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Human Resources Policies & Procedures for Schools

Section 8 – Disciplinary

8.1 Model Disciplinary Procedure for Schools

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Model Disciplinary Procedure for Schools

1.0 Introduction and Objectives

1.1 A high standard of discipline is essential for the efficient and orderly conduct of the Trust and for the safety and well being of its entire staff. The Executive Principal/Chief Executive Officer are responsible for promoting and maintaining that standard.

1.2 For the purpose of this document, misconduct will be assessed by reference to Trust codes of conduct, contractual obligations and other relevant disciplinary rules laid down by the school. Misconduct concerns may be about a single matter or a number of separate issues.

1.3 The procedure sets out both general principles, which will apply to the way in which the Trust disciplinary procedures will operate and in some instances, the detailed steps that will have to be followed.

1.4 The procedure is written in line with the ACAS Code of Practice as amended April 2009.

1.5 The procedure is designed to help and encourage all employees to achieve and maintain appropriate standards of conduct. The main purpose of the disciplinary procedure is to encourage an employee, whose conduct is unsatisfactory, to improve. Disciplinary action may, at its extreme, lead to dismissal.

1.6 The Executive Principal/Chief Executive Officer or Board of Directors has overall responsibility for promoting and maintaining standards of work conduct. Informal guidance does not form part of the formal disciplinary procedure.

1.7 The following disciplinary procedure has been established by the Board of Directors in line with the powers given under the School Staffing (England) Regulations 2009. In establishing these procedures, care has been taken that the procedure is consistent with the Education Act and Regulations, employment legislation and codes of practice, as well as good HR practice. The Executive Principal/Chief Executive Officer will have the delegated responsibility to take disciplinary action up to initial dismissal decisions, following which there will be an opportunity to appeal to a committee of directors.

1.8 The Board of Directors has a responsibility to apply the provisions of this procedure fairly and with full regard to the School Staffing (England) Regulations 2009.

1.9 The procedure should not be viewed primarily as a means of imposing sanctions or as necessarily setting out procedures leading to dismissal or a determination to cease working at the school. Its aim is to ensure that employees of the Trust covered by this procedure are treated fairly and consistently and that, particularly where an employee's job is at risk, proper and adequate procedures are observed before any decision is taken.

1.10 All proceedings under this procedure shall be held in private and shall be confidential.

1.11 Where an employee raises a grievance during a disciplinary process the disciplinary process may be temporarily suspended for a short period to consider the implications of the grievance on the disciplinary by the investigating officer. Where the grievance and disciplinary cases are related it may be appropriate to deal with both issues concurrently. If the grievance concerns matters that are unrelated to the disciplinary, then a separate process under the grievance procedure should commence. In almost all cases, the grievance should be considered after the completion of the disciplinary. The exception here would be where there is a long delay in the progress of the disciplinary e.g. where the conclusion of police proceedings are awaited.

1.12 Where an employee is lacking in skills and knowledge and their performance means they are not working to the required standard Executive Principal/Chief Executive Officers should refer to the Capability Policy in an aim to improve performance. If there is an attendance issue due to illness the Attendance Management Policy will apply.

2.0 Scope of Procedure

2.1 This disciplinary procedure applies to all staff who are permanent employees or directly employed fixed term staff within the establishment of a school, regardless of length of service, whether full-time, part-time, in all teaching and support posts, including Executive Principal/Chief Executive Officers and Deputies.

3.0 Representation

3.1 The employee has a statutory right to be accompanied by a recognised trade union representative or by a work colleague at any meeting, hearing or appeal associated with this policy.

A Trade Union representative who is not an employed official must have been certified by their union as being competent to accompany the employee. To exercise the statutory right to be accompanied, employees must make a reasonable request. What is reasonable will depend on the circumstances of each individual case. However, it would not normally be reasonable for employees to insist on being accompanied by someone whose presence would prejudice the hearing nor would it be reasonable for an employee to ask to be accompanied by someone from a remote geographical location if there is someone suitable and willing available on site. (No other categories of representative will be allowed to attend). For avoidance of doubt an investigating officer will not be entitled to representation when acting in the role of investigating officer.

