or serious cases of bullying or harassment.
- Deliberate and serious damage to property.
- Serious misuse of the Trust's/school's property, name or resources.
- Falsification of time records, travel, subsistence and expenses claims etc.
- Deliberately accessing internet sites containing pornographic, offensive or obscene material in work time and/or using work equipment.
- Serious insubordination.
- Unlawful discrimination or harassment.
- Bringing the Trust/school into serious disrepute.
- Where an employee is charged with a criminal offence that has serious implications on their suitability to do their job.
- Serious incapability at work brought on by alcohol or illegal drugs.
- A serious breach of health and safety rules.
- Causing harm to, or placing at risk of harm, a child or vulnerable adult.
- Causing loss, damage or injury through serious negligence.
- Sexual offences and sexual misconduct.

This list is not exhaustive therefore it does not preclude the possibility of dismissal for other offences of similar gravity not specified.

RECORD OF INFORMAL ACTION

Employee Name:			
Job Role:			
School:			
Date of Meeting:			
<p><i>Summary of discussion</i></p> <p><i>Inform employees of where their conduct has fallen short of the school's standards/expectations, the change or improvement that is expected of them and that a failure to achieve and maintain the standards set out may result in the formal disciplinary policy being invoked.</i></p>			
Print Name (Interviewer):		Job Role:	
Signature:		Date:	