

Bedfield and Wetheringsett C of E Primary Schools
DISCIPLINARY PROCEDURE

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The Mustard Seed

“The Kingdom of Heaven is like a grain of mustard seed, when it is grown, it becomes a tree, so that the birds of the air come and lodge in its branches.” Matthew 13:31 – 32

The Mustard Seed

“If you have faith as small as a mustard seed... nothing will be impossible for you.” Matthew 17:20-21



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PROCEDURE FOR ALL STAFF

Introduction

1. **Introduction**
 - 1.1 The purpose of this procedure is to provide consistent, fair and effective arrangements for maintaining standards of conduct and behaviour required by the St Edmundsbury and Ipswich Diocesan Multi-Academy Trust ('the Trust') for all staff. This procedure should not be seen solely as a means of imposing sanctions but also as a way of encouraging improvement amongst employees whose conduct or behaviour is unsatisfactory. However, employees should understand that persistent acts of misconduct or a single act of gross misconduct puts their employment at risk and could ultimately lead to dismissal.
 - 1.2 This procedure applies to all employees of the Trust, including those who are centrally employed and not working within a school. It does not apply to individuals working within the Trust under contract arrangements with external providers.
 - 1.3 Staff are expected to maintain high standards of professional conduct at all times. This includes occasions outside of work where their conduct could potentially bring the Trust into disrepute.
 - 1.4 The Trust is required to set disciplinary procedures for the staff that they employ and to make staff aware of them. The Trust has delegated to Headteachers the power to suspend and dismiss staff, and in the case of suspending a Headteacher the power will be as set out in a School's Scheme of Delegation.
 - 1.5 This procedure takes account of the ACAS Code of Practice on Disciplinary and Grievance Procedures.

Confidentiality

2. **Confidentiality**
 - 2.1 At all stages of this procedure confidentiality must be observed. Information will be circulated to those necessary to ensure a fair process. Unnecessary disclosure of confidential information by any party at any stage could itself be a justification for disciplinary action.
 - 2.2 In particular, all parties should be mindful of the need to preserve confidentiality on matters relating to children and young people. Wherever practicable, statements from and/or referring to pupils will be redacted in order to avoid pupils being identified and/or sensitive information being shared. Save in exceptional circumstances, pupils will not be asked to give evidence at disciplinary hearings.
 - 2.3 The Board of Directors shall be notified of the outcome of any disciplinary hearing and appeal, in accordance with the Trust's internal processes.

Safeguarding children and young people

3. **Safeguarding children and young people**
 - 3.1 Procedures for managing allegations of child abuse against Trust staff are available separately. In such cases, appropriate and prompt consideration by relevant bodies (for example, the Local Authority Designated Officer for Child Protection and/or a Multi-Agency Strategy Meeting) should be allowed for before taking action under this procedure. In some cases, suspension or a period of 'special paid leave' may be appropriate pending initial consideration of the allegations under safeguarding procedures.

Disciplinary Procedure

Disciplinary Procedure

Scope, definitions and exclusions

4. **Scope, definitions and exclusions**
- 4.1 This procedure will be used in all cases where misconduct or omission is such as to warrant disciplinary action.
- 4.2 The term “misconduct” in this procedure covers instances of wilful or negligent acts or omissions by an employee. Paragraph 17 and 18 set out a number of examples of acts and omissions which constitute misconduct and gross misconduct respectively under this procedure.
- 4.3 Deficiencies in performance arising from a lack of aptitude or skill rather than any wilful or negligent failure to carry out their duties, may be appropriately managed pursuant to the Trust’s Capability Procedure.
- 4.4 Separate procedures and guidance exist for the management of unsatisfactory performance, sickness absence and ill-health. Where, in the course of investigating an incident of alleged misconduct, it transpires that, it is an issue of ill-health or unsatisfactory performance rather than misconduct, the matter should be referred for action under the relevant procedure. The same manager dealing with the misconduct under the Disciplinary Procedure will normally deal with the relevant capability procedure.
- 4.5 In the case of a disciplinary matter arising against a centrally employed member of staff, all references to ‘Headteacher’ in this procedure shall be replaced with ‘Chief Executive Officer’ and references to ‘Local Governing Body’ shall be replaced with ‘Board of Directors’.

