



Disciplinary Policy and Procedure

Policy reviewed by Academy Transformation Trust on

November
2016

This policy links to:

- Safeguarding Policy
- Grievance Policy
- ACAS Code
- Code of Conduct

Review Date – November 2018

Our Mission

To provide the very best education for all pupils and the highest level of support for our staff to ensure every child leaves our academies with everything they need to reach their full potential.

We promise to do everything we can to give children the very best education that gives them the best opportunity to succeed in life. All of our academies have it in them to be outstanding and achieving this comes down to our commitment to our pupils, staff and academies.

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1. Policy Statement

- 1.1 The aims of this Disciplinary Policy is to set out the standards of conduct expected of all staff and to provide a framework within which Academy Transformation Trust can work with employees to maintain satisfactory standards of conduct and to encourage improvement where necessary.
- 1.2 It is Academy Transformation Trust's policy to ensure that any disciplinary matter is dealt with fairly and in a timely manner and that steps are taken to establish the facts and to give employees the opportunity to respond before taking any formal action.
- 1.3 This policy does not form part of an employee's contract of employment and it may be amended following consultation with recognised trade unions. Timescales set out in this policy may be varied with agreement of all parties.
- 1.4 This policy has been agreed following consultation with the recognised trade unions. It has been formally adopted by the Trust.

2. Who is covered by the policy?

- 2.1 The policy applies to all employees regardless of length of service, except support staff during their probationary period where other arrangements apply¹. It does not apply to agency workers or self-employed contractors.

3. What is covered by the policy?

- 3.1 This policy is used to deal with misconduct (see examples of misconduct and gross misconduct in Appendix 2). 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 available to all staff **[give location of where staff are able to access policies]**.

Informal action

- 3.2 Minor conduct issues can often be resolved informally between employees and their line manager. A quiet word is often all that is required to improve an employee's conduct or performance. These discussions should be held in private and without undue delay whenever there is cause for concern. Where improvement is required make sure the employee understands what needs to be done, how their performance or conduct will be reviewed, and over what period. It may be useful to confirm in writing what has been decided. The line manager should keep brief notes of any agreed informal action for reference purposes. In some cases an informal instruction may be given, which will not form part of the disciplinary records but could take the form of a Letter of Expectation. Records of informal action should be retained on the employee's personnel file for 6 months².
- 3.3 A copy will be given to the employee. Formal steps will be taken under this policy if the matter is not resolved informally, or if informal action is not appropriate (for example,

¹ During probationary periods, the same principles and timescales of this policy would apply.

² Informal action relating to safeguarding concerns will remain on a personnel file indefinitely.

because of the seriousness of the allegation). Any matter dealt with informally may be referred to as part of any disciplinary proceedings.

- 3.4 Employees will not normally be dismissed for a first act of misconduct, except in the following circumstances:
- i) Following an investigation Academy Transformation Trust or the academy determines that the conduct amounts to gross misconduct
- or
- ii) The employee has not completed a probationary period.
- 3.5 The behaviour and conduct of staff in the Academy 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).
- 3.6 Any disciplinary action being contemplated in respect of staff representatives of recognised trade unions within this procedure should not commence without notification in advance to the full-time official or nominee, of the appropriate Trade Union.

4. Confidentiality

- 4.1 It is the aim of Academy Transformation Trust to deal with disciplinary matters sensitively and with due respect for the privacy of any individuals involved. All employees must treat any information communicated to them as confidential in connection with an investigation or disciplinary matter, save for disclosure to their representative.
- 4.2 Employees, and anyone accompanying them (including witnesses), must not make electronic recordings of any meetings or hearings conducted under this policy without prior consultation and agreement. If recordings are permitted, the employee will be required to share recordings with the employer.
- 4.3 Employees will normally be told the names of any witnesses whose evidence is relevant to disciplinary proceedings against them, unless there is an exceptional reason that a witness's identity should remain confidential. In such a situation this will be explained to the employee and it will be discussed with their trade union representative.

5. Allegations

- 5.1 Allegations may be brought to the academy or Academy Transformation Trust's attention in a number of ways and through a variety of sources. When such information is brought to our attention it must be given careful consideration.
- 5.2 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 manager 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.
- 5.3 Allegations which involve issues of child protection and / or abuse of children by staff should be considered by the academy Designated Safeguarding Lead (DSL) and the Principal and then referred immediately to the Local Authority Designated Officer (LADO). See Appendix 1

for further guidance on the management of this type of allegation. No further action under this policy should be taken until the LADO has been consulted.

