

**INVICTUS**

Education Trust

**DISCIPLINARY POLICY  
AND PROCEDURE**

Approved by Board of Directors  
2<sup>nd</sup> July 2018

To be reviewed by Board of Directors  
July 2021

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## **1. Policy Statement**

- 1.1 The aims of this Disciplinary Procedure and its associated Disciplinary Rules are to set out the standards of conduct expected of all staff and to provide a framework within which Headteachers and managers within the Trust can work with employees to maintain satisfactory standards of conduct and to encourage improvement where necessary.
- 1.2 It is Invictus Education Trust's policy to ensure that any disciplinary matter is dealt with fairly and that steps are taken to establish the facts and to give employees the opportunity to respond before taking any formal action.
- 1.3 Disciplinary matters will be dealt with and managed within each school. The Trust, as employer, will however, provide support and guidance, and record and monitor relevant data. The Headteacher will be required to update the Executive Headteacher in relation to relevant matters arising from such procedures.
- 1.4 This policy has been designed to comply with current legislation and the ACAS Code of Practice on Disciplinary and Grievance Procedures. The Trust is committed to ensuring consistency of treatment and fairness. It will abide by all relevant equality legislation.
- 1.5 This procedure does not form part of any employee's contract of employment and it may be amended at any time following consultation. We may also vary application of this procedure, including any time scales for action, as appropriate.

## **2. Scope and Purpose of Procedure**

- 2.1 The procedure applies to all employees regardless of length of service, excluding those in their probationary period where separate arrangements apply. It does not apply to agency workers or self-employed contractors.
- 2.2 This procedure is used to deal with misconduct. It does not apply to cases involving genuine sickness absence, proposed redundancies or poor performance. In those cases, reference should be made to the appropriate policy or procedure.
- 2.3 Minor conduct issues can often be resolved informally between employees and their line manager. These discussions should be held in private and without undue delay whenever there is cause for concern. Where appropriate, a note of any such informal discussions may be placed on the employee's personal file. In some cases, an informal verbal warning or instruction may be given, which will not form part of the disciplinary records. Formal steps will be taken under this procedure if the matter is not resolved, or if informal discussion is not appropriate (for example, because of the seriousness of the allegation).
- 2.4 Employees will not normally be dismissed for a first act of misconduct, unless the Trust decides that the conduct amounts to gross misconduct or the employee has not completed a probationary period.
- 2.5 As recognisable figures in the local community the behaviour and conduct of staff in the Trust outside of work can impact on their employment. Therefore, conduct outside work may be treated as a disciplinary matter if it is considered that it is relevant to the employee's employment (see disciplinary rules).

### **3. Confidentiality and Data Protection**

- 3.1 It is the aim of the Trust to deal with disciplinary matters sensitively and with due respect for the privacy of any individuals involved. All employees must treat as confidential any information communicated to them in connection with an investigation or disciplinary matter.
- 3.2 Employees, and anyone accompanying them (including witnesses), must not make electronic recordings of any meetings or hearings conducted under this procedure.
- 3.3 Employees will normally be told the names of any witnesses whose evidence is relevant to disciplinary proceedings against them, unless there is good reason that a witness's identity should remain confidential.
- 3.4 During informal action, formal investigation and any subsequent stages of the procedure, the Trust will collect, process and store personal data in accordance with our Data Protection Policy. The data will be held securely and accessed by, and disclosed to, individuals only for the purposes of completing the disciplinary procedure. Records will be kept in accordance with our Privacy Notice, and our Retention and Erasure Policy and in line with the requirements of **Data Protection Legislation**
- (i) unless and until the GDPR is no longer directly applicable in the UK, the General Data Protection Regulation ((EU) 2016/679) and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the UK and then
  - (ii) any successor legislation to the GDPR or the Data Protection Act 1998). Any breach of data protection may constitute a disciplinary offence, and be dealt with under this procedure.

### **4. Allegations**

- 4.1 Allegations may be brought to the school's attention in a number of ways and through a variety of sources. Appendix 1 sets out the disciplinary rules. As with disclosures made by children and young people, adults need to be aware that in making an allegation it is not always possible to keep the matter confidential. The Headteacher will need to decide upon the most appropriate course of action and may choose to proceed with an investigation even if the person making the allegation does not want them to. Appendix 2 summarises the whole process.
- 4.2 Allegations which involve issues of child protection and/or abuse of children by staff should be referred immediately to the Designated Safeguarding Officer and Local Authority Designated Safeguarding Officer (LADO). See Appendix 3 for further guidance on the management of this type of allegation. No further action under this procedure will usually be taken until the Safeguarding Officer has been consulted.