Consideration of suspension or redeployment

5. **Consideration of suspension or redeployment**

- 5.1 Suspension is a neutral act and should not be used as a sanction.
- 5.2 The circumstances and nature of the allegations may require an employee to be suspended from duty during disciplinary proceedings and suspension will normally be considered only:
- (a) Where there is a reasonable belief that the employee’s continued presence at work may put themselves or others at risk; or
 - (b) Where there is a reasonable belief that the employee’s continued presence at work may present a risk of damage to the Trust’s property and/or reputation; or
 - (c) Where there is a risk that the employee’s continued presence at work may compromise or prejudice the disciplinary process, including any investigation; or
- (a) Where relationships have broken down.
- 5.3 A decision to suspend an employee shall usually be taken by the Headteacher who shall inform the Chair of the Local Governing Body without delay.
- 5.4 A decision to suspend a Headteacher shall usually be taken by the Chair of the Local Governing Body, unless alternative provision is prescribed within a school’s Scheme of Delegation (as explained in paragraph 1.4). In the event that the Chair is unable to take a decision to suspend, for example, where s/he is indisposed or has a conflict of interest, the Vice-Chair shall take the

decision. A decision to suspend the Chief Executive Officer will be taken by the Chair of the Board of Directors.

- 5.5 In all cases, consideration should be given to alternatives to suspension (for example, additional supervision or alternative/restricted duties, work arrangements or special paid leave).
- 5.6 An employee who is suspended pending a disciplinary investigation will be suspended on full contractual pay. For the avoidance of doubt, in the context of this procedure, "full contractual pay"
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will include any reductions in an employee's pay in accordance with the Trust's sick pay scheme. Support for an employee who is suspended may be made available as set out in paragraph 14.
- 5.7 Consideration should be given to suspending an employee from any other position(s) they may hold within the Trust, although alternatives to suspension should be considered as detailed above.
- 5.8 Suspension should not become unnecessarily protracted and its continuance should be kept under review. The Headteacher (or Chair of the Local Governing Body in the case of a Headteacher) must act promptly to lift the suspension if it becomes clear that there is no longer a justification for suspension (whether or not disciplinary action is to continue). When suspension is lifted, it may be necessary to consider a re-integration plan before making arrangements for the employee's return to work.
- 5.9 Employees who are suspended will not be permitted to enter any of the Trust's sites except with prior agreement with the Headteacher (or Chair of the Local Governing Body in the case of a Headteacher). Employees must also not contact work colleagues during working hours for any reason connected to the suspension or their work, unless they have permission from the Headteacher (or Chair of the Local Governing Body in the case of a Headteacher) to do so. This permission may be required if the employee who is suspended wishes to contact colleagues in support of their own defence. Employees must make themselves available as required during normal working hours and comply with the Trust's policies and procedures regarding sickness and leave arrangements.

Investigation

6. **Investigation**
- 6.1 If the normal management processes do not bring about the required changes in behaviour or performance, the next step will normally be consideration of action under the formal disciplinary procedure. If it is sufficiently serious, a single instance of misconduct may be such as to warrant immediate consideration under the disciplinary procedure.
- 6.2 In order to establish the appropriateness of using the formal Disciplinary Procedure, it will normally be necessary for the Headteacher, or in cases involving the Headteacher, the Chair of the Local Governing Body to conduct or commission a formal investigation. For the avoidance of doubt, any individual appointed to investigate a disciplinary matter will not have been involved in any events giving rise to the allegations.
- 6.3 If the employee concerned is a trade union official (as statutorily defined) the matter will be discussed with their branch secretary or a full time official before an investigation is undertaken. An employee who is the subject of investigation may be accompanied at any interview or similar investigatory meeting by a trade union representative or work colleague. A record should be made if the employee agrees to continue the procedure without support. The employee and any witnesses who make statements during the course of any investigation will be asked to check and sign any written statement of evidence.
- 6.4 The Investigating Officer's report will clearly state whether or not they believe there is a case to answer under the Trust's disciplinary procedures.