3.2 It is the responsibility of the employee to arrange for their representation including notifying the representative of any meeting, hearing or appeal dates in good time and provide copies of all relevant documentation. Where the employee's chosen Trade

Union representative or work colleague is not available at the time proposed for the meeting, hearing or appeal, the employee may propose an alternative time. If the alternative time is reasonable and falls within 5 working days after the original date proposed, the meeting, hearing or appeal must be postponed to that time.

3.3 The Trade Union representative or work colleague may also address a meeting, hearing or appeal to put and sum up the employees case, respond on behalf of the employee to any views expressed at the meeting and confer with the employee, but may not answer any questions on their behalf.

3.4 It is good practice for management to try and agree a mutually convenient date for the meeting with the employee and their Trade Union representative or work colleague to ensure that meetings do not have to be delayed or postponed.

3.5 Schools will also need to consider whether any additional support for the employee is required, for example when a physical disability or other special need is identified.

4.0 Discipline of Employee Representatives

4.1 Where disciplinary action is being considered against an employee who is a trade union representative the normal disciplinary procedure will be followed. Depending on the circumstances however, it is advisable to discuss the matter at an early stage with an official employed by the union only after obtaining the employee's agreement.

5.0 Establishing the Facts

In some instances where the allegations are unclear, the facts of the case should be clarified as to whether it is a potential disciplinary matter and further investigation is required.

The fact finding exercise where necessary, should be carried out without unreasonable delay.

6.0 Informal Action

6.1 Many potential disciplinary issues can be resolved informally and employers and employees should always seek to resolve disciplinary issues in the workplace. Problems dealt with early enough can be dealt with informally, whereas delay can make things worse as the employee may not realise that they are below the expected standard. In many cases the 'right word' at the 'right time' and in the 'right way' may be all that is needed, and in cases of minor misconduct, unless persistent, are usually best dealt with informally.

6.2 Informal action may often be a more satisfactory way of dealing with a breach of rules than a disciplinary meeting if it takes the form of a discussion with the objective of encouraging and helping the employee. It must not turn in to a disciplinary meeting.

The meeting is aimed at pointing out the shortcomings in conduct, attitude or behaviour and encouraging improvement. Criticism should be constructive, with the emphasis being on finding ways for the employee to improve and for the improvement to be sustained. In particular Executive Principal/Chief Executive Officer should:

- Arrange to meet in private with the employee to discuss the issues or concerns

- Where it has been identified that improvement is required ensure that the employee understands what needs to be achieved, how their conduct will be reviewed and over what time period
- Ensure the employee understands the consequences if their conduct does not reach the required standard
- Following the meeting, write to the employee providing management guidance confirming the discussions, actions required, timescales for review (where appropriate) and the consequences of failure to improve which could result in disciplinary action. A copy will be retained on the employee's personal file and may be used in cases of future misconduct
- Provide the employee with a copy of the Disciplinary Policy

6.3 In certain instances mediation may assist in relation to disciplinary issues. In such cases, subject to the agreement of both parties, mediation can be arranged to try to settle the matter. Although a cost will be incurred for this service it is a cheaper alternative to employment tribunal claims. If mediation is felt to be appropriate you should contact the Trust HR provider HR Business for further information.

7.0 Investigation

When a disciplinary matter arises the following procedure will apply:

7.1 The appropriate person under the scheme of delegation will inform the employee in writing, prior to the investigation meeting giving the following information:

- An outline of the allegations
- A copy of the Disciplinary Policy
- Time, date and venue of the investigation meeting (taking into account any special needs of the parties)
- The right to be accompanied at all meetings under the formal procedure by a Trade Union representative or work colleague
- Details of who will be in attendance

7.2 The appropriate person under the scheme of delegation will investigate the matter. This will normally be a senior member of staff, or in the case of a Executive Principal/Chief Executive Officer under investigation and in other extreme cases, a member of the Board of Directors assisted by the Trust's HR provider.