### **5. Investigations**

- 5.1 Upon receiving any allegations against employees it is likely that further information will be required to establish what the next course of action should be. The Headteacher or another manager nominated by the Headteacher should seek to establish the basic facts of the situation; this may involve looking at records, speaking to witnesses, reviewing CCTV etc.
- 5.2 Preliminary Investigation Meeting

A preliminary investigation meeting may be held with the employee to establish the basic facts of the circumstance and to enable the Headteacher or another manager nominated by the Headteacher to determine whether further investigation is required. Such a meeting can sometimes give a reasonable

explanation in response to allegations which then enables the matter to be concluded. A preliminary meeting will not be required in all cases and it is for the Headteacher to decide if this is appropriate.

### 5.3 Investigating Officer

After a preliminary investigation where it is determined that there is a need for investigation, or if the concerns are serious enough to warrant a full investigation immediately, the Headteacher will usually appoint an Investigating Officer to carry out the investigation. This will be an appropriate person to the nature of the allegations and the role of the employee; it could even be an external investigator commissioned by the Trust. In the case of allegations made against the Headteacher the Chair of Governors will be responsible for the management of the procedure and determining an appropriate investigating officer, either internally or externally.

### 5.4 Further Investigation

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

### 5.5 Interviewing Witnesses

It may be necessary to interview witnesses who may have information that is relevant to the allegations. A record of the meeting will be made and the witness will have the opportunity to review the record, make amendments for clarification purposes and sign and date the record. The school recognises that some employees may find this difficult or worrying, however all employees are expected to fully participate in any such investigation.

### 5.6 Interviewing the Employee

Investigation meetings are solely for the purpose of fact-finding and no decision on disciplinary action will be taken until after a disciplinary hearing has been held. Employees do not normally have the right to bring a companion to an investigation meeting. However, employees may be allowed to bring a Trade Union representative or work colleague to the investigation meeting if they are available. No rearrangements will be made to the time and date of the investigation meeting to enable a companion to attend. A record of the meeting will be made and the employee will have the opportunity to review the record, make amendments for clarification purposes and sign and date the record.

5.7 Employees must co-operate fully and promptly in any investigation. This will include providing the names of any relevant witnesses, disclosing any relevant documents or information and attending investigative interviews if required. As each investigation will vary in length and complexity it will be completed in as short a time frame as possible.

## 6. Criminal charges

6.1 Where conduct is the subject of a criminal investigation, charge or conviction, the facts will be investigated before deciding whether to take formal disciplinary action. Disciplinary action will not be automatic and will depend upon the circumstances. Employees should inform their Headteacher immediately if they are involved in a criminal investigation, or are subject to a charge or conviction.

6.2 The School may not wait for the outcome of any prosecution before deciding what action, if any, to take. Where employees are unable or have been advised not to attend an investigation meeting or

disciplinary hearing or say anything about a pending criminal matter, a decision may have to be made based on the available evidence.

6.3 A criminal investigation, charge or conviction relating to conduct outside work may be treated as a disciplinary matter if it is considered that it is relevant to the employee's employment.

6.4 Where a criminal investigation relates to allegations of abuse of children or young people the School will co-operate and share information about the employee with other relevant agencies as appropriate.

## **7. Suspension**

7.1 In some circumstances it may be necessary to suspend the employee from work. The suspension will be for no longer than is necessary to investigate the allegations and conclude the disciplinary process. The arrangements will be confirmed to the employee in writing as soon as possible.

7.2 Suspension of this kind is not a disciplinary penalty and does not imply that any decision has already been made about the allegations. Employees will continue to receive normal salary and benefits during the period of suspension.

7.3 Alternatives to suspension, for example re-organisation of duties, work location, temporary redeployment to another role etc. will be explored where relevant before a decision to suspend is made. The nature and severity of the allegations will need to be considered as will the employee's role within the School.

7.4 Where allegations are made that involve the protection of children suspension will not be considered to be automatic. A reasoned decision will be made based on all available information. Additional information on the management of these allegations is available in Appendix 3.

7.5 The suspension will be kept under review as the investigation progresses. As information is gathered it may become appropriate to lift the suspension during the course of the investigation or prior to any disciplinary hearing.

7.6 The decision to suspend an employee will be made by the Headteacher with permission from the Chair of the Local Governing Body or Executive Headteacher.

## **8. Disciplinary Hearing**

8.1 Following any investigation, if there are grounds for disciplinary action, the employee will be required to attend a disciplinary hearing. The employee will be informed in writing of the allegations against them, the basis for those allegations, and what the likely range of consequences will be if it is decided at the hearing that the allegations are true. The following will also be included where appropriate:

- (a) a summary of relevant information gathered during the investigation (investigation report);
- (b) a copy of any relevant documents which will be used at the disciplinary hearing; and
- (c) a copy of any relevant witness statements, except where a witness's identity is to be kept confidential, in which case as much information as possible will be provided while maintaining confidentiality.