7. **Disciplinary Hearing**

7.1 It should be the commissioner and not the investigator who makes the final decision as to whether or not a disciplinary hearing will be held. If their decision differs from the investigator's recommendation, the reasons for this should be written down and included as an addendum to the report.

7.2 If the investigation ~~which~~ determines that there is a case to answer, a disciplinary hearing will be convened. A hearing will normally be conducted by the Headteacher or a panel of the Local Governing Body ('panel'), usually the Hearings Committee. If dismissal is a possible outcome, schools are required to ensure that the Headteacher/panel (whichever is intended to conduct the hearing) has the requisite authority to take such decision.

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7.3 Where a disciplinary hearing is to be held, the employee will be informed in writing, at least 10 full working days in advance of the hearing, of:

- (a) the nature of the alleged misconduct;
- (b) the date, time and place for the hearing;
- (c) the name of the person presenting the case and any witnesses;
- (d) the name(s) of the person(s) hearing the case;
- (e) the employee's right to produce written statements at least five full working days before the hearing;
- (f) the employee's right to invite relevant witnesses to give evidence on their behalf (details of witnesses to be provided to the Chair of the hearing at least five full working days before the hearing);
- (g) the employee's statutory right to be accompanied by a trade union official or work colleague of their choice;
- (h) Where relevant, a reminder of any existing formal warnings against the employee; and
- (i) Where relevant, that a possible outcome of the hearing is dismissal.

7.4 Employees intending to produce written statements for use at the hearing are required to submit these to the Headteacher or Chair of the panel (whichever is confirmed as conducting the hearing in the invitation letter) no later than five full working days before the hearing. Similarly, employees intending to invite witnesses to give evidence at the hearing will notify the Headteacher or Chair of the panel, as appropriate, in writing of any witnesses they intend to call and the matters to which their evidence relates, no later than five full working days before the hearing.

7.5 Paperwork presented at a later date will only be considered in exceptional circumstances and at the sole discretion of the Headteacher/Chair of the panel hearing the case. Any request by an employee for documents to be made available for consideration at the hearing should be made in good time, in order that the above timescales can be observed.

7.6 Shortened timescales for hearing dates and the issue/receipt of paperwork may be mutually agreed, for example, where an issue arises close to the end of the school year and it is in all parties' interests to conclude matters before the school closure period.

7.7 The hearing will be conducted in as informal a manner as possible in accordance with the procedure laid down in paragraph 20.

7.8 The Headteacher/panel hearing the case shall make a determination in accordance with this procedure. That determination may be communicated orally to the employee after the hearing, but will, in any event, be confirmed in writing, normally within five working days.

7.9 Where a finding of misconduct and/or gross misconduct is made at the hearing, the written confirmation to the employee will include:

(a) the nature of the misconduct;

(b) the sanction i.e. a first or final warning or dismissal (with or without notice);

(c) how to appeal against the decision and/or any disciplinary sanction, the length of time within which an appeal must be lodged, and to whom it should be addressed;

(d) where the sanction is a warning:

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i. the length of time that the warning will be active (not usually less than three months nor greater than twelve);

ii. details of the expected improvement and any additional arrangements such as monitoring/support;

iii. possible outcomes in the event that a further disciplinary sanction were to be imposed.

7.10 Employees will be required to sign and return a copy of any such letter confirming receipt. 8.

Postponement of hearings and

non-attendance

8.1 The hearing will be postponed by up to five working days if the employee's representative is unable to attend on the specified date.

8.2 It is important and in the interests of all parties that every effort is made to reach a prompt conclusion under this procedure. Employees must take all reasonable steps to attend a hearing. A hearing will normally only proceed in the absence of an employee where either the employee has agreed; or the employee fails to attend without reasonable cause; or where the circumstances described below arise.