- 5.4 Staff should be aware that where the circumstances of a case meets a threshold for referral, then a referral to the relevant body will be made in line with their reporting requirements.

6. Investigations

- 6.1 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. A manager should initially seek to establish the basic facts of the situation with a preliminary investigation; this may involve looking at records, speaking to witnesses, reviewing CCTV etc.

6.2 *Preliminary investigation meeting*

A preliminary investigation meeting may be held with the employee to establish the basic facts of the circumstance and to enable a manager to determine whether further investigation is required. A preliminary meeting can often give reasonable explanation in response to allegations which then enables the matter to be concluded. The allegations will need to be clearly stated (as far as is practicable) including as much information as possible, for example time, date, place, etc. to enable the employee to make a reasonable response. Witnesses will not normally be interviewed during a preliminary investigation. If the manager is satisfied with the employee's response at this stage there may be no need for further investigation. A preliminary investigation meeting will not be required in all cases and it is for a manager to decide if this is appropriate.

The employee is entitled to bring a trade union representative or colleague to accompany them if they are available. Preliminary investigation meetings will not be permitted to be re-arranged.

Notice of the preliminary investigation meeting will not be received in a letter and could be received by email and the employee may be given less than 5 working days' notice.

A record of the preliminary investigation meeting will be made and the employee will have the opportunity to review the record and make amendments for clarification purposes. Academy Transformation Trust recognises that some employees may find this difficult or worrying, however all employees are expected to fully participate in any such preliminary investigation.

6.3 *Investigating Officer*

Should the preliminary investigation determine further need for investigation, or if the concerns are serious enough to warrant a full investigation immediately, the Principal will usually appoint an Investigating Officer to carry out the investigation. This will be a person appropriate to the nature of the allegations and the role of the employee. The investigating officer will be a person competent to undertake the role. In the case of allegations made against the Principal/Academy Transformation Trust then the Trust Head Office HR Department or an Academy Transformation Trust Board Member will be responsible for the management of the policy and determining an appropriate investigating officer, either internally or externally.

6.4 *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.

Academy Transformation Trust recognises that some employees may find this difficult or worrying, however all employees are expected to fully participate in any such investigation.

As each investigation will vary in length and complexity it will be completed in as short a time frame as possible. Where possible, any investigation would normally be carried out within one month. Every effort will be made to conclude the investigation in that time but it may be necessary to extend the period of investigation if it is not completed within that timescale due to complexity of the case or holiday periods. The same timescales will be applied for the duration of suspensions. If an extension is required then the employee will receive written notification and the employee's trade union representative (if applicable) will be notified.

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.

6.5 *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. The investigation meeting will enable the employee to provide their account of what has happened and respond to any information that has been obtained during the course of the investigation so far.

The employee can bring a trade union representative or colleague to accompany them if they are available to further investigation meetings. Further investigation meetings will not be permitted to be re-arranged.

Notice of the further investigation meetings will not always be received by letter and could be in the form of email as the employee may be given less than 5 working days' notice. The employee should advise the Investigating Officer if they intend to bring a trade union representative with them to the investigation meeting. The Investigating Officer may seek to arrange a date for the investigation meeting by liaising directly with the representative and they should do this at the earliest opportunity. If the representative is unable to attend a meeting within a reasonable timeframe (maximum of 10 working days) of the initial request for a meeting then the employee may be asked to seek an alternative companion. This is to prevent unreasonable delays to the investigation process.

A record of the further investigation 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.

6.6 *Interviewing witnesses*

It will often be necessary to interview witnesses who may have information that is relevant to the allegations during a further investigation. These interviews will be arranged as quickly as possible and without delay, before memories and recollections fade. It will be explained to the witness why they are being spoken to and what the information that they provide will be used for.

Witness interviews will not be permitted to be re-arranged. Notice of the witness interview will not be received in a letter and could be received by email and the witness may be given less than 5 working days' notice.

A record of the witness interview 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. Academy Transformation Trust recognises that some employees may find this difficult or worrying, however all employees are expected to fully participate in any such investigation.