7.3 The investigating officer will promptly carry out a full and thorough investigation into the allegations as the circumstances will allow. This will include the gathering of evidence from the relevant parties and an investigation meeting with the employee.

7.4 Notes will be taken during all meetings, hearings and appeals by an identified note taker. The recording of these discussions by any other device, i.e mobile telephone is prohibited.

7.5 Where third parties and witnesses are interviewed it will be made clear that their statement may be presented at a formal hearing and they may be required to attend the hearing. Witness statements will be shared with the employee concerned, their representative and the Executive Principal/Chief Executive Officer /Hearing Committee of the Board of Directors. Should the case go to appeal and/or employment tribunal, witness statements will also be disclosed.

7.6 The investigating officer will adjourn the meeting/investigation if other areas of concern require investigation.

7.7 On completion of the investigation, the investigating officer will determine the most appropriate conclusion and notify the employee in writing of their decision, which could be:

- No further action is required
- Management guidance is needed
- A disciplinary hearing will be arranged

7.8 If management guidance is required the investigation officer will make arrangements to do this at the earliest opportunity. The details of this will be confirmed in writing and a copy will be retained on the personal file and can be referred to in the case of future acts of misconduct. There is no right of appeal against management guidance.

7.9 In the case of a Executive Principal/Chief Executive Officer, the investigating officer will submit a recommendation to the Chair of Directors as to whether a Hearing Committee of the Board of Directors should consider the matter.

7.10 Persons directly involved in the investigative process may present a case or appear as a witness, but may not give advice to or sit on the subsequent Disciplinary Hearing Committee.

8.0 Sickness absence during formal process

8.1 If at any point in the procedure an employee is absent due to illness the investigation will continue, as far as possible, by interviewing witnesses and collecting any information relevant to the case.

Depending upon the nature of the illness some employees who remain too ill to attend work may be well enough to attend investigatory meetings or a disciplinary hearing. Where this is not the case and there is no clear timescale for fitness to participate in the formal process, medical advice will be sought from Occupational Health.

In the event that the employee is unfit to participate in the process, the absence will be managed as follows:

- Where an investigation has been completed and a hearing date set, the hearing date may be postponed and re-arranged
- If the employee is unable to attend the re-arranged hearing they may, if they wish, submit a written presentation to the Executive Principal/Chief Executive Officer or Hearing Committee
- The Trade Union representative may attend the hearing, to present the case, in the absence of the employee
- In the event that the employee does not attend the re-arranged hearing it may proceed in their absence and a decision made, based on the evidence available
- Following the re-arranged hearing, which will determine the outcome, suspension, if applicable, will cease and be replaced by sick leave

9.0 Suspension without prejudice

9.1 If the matter to be investigated is thought to involve serious misconduct, the Executive Principal/Chief Executive Officer or Chair of the Board of Directors has the authority to immediately suspend the employee, without prejudice. Similarly, if during the course of an investigation the investigation officer believes that a serious breach of discipline may have occurred, they may recommend suspension of the employee. Where the employee holds more than one post in the Trust the suspension will apply to all posts.

In the event of suspension from duty, employees must ensure they are available at all times to return to the workplace to assist in the investigation.

9.2 Suspension should only be considered in extreme circumstances where the employee's continued presence on site:

- Could impede the investigation
- Represents a serious risk to the safety of others or themselves
- Seriously undermines the reputation of the school
- In order to avoid a repetition of the alleged misconduct
- On the loss of accreditation/statutory provision or disqualification essential to the job
or
- When the allegation is potentially gross misconduct that may lead to dismissal

9.3 As an alternative to suspension the Executive Principal/Chief Executive Officer or Chair of the Board of Directors may consider temporary arrangements including

- variations to duties
- working arrangements
- working location

9.4 When considering the suspension of an employee, the Executive Principal/Chief Executive Officer or Board of Directors shall liaise with the Trust's HR provider. They should also immediately arrange a meeting with the employee, unless this is totally impractical.