8.3 For the avoidance of doubt, ill-health will not be considered reasonable cause for non-attendance, save where the Trust's Occupational Health service provider has assessed that the individual is too ill to attend a disciplinary hearing. In such circumstances, the hearing will normally be postponed once. However, if the employee is unable to attend the hearing due to long-term sickness absence and no alternative date can be mutually agreed, the hearing may be held in their absence.

8.4 In cases involving safeguarding allegations if an employee tenders their resignation or refuses to co-operate with the process, this must not prevent such a safeguarding allegation being followed up in accordance with safeguarding procedures. Wherever possible, the individual should be given a full opportunity to answer the safeguarding allegation. However, it may be necessary to conduct a hearing in their absence. In circumstances where the employee's resignation has taken effect, the Headteacher/panel may also make a decision regarding the sanction that would have been applied.

8.5 Where it is known in advance that a hearing will proceed in the absence of an employee, the

employee will have the opportunity to make written submissions to be considered at the hearing and/or authorise their representative to make statements on their behalf at the hearing. Where non-attendance is not known in advance and the hearing proceeds, the Headteacher/panel will consider any written submissions already received from the employee and, where requested and available, submissions from their representative.

8.6 Similar consideration will be given to the need to proceed with investigatory processes in the employee's absence.

9. **Warning Stages and Disciplinary Sanctions**

9.1 The Disciplinary Procedure provides for an employee to be given reasonable opportunity to improve their conduct or performance. Save for circumstances of gross misconduct (examples of which are set out in paragraph 18), an employee should not be dismissed without first having received at least one written warning and being given an the opportunity to improve their conduct. Under this procedure, it would be usual for an employee to receive two written warnings for misconduct (a first warning and a final warning), before dismissal is considered.

9.2 Written warnings will normally remain in force for up to twelve months. In exceptional cases, the Headteacher/panel hearing the case may make a determination that the warning will stay in force for a longer period. For example, where there is a history of repeated breaches of the same or

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similar rules, or where the misconduct is serious enough that dismissal would be a possible sanction.

9.3 In addition to a disciplinary sanction and where appropriate, the Trust may take action to recover monies or property legitimately due.

First Warning

9.4 Where an employee's misconduct is such as to warrant a formal warning, and where there is no previous warning current, a first written warning will normally be appropriate.

Final Warning

9.5 A final warning will normally be appropriate in the following circumstances:

9.5.1 Where a first written warning is current; or

9.5.2 Where an employee has committed serious misconduct or omission which falls short of gross misconduct; or

9.5.3 Where dismissal would be a reasonable sanction, but the Headteacher/panel hearing the case reasonably believe that a warning will be effective.

9.6 A final warning will make clear that any further findings of misconduct (as part of disciplinary proceedings) during the existence of the warning will normally result in dismissal.

Dismissal

9.7 Dismissal will normally be appropriate in the following circumstances:

9.7.1 Where a final written warning is current. In such circumstances the Headteacher/panel may determine that the employee shall be dismissed with notice (subject to consideration of 9.8); or

9.7.2 Where the allegations against the employee are so serious that they constitute gross misconduct (see paragraph 18). In such circumstances the Headteacher/panel may determine that the employee shall be dismissed without notice; or

9.7.3 Where the employee's misconduct is not such as to constitute gross misconduct, but where it would be impossible or impractical to continue their employment (see paragraph 19), the Headteacher/panel may determine that the employee shall be dismissed with due notice. It is expected that such a case would be exceptional.

9.8 Where the circumstances of paragraph 9.7.1 apply, namely a final written warning exists, and where the Headteacher/panel consider that there are mitigating circumstances, they may consider extending the final warning for an additional period of between three and twelve months, as an alternative to dismissal.

Alternatives to dismissal

9.9 In some cases, alternatives to dismissal may be considered at the Headteacher's/panel's discretion. It would be expected that these would accompany a final written warning. Examples include, but are not limited to:

(a) Demotion

(b) Transfer to another department/role

(c) Recommendation for mediation between parties.

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9.10 Informing the Local Authority Designated Officer (LADO)

Upon the conclusion of all cases of safeguarding allegations that have a bearing on the safety and welfare of children a copy of the hearing outcome letter will be forwarded to the Local Area Designated Officer (LADO) who will make a determination whether or not the safeguarding allegation is upheld. There is no right of appeal against the LADO's decision.