7. Criminal charges

- 7.1 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.
- 7.2 Employees should inform their manager immediately if they are involved in a criminal investigation, or are subject to a charge or conviction.
- 7.3 The Trust or the Academy will usually 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. In exceptional circumstances the Trust may be given authorisation to proceed with disciplinary procedures from the LADO or police. Where this occurs the normal disciplinary procedure will be followed.
- 7.4 A criminal investigation, charge or conviction relating to conduct outside work may be treated as a disciplinary matter if it is relevant to the employee's employment.
- 7.5 Where a criminal investigation relates to allegations of abuse of children or young people the Trust or the Academy will co-operate and share information about the employee with other relevant agencies as appropriate.

8. Suspension

- 8.1 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 within one working day of the decision to suspend.
- 8.2 During suspension employees should not visit any premises within the Trust or contact any parents, pupils, governors or staff, regarding the allegations or their suspension, unless authorised to do so by their manager. This will not usually prevent social contact with friends. A contact person within the Trust will be nominated and their contact details provided to the suspended employee. The contact person will keep the employee informed of any relevant information and they will make initial contact with the employee within 10 working days of the suspension starting. The employee should contact the nominated person if they need to make contact with the Academy, possible witnesses or the Trust.

Employees are reminded of the requirement to maintain confidentiality during suspension (Paragraph 4).

- 8.3 Suspension is not a disciplinary penalty and does not imply that any decision has already been made about the allegations. Suspension is a neutral act. Employees will continue to receive normal pay during the period of suspension.
- 8.4 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 Academy or the Trust.
- 8.5 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.
- 8.6 The suspension will be kept under review as the investigation progresses and will not be unduly long. As information is gathered it may become appropriate to lift the suspension during the course of the investigation or prior to any disciplinary hearing. Where possible suspensions should last no longer than one month however it may be necessary to extend this timeframe in which case the period of suspension will be kept under further review. If an extension is required then the employee will receive written notification and the employee's trade union representative (if applicable) will be notified.
- 8.7 The decision to suspend an employee can only be made by the Principal³ when they have prior agreement from the Trust.

9. Disciplinary hearing

- 9.1 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;
 - 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 confidential⁴, in which case as much information as possible will be provided while maintaining confidentiality.
- 9.2 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. If this does not allow sufficient time to prepare or to obtain representation, then the employee can propose an alternative time for the meeting to take place and so long as the alternative date and time is reasonable and preferably within five working days after the original scheduled date, the meeting will be postponed.

³ The decision to suspend a Principal can only be made by the Trust.

⁴ See paragraph 4.3.

- 9.3 The hearing officer/chair of panel 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.

10. Role of Companion at Meetings and Hearings

- 10.1 An employee may bring a companion to all meetings under this policy. The companion may be either a trade union representative or a work colleague. The employee should inform the hearing officer/chair of panel conducting the meeting who their chosen companion is, in good time before the meeting/hearing.
- 10.2 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.
- 10.3 Acting as a companion is voluntary and Academy Transformation Trust employees 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.
- 10.4 In all meetings under this policy (including preliminary investigation meetings) 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.
- 10.5 We may, at our discretion, allow the employee to bring an additional 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 have difficulty understanding English⁵.

11. Composition of the Panel

- 11.1 Members of the academy Senior Leadership Team (SLT), including the Principal can act as a hearing officer and personally hear allegations of misconduct. If this is impractical or inappropriate, or where the allegations are of gross misconduct, or other misconduct which could result in the dismissal of the employee i.e. they already have a final warning on file, a disciplinary panel will hear the case.
- 11.2 The disciplinary panel should consist of three members and it will usually comprise of a member of the SLT and/or one representative from the Trust and/or the Chair of Governors. Every effort will be applied to include panel members who are impartial to the matter. This may involve including members of SLT and/or governors from other Trust academies. A chair of panel will be identified and it will be the chair of panel who invites the employee to the hearing. The chair of panel will also make the overall decision regarding dismissal.
- 11.3 The appeal panel should consist of three members and it will usually comprise of a representative from the Trust and/or the Chair of Governors plus another governor and/or a Principal from another Trust academy. Every effort will be applied to include panel members

⁵ The Trust will arrange for and provide an interpreter. The employee should request this as soon as possible and without delay.

who are impartial to the matter. This may involve including Principals and/or governors from other Trust academies. A chair of appeal panel will be identified and it will be the chair of appeal panel who invites the employee to the appeal hearing. The chair of appeal panel will also make the overall decision.