9.5 Time permitting, the employee may bring a certified Trade Union representative or work colleague to this meeting. The employee will be informed of the nature of the allegations. The employee may make representation in respect of the proposed suspension. The Executive Principal/Chief Executive Officer or Chair of Board of Directors will then verbally confirm the decision at the meeting and in writing within five working days. If the decision is to suspend the employee, then the letter will outline the reasons for the suspension and the nature of the allegations.

9.6 On occasion more urgent action is necessary. If this is the case the employee should be asked to leave the premises and escorted off the site. The employee should be allowed to make representations at a later stage. Written confirmation of the suspension should be sent as soon as possible afterwards.

9.7 Suspension during the course of an investigation is not a sanction in itself and does not imply guilt. Only the Chair of the Board of Directors or a Director nominated by the Chair can end the suspension.

9.8 The powers given to the Board of Directors in this procedure is without prejudice to the Education (School Government) Regulations 1999, which provides that the Chair or Vice-Chair of a Board of Directors may exercise the functions of the Board of Directors in cases of urgency.

During suspension an employee should not:

- make contact with other employees or persons associated with the case
- return to the workplace unless instructed to do so

Suspended employees can expect:

- to be paid their full pay
- to have a named contact person, who is not involved in the case as a point of contact during the period of suspension
- that regular contact is maintained throughout the process
- the investigation be concluded as soon as possible
- access to counselling during the suspension

9.9 The letter should state that the investigation and disciplinary process should be completed as soon as possible.

10.0 Formal Disciplinary Procedure

10.1 If the investigating officer is satisfied that the complaint warrants a hearing, they will inform the employee and a Disciplinary hearing will be arranged. The employee will be informed in writing of the following: -

- The date, time and place with at least 5 working days notice from date of the letter
- The names of the committee members (but this may be subject to change)
- The specific nature of the allegations
- The right to produce written statements and to bring witnesses
- The right to representation
- Names of any management witnesses
- Any supporting documents to be used as evidence by management
- Possible outcome if allegations are proven i.e. warnings, dismissal
- A copy of the Disciplinary Procedure

10.2 If the employee wishes to call witnesses or provide relevant paperwork, this should be provided to the Executive Principal/Chief Executive Officer /Chair of the Board of Directors as appropriate, at least two working days prior to the Hearing.

10.3 A representative from the Trust's HR provider should attend a disciplinary hearing. It is essential that a representative from the Trust's HR provider attend the Hearing when dismissal is considered to be a likely outcome.

10.4 The Executive Principal/Chief Executive Officer will hear the case. If the Executive Principal/Chief Executive Officer has been directly involved in the procedures leading to disciplinary action, has instigated a proposal to dismiss or is a witness of particular conduct giving grounds for the disciplinary action in question (or the Executive Principal/Chief Executive Officer is being considered for disciplinary action) the initial decision can be delegated to a Committee of at least three Directors.

11.0 At the Hearing

11.1 Where the allegation is being considered by a committee of Directors, the Executive Principal/Chief Executive Officer (except where they are the subject of the disciplinary or have been involved in the investigation as a witness) may attend the meeting to give advice.

11.2 If the employee fails to attend the hearing, the case will be heard in their absence, unless acceptable reasons have been presented in advance and it is therefore agreed to postpone the hearing to a later date. Please refer to section 8 for sickness absence during the formal process.

11.3 Copies of the allegations and all relevant papers including those submitted by the employee concerned must be available for the Executive Principal/Chief Executive Officer /Directors to use when hearing the allegation.

11.4 It is for the Executive Principal/Chief Executive Officer /Directors to decide whether late evidence from either side is acceptable. The Committee should seek the views of both sides when considering whether to accept late evidence, and consider the reasonableness and fairness of the decision. If late evidence were accepted in the form of written documentation, it would be usual to allow reading time by way of a brief adjournment.

11.5 The Executive Principal/Chief Executive Officer /Directors must ensure that the employee receives a fair and impartial hearing, is encouraged to be represented or accompanied, is allowed to present their case or have it presented and is allowed to bring witnesses and to question the management presenter and any management witnesses.