10. Appeals

10.1 An employee is entitled to appeal against any disciplinary sanction imposed and in most cases an appeal should be addressed to the Appeals Committee of the Local Governing Body. Employees will, however, be informed of who their appeal should be addressed to (within the hearing outcome letter).

10.2 An employee who wishes to appeal against a disciplinary sanction must lodge notification of their intention to appeal along with full grounds for their appeal (including any supporting documentation) within 14 calendar days of the date of written notification of that sanction, as directed in the hearing outcome letter.

10.3 Within 14 calendar days of receipt of an appeal, notice of a date for an appeal hearing will normally be provided to the parties. Parties will normally receive at least 10 working days' notice of an appeal hearing. Any further submissions from those responding to the appeal should normally be provided to the panel hearing the appeal at least five working days before the appeal hearing, to enable them distribution ahead of the hearing.

10.4 The main grounds for an appeal are likely to be, although are not limited to: (a) if the employee wishes to contest the finding and/or the disciplinary sanction; (b) if new relevant evidence not available at the original hearing becomes available; (c) if the

employee alleges a lack of fairness at the original hearing.

If the appeal is against the finding and the sanction imposed by the original hearing, the appeal will normally constitute a complete re-hearing. If the appeal is against the disciplinary sanction only, the Appeal Committee may agree with the employee that submissions will be confined to the issue of sanction.

10.5 The procedure for the conduct of an appeal is set out in paragraph 20.

10.6 An Appeal Committee may:

10.6.1 uphold the original finding and sanction; or

10.6.2 uphold the original finding but modify the sanction; or

10.6.3 overturn the finding and modify or remove the sanction.

11. **Referral of cases**

11.1 A referral to the Disclosure and Barring Service and/or the National College for Teaching and Leadership may be made by the Trust, upon the conclusion of disciplinary proceedings (and any appeal), as follows:

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11.1.1 The Safeguarding Vulnerable Groups Act 2006 (SVGA) places a legal duty on the Trust to refer an employee to the Disclosure and Barring Service who has harmed, or poses a risk of harm to a child, and who has been removed from working in regulated activity, or would have been removed had they not left; or who has received a caution or conviction for a relevant offence¹.

11.1.2 The Trust has a legal duty to consider whether to refer to the Teacher Regulation Agency (TRA) (or equivalent) allegations of serious misconduct by a teacher when they have dismissed that teacher for misconduct, or would have dismissed them had they not resigned first.

12. **Records and lapsed warnings**

12.1 Advice given in the course of normal performance management and records of any allegations, complaints and subsequent investigatory or disciplinary processes all form part of an employee's employment history. As such, it is important that proper records are retained, in accordance with data protection legislation and recommendations within the ACAS Code of Practice. In addition, where an allegation relates to the safety and welfare of children, there is a requirement to retain a clear and comprehensive summary of any allegations made, details of how and who followed up the allegation(s) and any resolution/conclusion. This record must be retained at least until the individual attains statutory retirement age or for a period of 10 years from the date of the allegation(s) if that is longer. This includes people who leave the organisation.

12.2 As such, although a disciplinary warning may be deemed to have 'lapsed' after the period of the warning has expired, the record of the disciplinary matter should not be removed from the employee's employment history/personal file held by the School/Trust. This applies equally to cases where a disciplinary complaint against an employee is withdrawn, or is found to have been mistakenly initiated, although a clear record of this outcome should be prominent in the papers

retained.

12.3 Allegations that are found to be malicious should be removed from the employee's employment history/personal file held by the School/Trust, and any that are unsubstantiated, unfounded or malicious should not be referred to in employer references.

13. [REDACTED] **Headteachers**

13.1 The Headteacher is responsible for the conduct and discipline of employees at school. Where there is a concern or complaint about misconduct on the part of the Headteacher, it will normally be the responsibility of the Chair of the Local Governing Body to initiate any necessary action.