8.2 Five working days, written notice of the date, time and place of the disciplinary hearing will be given to provide the employee with a reasonable amount of time to prepare their case based on the information that they have been provided with. The hearing will be arranged as soon as is practicably possible.

8.3 The Headteacher or another manager nominated by the Headteacher will be responsible for ensuring that all of the arrangements for the hearing are made and that the employee receives the appropriate paperwork and notice of the hearing.

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

9.1 An employee may bring a companion to meetings under this policy (see also 5.6 above). The companion may be either a Trade Union representative or a work colleague. The employee must inform the Headteacher who their chosen companion is, in good time before the hearing.

9.2 Should the employee choose to bring a companion to the hearing they will be responsible for making these arrangements and for providing their companion with any paperwork that they require for the hearing.

9.3 Acting as a companion is voluntary and your colleagues are under no obligation to do so. If they agree to do so, they will be allowed reasonable time off from duties without loss of pay to act as a companion.

9.4 If the choice of companion is not available at the time a meeting is scheduled, the employee may propose an alternative time for the meeting to take place and so long as the alternative time is reasonable and within five working days after the original scheduled date, we will postpone the meeting. If the employee's chosen companion will not be available for more than five working days afterwards, we may ask the employee to choose someone else.

9.5 A companion may make representations, ask questions, and sum up the employee's position, but will not be allowed to answer questions on the employee's behalf. The employee may confer privately with their companion at any time during a meeting.

9.6 We may, at our discretion, allow the employee to bring a companion who is not a colleague or Trade Union representative (for example, a member of family) as a reasonable adjustment if the employee has a disability, or if they difficulty understanding English.

## **10. Procedure at Disciplinary Hearings**

10.1 Employees must make every effort to attend the hearing and failure to attend without good reason may be treated as misconduct in itself. Failure to attend without good reason, or persistent inability to do so (for example for health reasons), may lead to a decision being taken based on the available evidence. If sickness absence appears to have been triggered by the disciplinary process, the employee will be referred to the Occupational Health service to assess the member of staff's health and fitness to engage in the disciplinary process. A hearing may take place in the employee's absence but the employee will be able to submit a written response to the allegations or permit their representative to attend in their absence. If the employee fails to provide consent for referral to Occupational Health, then the disciplinary process may continue.

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

10.3 The hearing will be chaired by the Headteacher (unless the Headteacher carried out the investigation) or by a panel of governors if a potential outcome of the hearing is dismissal. The Investigating Officer will also be present.

10.4 At the disciplinary hearing the Investigating Officer will go through the allegations against the employee and the evidence that has been gathered. The employee will be able to respond and present any evidence of their own. The companion may make representations to the hearing officer/panel and

ask questions, but should not answer questions on the employee's behalf. The employee may confer privately with the companion at any time during the hearing.

- 10.5 Relevant witnesses may be asked by the Investigating Officer or the employee to appear at the hearing. The employee must give sufficient advance notice if they wish to call witnesses to ensure that there is time to arrange their attendance. The employee will be given the opportunity to put questions to a witness.
- 10.6 The hearing officer or Chair of the panel may adjourn the disciplinary hearing if there is a need to carry out any further investigations such as re-interviewing witnesses in the light of any new points that have been raised at the hearing. The employee will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.
- 10.7 The employee will be informed in writing of the decision and the reasons for it, usually within 5 working days of the disciplinary hearing. Where possible this information will also be explained to the employee in person.

## 11. Disciplinary Penalties

- 11.1 The hearing officer/panel may find that there is no case to answer and in some cases may refer the case back to an informal process. Alternatively, they may give the employee a disciplinary warning or dismiss them.
- 11.2 The usual penalties for misconduct are set out below. No penalty should be imposed without a hearing. The Trust aims to treat all employees fairly and consistently, and a penalty imposed on another employee for similar misconduct will usually be taken into account but should not be treated as a precedent. However, each case will be assessed on its own merits. To assist this process advice and guidance may be provided by the Trust head office.
- 11.3 **First Written Warning.** A first written warning may be authorised by Headteacher/Panel. It will usually be appropriate for a first act of misconduct where there are no other active written warnings on the employee's disciplinary record.
- 11.4 **Final Written Warning.** A final written warning may be authorised by Headteacher/Panel. It will usually be appropriate for:
  - (a) Misconduct where there is already an active written warning on the employee's record; or
  - (b) Misconduct that is considered sufficiently serious to warrant a final written warning even though there are no other active warnings on the record.
- 11.5 Dismissal may be authorised by a panel of Governors. It will usually only be appropriate for:
  - (a) Further misconduct where there is an active final written warning on the record; or
  - (b) Any gross misconduct regardless of whether there are active warnings on the record. Gross misconduct will usually result in immediate dismissal without notice or payment in lieu of notice (summary dismissal).
- 11.6 **Alternatives to Dismissal.** In some cases, the panel of Governors may, at its discretion, consider alternatives to dismissal. These may be authorised by the panel of Governors and will usually be accompanied by a final written warning (they require the agreement of the individual). Examples include:



- (a) Demotion;
- (b) Transfer to another department or job

## **12. The Effect of a Warning**

- 12.1 Written warnings will set out the nature of the misconduct, the change in behaviour required, the period for which the warning will remain active, and the likely consequences of further misconduct in that active period.
- 12.2 A first written warning will usually remain active for six months and a final written warning will usually remain active for 12 months. The conduct may be reviewed at the end of a warning's active period and if it has not improved sufficiently the active period may be extended.
- 12.3 After the active period, the warning will remain permanently on the employee's personal file but will be disregarded in deciding the outcome of future disciplinary proceedings.

## **13. Appeals against Disciplinary Action**

- 13.1 The employee has the right to appeal against the disciplinary action taken against them. This must be in writing, stating the full grounds of appeal and sent to the Headteacher or Chair of the panel within 5 working days of the date on which the employee was informed of the decision. Grounds for appeal should be one of the following:
  - The finding or penalty is unfair, stating reasons
  - New evidence has come to light, stating the evidence
  - The disciplinary procedure was not used correctly, stating how
- 13.2 If the employee is appealing against dismissal, the date on which dismissal takes effect will not be delayed pending the outcome of the appeal. However, if the appeal is successful they will be reinstated with no loss of continuity or pay.
- 13.3 If any new matters are raised in the appeal hearing further investigation may need to be carried out. The chair of the appeal panel may adjourn the appeal hearing if there is a need to carry out any further investigations such as re-interviewing witnesses in the light of any new points that have been raised at the hearing. If any new information comes to light this will be provided to the employee with a summary including, where appropriate, copies of additional relevant documents and witness statements. The employee will have a reasonable opportunity to consider this information before the hearing is reconvened.
- 13.4 The employee must be given written notice of the date, time and place of the appeal hearing. This will be held without unreasonable delay. The employee may bring a companion to the appeal hearing (see paragraph 9).
- 13.5 Where possible, the appeal hearing will be conducted by Directors who have not been previously involved in the case. The hearing may be a complete re-hearing or it may be a review of the fairness of the original decision in the light of the procedure that was followed and any new information that may have come to light. This will be at the appeal panel's discretion depending on the circumstances of the case. In any event the appeal will be dealt with as impartially as possible.
- 13.6 Following the appeal hearing the panel may:

- (a) Confirm the original decision;
- (b) Revoke the original decision; or
- (c) Substitute a different penalty. Ordinarily a penalty will not be increased on appeal unless there is new information or evidence being available that requires further investigation

13.7 The employee will be informed in writing of the decision and the reasons for it, usually within 5 working days of the appeal hearing. Where possible this information will also be explained to the employee in person. There is no further right to appeal.

#### **14. Referrals to External Bodies**

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

#### **15. Review of Policy**

This policy is reviewed every three years by Invictus Education Trust Board of Directors. We will monitor the application and outcomes of this policy to ensure it is working effectively.

## Appendix 1 - Disciplinary Rules

### 1 Policy Statement

- 1.1 The aim of the Disciplinary Rules and Disciplinary Procedure is to set out the standards of conduct expected of all staff and to provide a framework within which the Headteacher and line managers can work with staff to maintain those standards and encourage improvement where necessary.
- 1.2 If any employee is in any doubt as to their responsibilities or the standards of conduct expected they should speak to their line manager.

### 2 Rules of Conduct

- 2.1 While working for the Trust you should at all times maintain professional and responsible standards of conduct. In particular, you should:
  - (a) Observe the terms and conditions of your contract, particularly with regard to:
    - (i) Hours of work;
    - (ii) Confidentiality;
  - (b) Ensure that you understand and follow our Code of Conduct;
  - (c) Observe all of the Trust's and School's policies, procedures and regulations;
  - (d) Take reasonable care in respect of the health and safety of colleagues, students and third parties and comply with our Health and Safety Policy;
  - (e) Comply with all reasonable instructions given by the Headteacher and managers; and
  - (f) Act at all times in good faith and in the best interests of the Trust and School and those of our students and staff.
- 2.2 Failure to maintain satisfactory standards of conduct may result in action being taken under the Disciplinary Procedure.