12.0 The procedure for the Hearing will be as follows:

12.1 The Executive Principal/Chief Executive Officer / Chair of the Committee of Directors will open the proceedings by:

- stating the purpose of the hearing
- introducing all present
- saying how the hearing will be conducted
- confirming that all have the same documentation
- confirming the number and names of witnesses attending on both sides
- asking for any points of clarification to be stated
- reading the disciplinary allegations
- asking each side to present their case and is responsible for ensuring that all presentations, evidence and questions are relevant and questioned if any area is unclear

The Executive Principal/Chief Executive Officer /Directors will then proceed to hear the case. The order of the proceedings is detailed at **Appendix 1**.

12.2 Once the Executive Principal/Chief Executive Officer /Directors are satisfied that all the relevant evidence has been heard then the committee must reach a decision

and convey the decision to the employee and representative. All parties other than the assigned officer advising the Executive Principal/Chief Executive Officer /Directors shall withdraw when the decision is considered.

12.3 Before deciding what disciplinary sanction to impose, the Executive Principal/Chief Executive Officer /Directors should consider whether the employee has been subject to any previous disciplinary action and whether any warnings are still current. The Executive Principal/Chief Executive Officer /Directors should also consider any mitigating factors that may have been presented during the Hearing.

12.4 Codes of conduct and action taken in similar cases in the past may be considered and representations as to whether the proposed action is reasonable in the circumstances.

13.0 The Disciplinary Action

13.1 The decision will usually be given verbally to the employee in the presence of their representative. However, this may be varied by mutual agreement. The decision will also be confirmed in writing.

13.2 The possible actions arising from a disciplinary hearing are:

- **No further action** – all references relating to the matter will be removed from the employee's personal file.
- **Management guidance** – appropriate for more minor breaches of conduct. The committee may set timescales and review periods.
- **Written warning** – where an employee is found guilty of misconduct, the first step would be to give them a written warning setting out the nature of the misconduct, any improvements and the change in behaviour required. The employee will be informed that the warning is part of the formal disciplinary process, the consequences of any further misconduct could be a final written warning and ultimately, dismissal and their right of appeal.
- **Final written warning** – where there is a failure to improve or change behaviour following written warning, or where the conduct is considered to justify a final written warning in its own right, the employee will be made aware of the school's expectations for their future conduct. The employee will also be informed of the consequences of any future misconduct, which could result in their dismissal and their right of appeal.
- **Dismissal** – (please refer to paragraphs 14 & 15 below)

13.3 In addition where appropriate, there are a number of supplementary sanctions that a committee may consider to accompany management guidance, a written warning or a final written warning. Such sanctions may include, for example, the necessity to attend specified training.

14.0 Dismissal with notice

14.1 If the employee's conduct still fails to improve, the final stage in the disciplinary process will be dismissal. The employee will be informed of the reasons for the dismissal, the date on which the employment contract will terminate, the appropriate period of notice and their right of appeal.

15.0 Dismissal without notice (Gross misconduct)

15.1 Some cases of misconduct are so serious they may be termed gross misconduct. In such cases the employee may be dismissed without notice (summary dismissal) and without reference to any prior warnings.

15.2 Gross misconduct is regarded as misconduct of such a nature that it fundamentally breaches the contractual relationship between the employee and employer, making any further working relationship or trust impossible.

15.3 The written notification from the Committee of their decision will include the following:

- The precise nature of the misconduct proven
- The basis of the decision
- The period of time given for improvement, if appropriate and the standard of improvement expected
- The disciplinary sanction being applied and, where appropriate, how long any sanctions will last
- An indication of the likely consequences of further proven misconduct
- Information about the employee's right of appeal, including how it should be made, by when and to whom

16.0 Duration of Warnings

16.1 The following time limits for warnings will apply:

- First written warning – 12 months
- Final written warning – 18 months

16.2 After the expiry of any warning period and the employee's conduct is satisfactory, the warnings will be removed for the purpose of the employment relationship in general, e.g. for promotion, or selection for training courses. However, a valid record of employment history will be retained by the Trust.

In relation to any further acts of misconduct on the part of the employee, if such misconduct is similar or related in nature to previous misconduct, then irrespective of the time limits above, previous offences may be taken into account in determining whether disciplinary action should be taken.