13.2 If there is sufficient cause for concern, the Chair of the Local Governing Body may commission an investigation into the circumstances of the complaint/concern.

13.3 The Chair and one other member of the Local Governing Body (who should not later be a member of a committee which hears the case) will consider the investigation report and decide what action, if any, will be taken.

13.3.1 If a decision is taken not to take any action, this will be reported together with their reasons (but not the details of the investigation) to the full Local Governing Body.

13.3.2 If a decision is taken to proceed to a disciplinary hearing, the Hearings Committee of the Local Governing Body shall conduct the hearing.

¹ A relevant offence for the purposes of referrals to DBS is an automatic inclusion offence as set out in the Safeguarding Vulnerable Groups Act 2006 (Prescribed Criteria and Miscellaneous Provisions) Regulations 2009 and the Safeguarding Vulnerable Groups (Prescribed Criteria and Miscellaneous Provisions) Regulations (Northern Ireland) 2009

14. [REDACTED] **Advice and Support to Employees**

14.1 In most cases, employees subject to allegations or complaints being dealt with under this procedure will seek the advice and support of their trade union or professional association. However, employees may address questions about procedure, the conduct of investigations or hearings, or other related matters to the Headteacher.

14.2 In cases where the investigation is protracted, and/or the employee is suspended from duty and/or has taken a period of leave, a senior colleague will usually be asked to be a point of contact for the employee. Their role is to keep the employee informed of developments and to offer support. This individual should not be involved in the investigation or procedure in any other way. The name of this individual should be notified to the employee.

14.3 Employees, including witnesses, should also be encouraged to access support available through the Trust's participation in any well-being service, for example, the Employee Assistance Programme, or their own GP, as necessary.

15. [REDACTED] **Grievance complaints**

15.1 If an employee wishes to raise a grievance during the disciplinary process, this should be addressed in writing in accordance with the Trust's Grievance Policy.

15.2 Only in limited circumstances will a decision be taken by the Headteacher/Chair of the Hearings Committee (conducting the disciplinary proceedings) to temporarily suspend the disciplinary process to allow the grievance to be considered.

15.3 Complaints about the conduct of the disciplinary process will not normally be dealt with under the grievance procedure, but should be raised during the disciplinary hearing and any subsequent appeal.

15.4 In cases where the grievance raised is unconnected to the disciplinary matter, it will proceed simultaneously with the disciplinary procedure.

16. **Criminal offences**

An allegation of a criminal offence committed outside of work will not be treated as an automatic reason for disciplinary action. Consideration should be given to the effect any warning, caution, charge or conviction has on the employee's suitability/ability to do their job and their relationship with their employer, work colleagues and the school community. Where it is felt necessary to investigate the matter, consideration will be given to whether or not this can be completed before the outcome of any criminal investigation/prosecution is known.

17. **Examples of Misconduct**

It is not possible to specify all forms of behaviour that will result in disciplinary action. Each case must be judged in the light of the circumstances and context surrounding it.

The following are **examples** of the types of behaviour which constitute misconduct and are **not exhaustive**. Some examples also appear in paragraph 18 as examples of gross misconduct, distinguishable by the seriousness of the misconduct.

Employees should, so far as is reasonably practicable, be familiar with the working rules and procedures relating to their own school/department and their particular area of work. These rules may be in the form of codes of practice, School/Trust policies and procedures, induction material, manuals, posters, notices and periodic memoranda. Failure to comply with these rules may constitute misconduct and be grounds for disciplinary action.

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Examples of Misconduct

- (a) Professional negligence, misconduct, omission or, in certain situations failure in performance to a reasonable and acceptable standard (for example, breaches of Teachers' Standards; breaches of safeguarding procedures; failure to report or comply with School/Trust procedures for reporting allegations of abuse; breaches of data protection/confidentiality; failure to observe professional boundaries in staff-pupil relationships; failure to exercise reasonable care for the safety and welfare of oneself, other employees, pupils, governors, directors, members of the public or others on School/Trust premises; actions causing loss, damage or injury through negligence)
- (b) General misconduct (for example, misuse of paid time; persistent lateness or absence; taking unauthorised leave; sharing of security passwords; rudeness, insolence, drunken or aggressive behaviour; use of foul or abusive language; discrimination, harassment/bullying and/or victimisation; Insubordination and/or failure to obey a reasonable and lawful instruction);
- (c) Failure to:
 - i. Observe School/Trust/department rules and procedures or those relating to the employee's area of work (for example, those relating to time-keeping, attendance, signing in/out, proper reporting of sickness absence, smoking);
 - ii. Disclose unspent criminal convictions or, in respect of employment exempt from the terms of