- 11.4 For all meetings a note taker will attend to take minutes of proceedings. It is their role to minute the significant points of the hearing and the decision of the panel but not to produce a verbatim record⁶.
- 11.5 Advisers (for example an HR representative from the Academy or the Trust Head Office HR Department or appropriate professional advisor) may be invited to attend disciplinary hearings as appropriate.
- 11.6 Appendix 7 provides more detail on sanctions available to the role of hearing officer, chair of panel, appeal hearing officer and chair of appeal panel.

12. Procedure at disciplinary hearings

- 12.1 If the employee and/or their companion cannot attend the hearing they should inform the hearing officer/chair of panel⁷ immediately and offer a reasonable alternative time within five days of the original date. 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 in the employees absence based on the available evidence.
- 12.2 The hearing may also be rearranged if the employee is unable to attend due to illness. The employee may be asked to attend a medical assessment with an occupational health professional in order to determine if the employee is fit enough to attend a disciplinary hearing. The Academy/the Trust will ask the occupational health professional to recommend any reasonable adjustments in order to accommodate the employee at the disciplinary hearing, e.g. location of the meeting, time of the meeting, enabling a family member to attend as a companion.
- 12.3 If the employee chooses not to attend the hearing, or is unable to do so (for example for health reasons) they may choose to send a written statement for consideration at the hearing.
- 12.4 The hearing will be led by a hearing officer/chair of panel. The investigating officer will also be present throughout the meeting. The employee may bring a companion with them to the disciplinary hearing (see paragraph 10).
- 12.5 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.

⁶ Please see 4.2 for a note on electronic recordings of meetings.

⁷ See 11.1 and 11.2.

- 12.6 Relevant witnesses may be asked by the investigating officer or the employee to appear at the hearing. The employee must give reasonable advance notice if they wish to call witnesses to ensure that there is time to arrange their attendance. The employee and the panel will be permitted to question witnesses. Witnesses should only present during the hearing to give and be questioned on their information. .
- 12.7 The hearing officer/chair of 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.
- 12.8 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. They will also be advised of their right of appeal (if appropriate).

13. Disciplinary penalties

- 13.1 The hearing officer/chair of panel may find that there is no case to answer and disregard the allegations taking no further action. Or they may refer the case back to an informal process⁸ (e.g. through performance management or a Letter of Expectation). Alternatively the hearing officer/chair of panel may choose to give the employee a disciplinary warning or dismiss⁹ them.
- 13.2 The usual penalties for misconduct are set out below. No penalty should be imposed without a hearing. Academy Transformation 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. Each case will be assessed on its own merits.
- 13.3 *First written warning*
A first written warning may be authorised by the hearing officer and it will remain active for six months. 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.
- 13.4 *Final written warning*
A final written warning may be authorised by the hearing officer and it will remain active for twelve months. 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.
 - (c) gross misconduct in exceptional circumstances of significant mitigation.

⁸ See paragraph 3.2

⁹ Only the chair of panel can make a decision to dismiss an employee.

13.5 *Dismissal*

Dismissal may be authorised by the chair of panel. It will usually only be appropriate for:

- (a) Any misconduct during the probationary period (support staff only);
- (b) further misconduct where there is an active final written warning on the record; or
- (c) 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).

13.6 *Alternatives to dismissal*

In some cases the panel may, at its discretion and with agreement of the employee, consider alternatives to dismissal. These may be authorised by the chair of panel and may be accompanied by a final written warning. Examples include: (not all may be applicable to all groups of staff – please seek advice from the Trust HR department)

- (a) Demotion.
- (b) Transfer to another department or job.
- (c) Reduction in pay.

14. The effect of a warning

- 14.1 Written warnings will set out the nature of the misconduct, the change in behaviour required, any training or assistance that will be provided, the period for which the warning will remain active, and the likely consequences of further misconduct in that active period.
- 14.2 A first written warning will usually remain active for six months and a final written warning will remain active for twelve months.
- 14.3 After the active period, the warning will be expunged from the employee's personnel file and will be disregarded in deciding the outcome of future disciplinary proceedings. Any records relating to safeguarding matters will remain on the employee's personnel file in line with the provisions of Appendix 1, paragraph 8.
- 14.4 Employees can request to view their personnel file by writing to the Principal. Employees can either request to see the entire file or specific records within the file. The Academy/Trust has to provide you with a copy of any requested information within 40 calendar days.