17.0 Appeal

17.1 An employee can appeal against any formal action taken as a result of this procedure. All appeals will be conducted as a full re-hearing of the case. The Appeal Committee may reduce, nullify or confirm the decision.

17.2 Employees may appeal in writing against the following disciplinary sanctions:-

- Written warnings
- Supplementary sanctions (as outlined in 11.3)
- Dismissal

and/or on the grounds that:

- The action taken was unfair or unjust
- Unfair procedures were used

- New evidence that has come to light

17.3 An appeal must be sent to the Chair of Directors. A pro-forma will be included with the written notification of formal action, on which the employee can give notice of appeal and must include reasons of the grounds of appeal, see **Appendix 2**. Notice of appeal must be received within 5 working days of receipt of the decision letter. This time limit will be strictly observed.

17.4 Arrangements for the Appeal will be made on receipt of the appeal request. Wherever possible the Appeal should be heard within 20 working days of the lodging of the appeal and the employee should have at least 5 working days notice of the Appeal Hearing.

18.0 The Appeals Committee

18.1 An Appeals Committee should be formed from the Board of Directors to include no fewer members of the Board of Directors than that of the Disciplinary Hearing Committee whose decision is subject to appeal. A representative from the Trust's HR provider should also assist the Appeals Committee but the representative shall not be entitled to vote in any proceedings of the Committee.

18.2 No member of the Disciplinary Hearing Committee concerned shall be a member of the Appeal Committee.

18.3 All papers presented to the hearing, together with the decision of the Executive Principal/Chief Executive Officer /Chair of the Hearing Committee and any subsequent correspondence must be available to the Appeals Committee. Any new evidence, which the employee wishes to introduce, should be copied to all parties at least 2 working days in advance of the Appeal hearing. A decision will be made by the Appeals Committee if on receipt of new evidence from the employee that it will be accepted, or whether further investigation is required. In the latter case it will be referred back for investigation and consideration by the original hearing committee. All parties will be informed accordingly.

19.0 At the Appeal Hearing

19.1 The procedure for the Appeal Hearing will be the same as the Disciplinary Hearing Procedure as set out in sections 11 – 12 of this document and the order of proceedings is set out in **Appendix 3**.

19.2 The Appeals Committee will deliberate the grounds for the appeal in private, paying particular attention to any new evidence that has been introduced by the employee and hear representations from both management and the employee or representative in order to determine whether the decision of the hearing was fair and reasonable in view of the evidence available.

The Appeals Committee may decide that further investigation is required due to new evidence and therefore the Appeal Hearing will be adjourned to allow for further investigation.

19.3 The decision of the Appeal Committee is final and binding on all parties and replaces the original decision and once made must then be notified to the employee, in writing.

20.0 Disciplinary Offences

20.1 Breaches of reasonable conduct at work may take many forms. The following lists are not exclusive and there may be other examples appropriate to the nature of a particular job which would warrant disciplinary action following a thorough examination of the circumstances involved -:

- unauthorised absence from work (including poor timekeeping), persistent and frequent absenteeism and failure to follow notification procedures
- failure to follow reasonable instructions given by manager, or supervisor/senior staff
- wilful neglect of duty
- breaches of safety regulations and safe working practices
- theft or embezzlement whilst at work
- deliberately falsifying work records
- being unfit for duty through drink or drugs (other than those which have been medically prescribed)
- sexual misconduct at work including indecent behaviour, offensive behaviour or sexual harassment
- discrimination against pupils, employees or members of the public on grounds of their colour, race, disability, ethnic origins, sex, sexual orientation, age, marital status or religious beliefs
- fighting, physical assault or threatening behaviour towards a pupil, fellow employee or member of the public
- bullying, abusing or threatening behaviour towards pupils and other employees
- wilful damage to or concealment of official records
- improper disclosure of written or verbal information which is clearly identifiable as confidential
- improper use of IT equipment and systems, including Contact Point
- knowingly aiding and abetting a disciplinary offence
- knowingly making false or malicious statements about other employees or members of the Board of Directors
- deliberate failure to report evidence or suspicion of any impropriety or breach of procedure on the part of another employee
- wilful non-compliance with Data Protection principles
- activity that could potentially bring the Trust in to disrepute
- smoking on school premises
- failure to follow the schools' policies and procedures