the Rehabilitation of Offenders Act (i.e. employment with children or young people), failure to disclose any Police warning, caution, bind-over or conviction before and during relevant employment;

- (d) A breach of health and safety rules, failure to observe health and safety policies and procedures, or endangering self or others;
- (e) Misuse of School/Trust property (including the School's/Trust's name, materials, information, including copyright and other intellectual property rights; the internet and electronic mail);
- (f) Bringing the School/Trust, service or profession into serious disrepute, including failure to observe reasonable standards of ethics and behaviour (or appropriate professional standards) within and outside work, or to have proper and professional regard for the ethos, policies and practices of the School/Trust. This might include information on social networking sites, particularly where this involves malicious, defamatory or abusive communication.

18.

Examples of

Gross Misconduct (which may justify dismissal without notice) The following are **examples** of the types of behaviour which constitute misconduct and are **not exhaustive**. Some examples also appear in paragraph 17 as types of misconduct, however, where the misconduct is of a serious nature, in most cases, it will be considered to be gross misconduct.

Examples of Gross Misconduct

- a) Serious professional negligence, misconduct, omission or, in certain situations failure in performance to a reasonable and acceptable standard (for example, for example, breaches of Teachers' Standards; breaches of safeguarding procedures; failure to report or comply with School/Trust procedures for reporting allegations of abuse; breaches of data protection/confidentiality; failure to observe professional boundaries in staff-pupil relationships; failure to exercise reasonable care for the safety and welfare of oneself, other employees, pupils, governors, directors, members of the public or others on School/Trust premises; actions causing loss, damage or injury through negligence)
- b) Threatened or actual physical assault or violence towards employees, pupils, governors, directors, or others on School/Trust premises or in the course of work;

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- c) Serious sexual misconduct;
- d) Abuse against children or young people;
- e) Serious discrimination, harassment, bullying or victimisation;
- f) Malicious or vexatious complaints against colleagues or other members of the school community; g) Misuse or illegal possession of drugs, and/or being under the influence of alcohol or drugs at work;
- h) A serious breach of health and safety rules, failure to observe health and safety policies and procedures, or endangering self or others;
- i) Deliberate and serious damage or misuse of the School's/Trust's property or that belonging to others while in the course of work;
- j) Theft or misappropriation of cash or property belonging to the School/Trust, fellow employees, pupils and others at the School/Trust;

- k) Fraud or dishonesty, including falsely reporting sickness absence, falsification of work records, timesheets, travelling and subsistence or similar claims, or serious use of paid time or the School's/Trust's materials or facilities for purposes unrelated to the job;
- l) Taking significant unauthorised leave;
- m) Serious insubordination, non-compliance, failure to obey a reasonable and lawful instruction or direction, or conduct intended to otherwise undermine;
- n) Bringing the School/Trust, service or profession into serious disrepute, including failure to observe reasonable standards of ethics and behaviour (or appropriate professional standards) within and outside work, or to have proper and professional regard for the ethos, policies and practices of the School/Trust. This might include information on social networking sites, particularly where this involves malicious, defamatory or abusive communication;
- o) Serious misuse of:
 - i. The internet or inappropriate use of electronic mail, including deliberately accessing or sharing pornographic, offensive or obscene material;
 - ii. The School's/Trust's name, equipment, materials or information, including copyright and other intellectual property rights.
- p) Deliberate or reckless disclosure of security passwords;
- q) Serious breach of confidentiality/ data protection (including the use of such information or official contacts for personal interest or gain);
- r) Failure to disclose an interest in School/Trust contracts;
- s) False statements or failure to disclose relevant information in applications for employment, including any personal incapacity which may be incompatible with the satisfactory discharge of the duties and responsibilities of the job;
- t) Deliberate failure to disclose unspent criminal convictions or, in respect of employment exempt from the terms of the Rehabilitation of Offenders Act (i.e. employment with children or young people), failure to disclose any Police warning, caution, bind-over or conviction before and during relevant employment.