### Misconduct

- 2.3 The following are examples of matters that will normally be regarded as misconduct and will be dealt with under the Disciplinary Procedure:
  - a) Minor breaches of the Trust and School's Policies
  - b) Minor breaches of an employee's contract of employment;
  - c) Damage to, or unauthorised use of, the Trust and School's property;
  - d) Poor timekeeping or unauthorised absence from work;
  - e) Refusal to follow instructions;
  - f) Excessive use of the Trust's telephones, email or internet usage for personal reasons;

- g) Inappropriate or other offensive behaviour, including using obscene language, victimisation or harassment of other members of staff;
- h) Negligence in the performance of duties;
- i) Smoking in any area, which applies to anything that can be smoked and includes, but is not limited to, cigarettes, electronic cigarettes, pipes (including water pipes such as shisha and hookah pipes), cigars and herbal cigarettes; or
- j) Poor attendance.

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

### **Gross Misconduct**

2.4 Gross misconduct is a serious breach of contract and includes misconduct which, in the opinion of the Trust, is likely to prejudice its business or reputation or irreparably damage the working relationship and trust between the Trust and the employee. Gross misconduct will be dealt with under the Disciplinary Procedure and may lead to dismissal without notice or without pay in lieu of notice (summary dismissal).

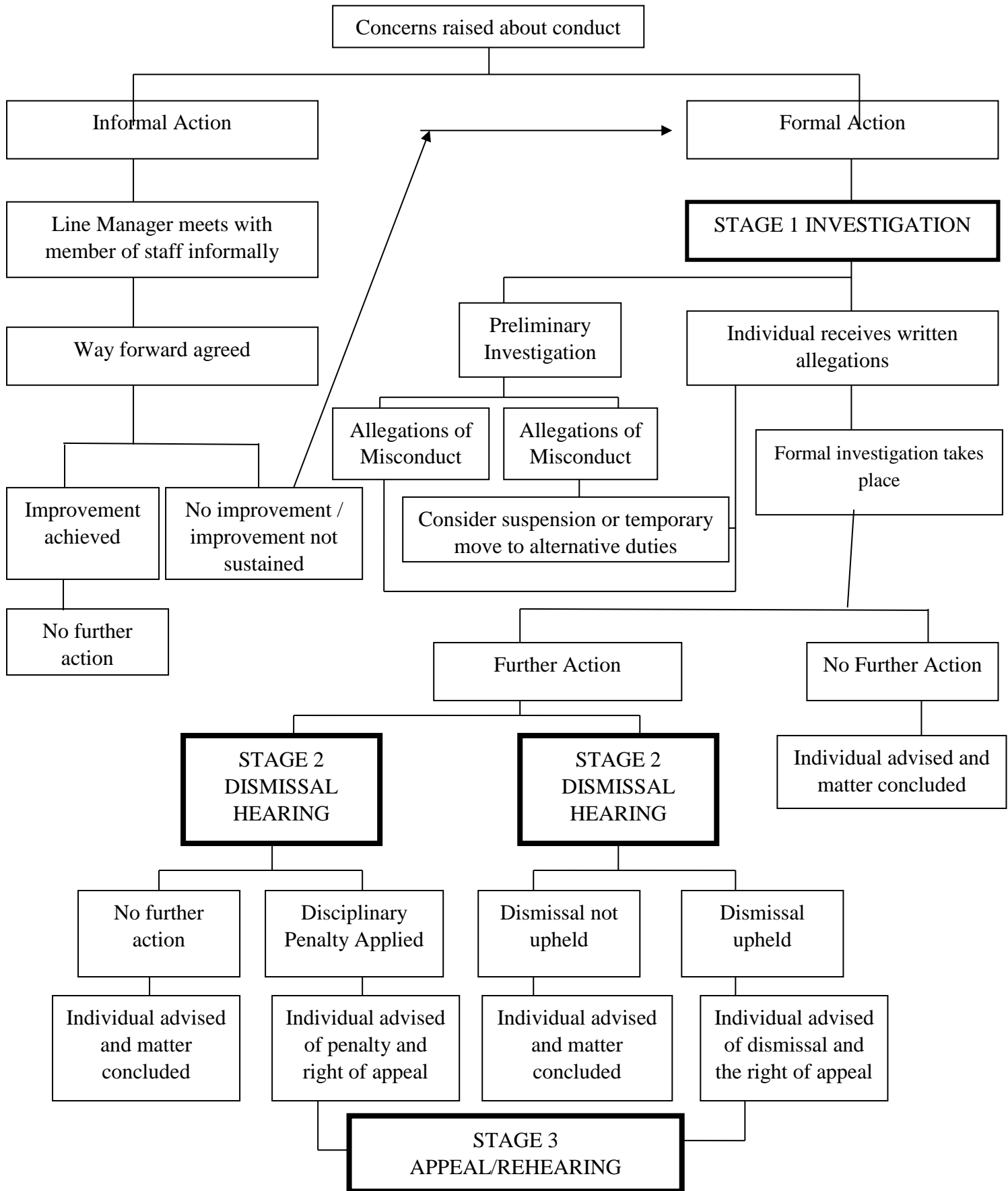
2.5 The following are examples of matters that are normally regarded as gross misconduct:

- a) Theft, or unauthorised removal of property or the property of a colleague, contractor, pupil or member of the public;
- b) Fraud, forgery or other dishonesty, including fabrication of expense claims and time sheets, pupil's work, examinations or assessments;
- c) Actual or threatened violence, or behaviour which provokes violence;
- d) Deliberate damage to the buildings, fittings, property or equipment of the Trust and Academy's, or the property of a colleague, contractor, pupil or member of the public;
- e) Inappropriate conduct with children or young people, including failing to maintain appropriate professional boundaries;
- f) Serious failure to follow the Trust's child protection procedures;
- g) Serious misuse of the Trust and Academy's property or name;
- h) Deliberately accessing internet sites at work or at home, using School equipment, which contain pornographic, offensive or obscene material;
- i) Repeated or serious failure to obey instructions, or any other serious act of insubordination;
- j) Bringing the Trust into serious disrepute, including incidents that occur outside the workplace;
- k) Being under the influence of alcohol, illegal drugs or other substances during working hours or not being capable of fulfilling your duties because of the effects of alcohol or illegal drugs or other substances.
- l) Causing loss, damage or injury through serious negligence;

- m) Serious or repeated breach of health and safety rules or serious misuse of safety equipment;
- n) Unauthorised use or disclosure of confidential information or failure to ensure that confidential information in your possession is kept secure;
- o) Conviction or caution for a criminal offence that in the opinion of the Trust may affect our reputation or our relationships with our staff, students, parents or the public, or otherwise affects your suitability to continue to work for us;
- p) Possession, use, supply or attempted supply of illegal drugs;
- q) Serious neglect of duties, or a serious or deliberate breach of your contract or operating procedures;
- r) Unauthorised use, processing or disclosure of personal data contrary to our Data Protection Policy;
- s) Harassment of, or discrimination against, employees, students, parents or members of the public, related to any of the protected characteristics;
- t) Refusal to disclose any of the information required by your employment or any other information that may have a bearing on the performance of your duties;
- u) Giving false information as to qualifications or entitlement to work (including immigration status);
- v) Making a disclosure of false or misleading information under our Whistleblowing Policy maliciously, for personal gain;
- w) Making untrue allegations against a colleague;
- x) Victimising a colleague who has raised concerns, made a complaint or given evidence information under the Whistleblowing Policy, Grievance Procedure, Disciplinary Procedure or otherwise;
- y) Serious misuse of our information technology systems (including misuse of developed or licensed software, use of unauthorised software and misuse of email and the internet) contrary to our E-Safety Policy/Social Media Policy;
- z) Undertaking unauthorised paid or unpaid employment during your working hours;

This list is intended as a guide and is not exhaustive. In some instances, offences which would normally constitute gross misconduct may be considered as misconduct because of mitigating circumstances. Similarly, issues which would normally be treated as misconduct may, in certain circumstances, be considered so serious that they constitute gross misconduct.

## Appendix 2 Disciplinary Procedure Flowchart



## **Appendix 3 - Managing Allegations of Abuse Against Teachers and other Staff**

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

### **1. Scope**

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

### **2. Initial Considerations**

- 2.1 Where the Designated Safeguarding Lead / Headteacher determine that the allegations meet the criteria above they will immediately contact the (Local Authority) Designated Officer (LADO) and provide them with all relevant information.
- 2.2 The LADO and the Headteacher will consider the nature, content and context of the allegation and agree a course of action. The LADO may ask for further relevant information to be provided or obtained such as previous history, whether the child or their family have made similar allegations, and the individual's current contact with children.
- 2.3 Outcomes of initial considerations;
- 2.3.1 No further action by external agencies or the Trust is to be taken in regard to the individual facing the allegation. The decision and reasons for this will be recorded. The Headteacher will agree with the LADO what information should be put in writing to the employee and what if any action is appropriate to take in respect of the person making the allegation. After consulting the LADO the Head will inform the employee about the allegation and provide them with as much information as possible at the time.