21.0 Gross Misconduct

Such breaches may be rare and could include-:

- substantiated allegations in relation to child protection issues
- stealing from the school, members of staff, pupils or the public
- other offences of dishonesty
- sexual misconduct at work
- fighting, physical assault
- falsification of a qualification which is a stated requirement of the employment or which results in financial gain
- deliberate and or inappropriate misuse of ICT facilities, including Contact Point
- deliberate damage to or misuse of the employer's property

- inability to perform duties or improper conduct as a result of being under the influence of alcohol or drugs (other than those which have been medically prescribed)
- falsification of records or claims
- corrupt or improper practice for private gain
- completing application forms and or other essential clearance forms in relation to employment in such a way as to gain employment under false pretences
- engaging in other employment during normal working hours or working privately on activities, which are detrimental to the school's interest
- activity that could potentially bring the Trust into disrepute
- failure to follow the schools policies and procedures, *for example serious breaches relating to Safeguarding, Attendance Management and Health and Safety Policies.*
- the loss of accreditation or failure to meet statutory provision essential to the job

Other Disciplinary Offences (including those listed above) may also be considered to be gross misconduct. Whether or not any disciplinary offence amounts to gross misconduct will depend on the particular circumstances of the case including job duties and responsibilities of the Employee.

22.0 Allegations Against Staff in relation to Child Protection Issues

22.1 If a complaint against an employee relates to a child protection issue then it is essential that the investigator contact the Local Authority's Designated Officer (LADO) at the outset to discuss how to proceed. The outcome may be that an allegations strategy meeting is required and the LADO will make the referral to CESC First Contact and convene a strategy meeting in accordance with guidance in the "Procedures for Working Together to Safeguard Children in Stockton-on-Tees"

22.2 If the allegation is substantiated and the person is dismissed or the employer ceases to use the person's services, or the person resigns or otherwise ceases to provide their services, the LADO should discuss with the employer whether a referral should be made for consideration as to the individual being barred from, or have conditions imposed in respect of, working with children.

23.0 Alleged Criminal Offences

23.1 If an employee is charged with, or convicted of a criminal offence, this is not normally in itself reason for disciplinary action. Consideration needs to be given to what effect the charge of conviction has on the employee's suitability to do the job and their relationship with their employer and work colleagues. The disciplinary procedure will only be instigated where there are reasonable grounds for believing that the nature of the activities is sufficiently serious to have an adverse effect on the ability of, or confidence in, the employee to carry out their duties properly.

23.2 Where an employee is alleged to have committed a criminal offence and Police investigations are underway, disciplinary proceedings can be taken and a decision implemented in accordance with this procedure before Police investigations are completed.

23.3 The Trust will normally wish the Police to independently prosecute offenders where financial impropriety at work is discovered, in addition to whatever disciplinary action is felt appropriate.

24.0 Professional Misconduct

24.1 In cases of professional misconduct, in addition to imposing a disciplinary sanction under the procedure, consideration will also be given to notifying the relevant professional body under the employers' duty to refer procedures.

24.2 If an employee resigns during a disciplinary investigation, the investigation may be completed and a management meeting or hearing held, to consider whether any further action is required e.g. Executive Principal/Chief Executive Officer /Directors notifying a professional body regarding professional misconduct, and any reference should reflect the findings of the investigation, the conclusions drawn by the investigation team and that the employee chose to resign.

24.3 In respect of the Disclosure and Barring Service (DBS) a referral will be made if an employee has caused harm or poses a future risk of harm to children.

24.4 A referral to the National College for Teaching and Leadership (NCTL) will be made in relation to teacher misconduct.

25.0 Misconduct outside working hours

25.1 Misconduct relating to matters involving the employee outside working hours may also result in disciplinary action if it involves an activity or offence that is likely to affect the reputation of the Trust or the employee's ability or suitability to carry out their duties at work effectively.