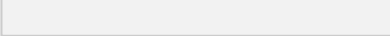
19. **Circumstances which might justify dismissal with notice**

In addition to the circumstances set out in paragraph 9.7.1, there are limited circumstances where an employee's conduct may not amount to gross misconduct, but might justify a decision to dismiss with notice.

- 19.1 The following are **non-exhaustive examples** of the types of behaviour which may justify a decision to dismiss an employee with notice:
- (a) the action(s) of the employee has broken the mutual trust and confidence necessary to sustain the employment relationship
 - (b) the employee has engaged in behaviour of a serious or criminal nature outside employment such that makes continued employment impossible

(c) the employee has been committed to prison for an offence which is of such a kind, or entails a sentence of such length, as to make continued employment impossible

19.2 Depending on the seriousness of the circumstances, dismissal without notice may be appropriate.

20.  **Procedure for a Hearing**

Hearings will be held in as informal a manner as possible. The conduct of the hearing is at the discretion of the Headteacher/Chair of the committee hearing the case ('Headteacher/panel'), but s/he will allow the parties every reasonable opportunity to present their case.

In the case of an appeal the order of presentation would normally be reversed, with the employee (as appellant) presenting their case first. This will not be the case in circumstances where the appeal is a re-hearing. Appeal Committees should ensure that all parties understand and agree on the order of presentation.

1. [redacted] **Introduction**

The Headteacher/Chair of the panel hearing the case will ensure that those present are introduced to each other and that they are aware of the procedure to be followed. The point will be made to all parties that it is not permissible for the hearing to be recorded.

2. [redacted] **Presentation of the Investigation Findings**

The individual presenting the case may make an opening statement outlining the case.

They may then call witnesses. Witnesses will then be asked to give their evidence. The employee or their representative may then ask questions of each witness. The Headteacher/panel may also ask questions of any witness. The person presenting the case may then re-examine the witness.

The presenting officer will then present any other information as necessary to conclude the presentation of their case (if applicable).

The employee /employee representative and the person or committee hearing the case may ask questions to which the presenting officer will respond in a fact giving capacity.

. Where evidence is presented in the form of documents, the person presenting the case or an appropriate witness will explain the nature and significance of the documents.

3. [redacted] **The Employee's Case**

The employee or their representative may make an opening statement.

They may call any further witnesses and invite them to give their evidence. The employee or their representative may ask the witness questions.

The person presenting the employer's case may ask questions of each witness. The person or committee hearing the case may also ask questions of each witness.

The employee or their representative will then present any other information as necessary to conclude the presentation of their case (if applicable).

The person presenting the employer's case and the person or committee hearing the case may ask questions

Where there is any documentary evidence, the employee or any witness on their behalf will explain its significance.

4. [redacted] **Re-examination** [redacted]

Both parties will be asked if they wish to re-examine any evidence which has come before. Headteacher/panel may also do so at its discretion.

5. [redacted] **Final Statements**

The person presenting the case against the employee may make a final statement. The employee or their representative may then also make a final statement.

6.  **Adjournment**

Either party may ask for an adjournment at any stage. The decision to adjourn is at the discretion of the Headteacher/Chair of the panel, who will consider a request in the light of the reason given for it.

7.  **Consideration of the Case**

All parties will withdraw. The Headteacher/panel will consider/deliberate. An HR advisor may be present at these deliberations to advise on procedural matters.

If it is necessary to recall either party or any witnesses, to resolve a point of uncertainty, both parties should be present.

8.  **Decision**

If possible, the decision will be communicated orally to the employee after the hearing. The decision will be confirmed in writing to the parties after the hearing, normally within five working days.