OR

- 2.3.2 No further action by external agencies, but Headteacher determines further action is required and will refer to the Disciplinary Procedure.

OR

- 2.3.3 The LADO determines that a strategy discussion is needed, or police or Local Authority's social care services need to be involved. The LADO will coordinate the appropriate arrangements and will inform the Headteacher. The Headteacher should not provide any further information to the employee. The strategy discussion will determine what action will be taken and by whom. The point at which the Trust can continue with its own disciplinary procedures will be determined. No further investigation should be carried out until agreed through this process.

### **3. Suspension**

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

### **4. Support for Staff**

- 4.1 Where an employee is the subject of an allegation of abuse the Trust recognises that in most circumstances this will be a time of stress and anxiety. Employees are advised to seek support from their Trade Union representative or an appropriate colleague. Appropriate support will be provided by the school. If the employee feels it is beneficial a referral to the Trust's occupational health provider and/or counselling service will be arranged.
- 4.2 The employee will be kept informed of the likely course of action as the case progresses unless there is an objection by the Local Authority Social Care Services or the Police.

### **5. Confidentiality**

The provisions in the Disciplinary Procedure regarding confidentiality apply to cases where allegations of abuse are made. The Trust will make every effort to maintain confidentiality and guard against unwanted publicity. During the process of managing these types of allegation the Trust will only release information to the wider Trust community for the purposes of reducing speculation. At all times the Trust will work within Keeping Children Safe in Education statutory guidelines in relation to confidentiality.

### **6. Investigations**

- 6.1 Investigations under the Disciplinary Procedure will not usually commence until agreement from the LADO and any other external agencies involved in dealing with the allegations have agreed that the academy can proceed. The provisions in the Disciplinary Procedure regarding investigations apply where allegations of abuse are made. Those undertaking investigations into allegations of abuse should



be alert to any sign or pattern which suggests that the abuse is more widespread or organised than it appears at first sight, or that it involves other perpetrators or institutions. It is important not to assume that initial signs will necessarily be related directly to abuse, and to consider occasions where boundaries have been blurred, inappropriate behaviour has taken place, and matters such as fraud, deception or pornography have been involved.

6.2 Interviewing students. The Investigating Officer will avoid interviewing students unnecessarily. Information will be gathered from the Local Authority Social Services and the Police where available and accessible.

6.3 Photographing students. The Investigating Officer or any other person at the Academy will not take photographs of students to support allegations of abuse. In cases where the Headteacher determines it appropriate to record injuries to a pupil they will use the appropriate procedure, for example body mapping, or refer to the LADO, the Local Authority Social Services or the Police for advice. Photographs and other information provided by external agencies may be used as a part of the investigation process if appropriate and authorised by the relevant agency.

## 7. Possible outcomes

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

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

## 8. Malicious Allegations

The Trust consider the making of malicious allegations to be unacceptable. Any allegations found to not have been made in good faith by a pupil, parent, other employee or any other person may result in action being taken. Any allegation that is found to be malicious will be removed from the file of the employee that has been accused.

## 9. Records and References

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

### Records and references

A record of the allegations, any investigation and the outcome will be kept on the employee's file, in accordance with our data protection policy and our [Retention and Destruction Policy] which complies with the requirements of Data Protection Legislation. The employee will be provided with copies of any records held. These records will remain on file until normal retirement age or for a period of 10 years from the date of the allegation if that is longer. Details of allegations that are proven to be false, unsubstantiated or malicious will not be referred to in any reference that the [School / Academy / Trust] provides for the employee concerned.

## **Appendix 4 – Format for Hearings**

### **Format for Disciplinary and Dismissal Hearings**

#### **1.0 Preliminary Matters**

Each panel will have a Chair which will either be the Chair or Vice Chair of Governors, unless he/she is not a member of the Committee, in which case those present shall elect from amongst their number, a person to take the Chair at the meeting during such absence. No staff governor will be allowed to sit on a disciplinary panel.

The hearing shall take place in private session and all parties shall be reminded that proceedings are confidential.

Facilities shall be provided for each side to meet separately. A private waiting room will be provided for the employee and his/her representatives and their witnesses.

The investigating officer, which will either be the Headteacher, another manager or an external investigator will present the management case.

The Clerk to the Governors will be responsible for making sure a note is taken of the proceedings.

The Chair shall, at the commencement of the meeting, set out the procedure as set out below.

#### **2.0 Opening remarks by the Chair of the Panel**

The parties to the matter, with their representatives, should be invited into the Hearing.