26.0 Records

26.1 The maintenance of accurate and contemporaneous records is essential, particularly in the event of referral to an Employment Tribunal. Notes are not necessarily verbatim, and there is no requirement for agreed minutes, it should be noted that consideration by an employment tribunal might be an extended time after the matter was considered internally.

26.2 Records should be held in a secure and confidential manner, often the issues raised by an employee are particularly sensitive and it is essential that information is kept in accordance with the Data Protection Act 1998.

Documentation that should normally be retained includes:

- all papers presented at the Disciplinary and Appeal hearings;
- notes of meetings (contemporaneous or otherwise);
- information collated by the committee or used to assist in making a decision;
- confirmation of the decision, or other supplementary correspondence;
- clarity on how decisions were reached and disciplinary action determined.

DISCIPLINARY PROCEDURE FOR SCHOOLS**PROCEDURE FOR A HEARING**

1. The Management representative to present the facts of the case and may call witnesses.
2. The employee or his/her representative to have the opportunity to question the Management representative and any witnesses about the facts provided.
3. The Executive Principal/Chief Executive Officer /Hearing Committee to have the opportunity to question the Management representative and any witnesses.
4. The employee or his/her representative to put his/her case and to call such witnesses as he/she wishes.
5. The Management representative to have the opportunity to ask questions of the employee or his/her representative and witnesses.
6. The Executive Principal/Chief Executive Officer /Hearing Committee to have the opportunity to ask questions of the employee or his/her representative, or the witnesses.
7. The Management representative to have the opportunity to sum up his/her case. (No new evidence should be submitted at this point)
8. The employee or his/her representative to have the opportunity to sum up his/her case. (No new evidence should be submitted at this point)
9. The Management representative and the employee and his/her representative to withdraw.
10. The Executive Principal/Chief Executive Officer /Hearing Committee to consider the facts presented to them.

The hearing may also be adjourned at the deliberation stage, in order to allow for further investigation if the Executive Principal/Chief Executive Officer /Hearing Committee feels that there are points that need clarification. An opportunity may be given to re-examine the evidence/witnesses.

**DISCIPLINARY PROCEDURE FOR SCHOOLS
APPEAL PRO-FORMA**

NAME :	TRADE UNION:
POST TITLE:	UNION REPRESENTATIVE NAME AND CONTACT DETAILS:
SCHOOL NAME:.....	
CONTACT NUMBER

DATE OF HEARING:
DECISION:
DATE LETTER ISSUED:

THE GROUNDS FOR MY APPEAL ARE:

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Continue on a separate sheet if necessary. Please ensure that additional sheets are signed, numbered and dated.

SIGNED:

DATE: **Contact Number:**

**PLEASE RETURN THIS PRO-FORMA WITHIN 5 WORKING DAYS OF RECEIPT OF THE
DECISION LETTER TO:**

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Time limits for appeal will be strictly observed

APPENDIX 3

DISCIPLINARY PROCEDURE FOR SCHOOLS**PROCEDURE FOR AN APPEAL HEARING**

1. The Management representative to present the facts of the case and may call witnesses.
2. The employee or his/her representative to have the opportunity to question the Management representative and any witnesses about the facts provided.
3. Members of the Committee to have the opportunity to question the Management representative and any witnesses.
4. The employee or his/her representative to put his/her case and to call such witnesses as he/she wishes.
5. The Management representative to have the opportunity to ask questions of the employee or his/her representative and witnesses.
6. Members of the Committee to have the opportunity to ask questions of the employee or his/her representative, or the witnesses.
7. The Management representative to have the opportunity to sum up his/her case. (No new evidence should be submitted at this point)
8. The employee or his/her representative to have the opportunity to sum up his/her case. (No new evidence should be submitted at this point)
9. The Management representative and the employee and his/her representative to withdraw.
10. The members of the Appeals Committee to consider the facts presented to them.

The appeal hearing may also be adjourned at the deliberation stage, in order to allow for further investigation if the Committee feels that there are points that need clarification. An opportunity may be given to re-examine the evidence/witnesses.