- Introduce those present, or ask each individual to introduce themselves
- Advise that an adjournment may be requested at any time during the Hearing
- Outline the procedure to be followed
- Outline the reason(s) for calling the hearing

#### **3.0 Order of Proceedings**

##### **3.1 Disciplinary Hearing including Dismissal Hearings**

- 3.1.1 The Headteacher (or designated manager) will present the case calling such witnesses as may be necessary. Written evidence may be read out, subject to the agreement of the Panel.
- 3.1.2 The employee and/or representative may ask questions of the witnesses and, where the Headteacher (or designated manager) gives evidence, of the Headteacher (or designated officer).
- 3.1.3 The Headteacher (or designated officer) may re-examine the witnesses.

- 3.1.4 The employee and/or representative will present their case calling such witnesses as may be necessary. Written evidence may be read out, subject to the agreement of the Panel.
- 3.1.5 The Headteacher (or designated manager) may ask questions of the employee, witnesses and, where the employee's representative gives evidence, of the employee's representative.
- 3.1.6 The employee and/or representative may re-examine the witnesses.
- 3.1.7 Members of the Panel may ask questions at any time but will seek to confine questioning until immediately prior to their re-examination
- 3.1.8 The Headteacher (or designated manager) will sum up the case.
- 3.1.9 The employee or representative will sum up the case.

At the conclusion of the meeting the parties and any other persons present, with the exception of the advisor to the Panel, shall withdraw whilst the Panel deliberates.

In cases where a decision is able to be reached, the Chair of the Panel will deliver the decision and will advise the employee of their right of appeal and they should then exercise their right of appeal and they should do so by stating the grounds for Appeal, in writing. The Chair of the Panel should indicate who the Appeal must be addressed to and that any Appeal should be lodged within 5 working days.

### **Format for Appeal Hearings**

#### **1.0 Preliminary Matters**

Where the Appeal is either against action taken by the Headteacher or against a decision to dismiss made by the Staff Dismissal Committee, the Appeal will be heard by the Trust Directors. The Trust Directors have the power to confirm or vary any such previous decision. Their decision is final.

Each panel will have a Chair which will either be the Chair or Vice Chair of Directors, unless he/she is absent, in which case those present shall elect from amongst their number, a person to take the Chair at the meeting during such absence.

Any Governor who has been involved in the particular action taken shall not participate as a Director in the proceedings.

The hearing shall take place in private session and all parties shall be reminded that proceedings are confidential.

It should be established whether any adjustments are required to the usual facilities arrangements.

Facilities shall be provided for each side to meet separately. A private waiting room will be provided for the employee and his/her representatives and their witnesses.

The Presenting Officer will present the management case. The Presenting Officer will usually be the hearing officer/chair of the disciplinary hearing.

The Chair shall, at the commencement of the meeting, set out the procedure as set out below.

## **2.0 Opening remarks by the Chair of the Panel**

The parties to the matter, with their representatives, should be invited into the Hearing.

- Introduce those present, or ask each individual to introduce themselves
- Advise that an adjournment may be requested at any time during the Hearing
- Outline the procedure to be followed
- Outline the reason(s) for calling the hearing.

## **3.0 Order of Proceedings**

### **3.1 Appeal Hearing**

- 3.1.1 The employee (Appellant) and/or representative will present the grounds for the Appeal and will call such witness as may be necessary.
- 3.1.2 The Presenting Officer may ask questions of the employee and of any witness called.
- 3.1.3 The Appellant and/or representative may re-examine the witnesses.
- 3.1.4 The Presenting Officer/ will present his/her response to the Appellant calling witnesses as necessary.
- 3.1.5 The Appellant and/or representative may ask questions of the Presenting Officer/HR Officer and of any witness called.
- 3.1.6 The Presenting Officer/ may re-examine the witnesses.
- 3.1.7 Members of the Panel may ask questions of the parties or witnesses at any stage but will seek to confine questioning until immediately prior to their re-examination.
- 3.1.8 The Appellant or either the Representative will sum up the case.
- 3.1.9 The Presenting Officer/ will sum up the case.

At the conclusion of the meeting the parties and any other persons present, with the exception of the Clerk and the Advisors to the Panel, shall withdraw whilst the Panel deliberates.

In cases where a decision is able to be reached, the Chair of the Panel will deliver the decision and will advise the employee of the outcome of their appeal. There is no further right of appeal.

The meeting will be confirmed in writing which must be sent to the employee within 5 working days of the meeting decision by the Chair of the Panel.

In cases where it is agreed to have a full rehearing of the case, the format for a hearing rather than an appeal may be followed (e.g. management case first). This will be for the Chair of the Appeal Panel to determine.