15. Appeals against disciplinary action

- 15.1 The employee has the right to appeal against the disciplinary action taken against them by writing to the hearing officer/chair of panel. Employees may appeal in writing against the decision within ten working days' of the decision, setting out at the same time the grounds for appeal. Minutes of the meeting will be provided at the earliest date to facilitate the process.

- 15.2 In submitting an appeal, employees are asking the appeal panel to consider the fairness and reasonableness of any disciplinary measures taken at the original hearing. Appeals against disciplinary action will usually be considered by the panel in relation to one or more of the following grounds:
- i) *The procedure* – the grounds of appeal should detail how procedural irregularities prejudiced the disciplinary decision.
 - ii) *The facts* – the grounds of appeal should detail how the facts do not support the decision or were misinterpreted or disregarded. They should also detail any new evidence to be considered.
 - iii) *The decision* – the grounds of the appeal should state how the act(s) of misconduct did not justify the level of disciplinary action taken or the act was one of misconduct rather than gross misconduct.
- 15.3 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 of service or pay or any other detriment.
- 15.4 Employees must present any new evidence at least five working days prior to the appeal hearing taking place so that the appeal hearing officer/chair of appeal panel has an opportunity to consider if further investigation is required and possibly a re-hearing.
- 15.5 If any new matters are raised in the appeal hearing further investigation may need to be carried out. 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 and the panel may decide to adjourn the hearing until a later date.
- 15.6 The employee must be given written notice of the date, time and place of the appeal hearing. This notice will be given normally within 5 working days after receipt of the appeal. The employee will be able to bring a colleague or trade union representative with them to the meeting (see Paragraph 10).

Appeals will be heard as soon as practicably possible allowing sufficient time for the employee to prepare. The appeal hearing will concentrate on the area(s) of dispute only and will not normally be a re-hearing of the whole disciplinary hearing. Accordingly, it is important that the employee is explicit about the grounds for appeal (paragraph 15.2) and must provide clear and specific reasons in writing. If the appeal hearing is to be a complete re-hearing of the matter it will usually be because the employee has raised serious concerns about 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 hearing officer's/chair of appeal panel's discretion depending on the circumstances of the case. In any event the appeal will be dealt with as impartially as possible. If the appeal hearing is to be a complete re-hearing witnesses may be called. A further right to appeal will not be given if the appeal hearing is a complete re-hearing.

- 15.7 The appeal hearing officer/chair of 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. The employee will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.
- 15.8 Following the appeal hearing the appeal hearing officer/chair of appeal panel may:
- a) confirm the original decision;
 - b) revoke the original decision; or
 - c) substitute a different penalty, provided that a penalty will not be increased on appeal unless there is new information or evidence being available that requires further investigation.
- 15.9 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.

16. Referrals to external bodies

- 16.1 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.

17. Review of policy

- 17.1 This policy is reviewed every two years by the Trust in consultation with the recognised trade unions. We will monitor the application and outcomes of this policy to ensure it is working effectively. The Governing Body takes seriously its responsibilities in respect of equality monitoring and will monitor the equality impact of this policy in respect of all protected characteristics as defined under the Equality Act 2010.

Appendix 1 - Managing allegations of abuse against teachers and other staff

In dealing with allegations of abuse against employees and agency staff (referred to here as staff), 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. Please read this guidance in conjunction with the Safeguarding Policy and the flowchart for the initial management of allegations about staff or volunteers.

1. Scope

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.

It will be used in respect of all cases in which it is alleged that the member of staff 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.

As with other conduct issues the behaviour of members of staff outside of work may impact on their role within Academy Transformation Trust. Therefore if concerns are brought to Academy Transformation Trust's attention about an member of staff's behaviour in regard to their own children or any other child/ children outside of Academy Transformation Trust's, consideration will be given to any implications for children with whom the employee has contact with at work.

2. Initial Considerations

Where the Principal (where there are allegations against the Principal, the Chair of Governors would manage this process) determines that the allegations meet the criteria above they will immediately contact the Local Authority Designated Officer (LADO) and provide them with all relevant information.

The LADO and the Principal/Chair of Governors 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.

Outcomes of initial considerations;

The initial sharing of information and evaluation may lead to a decision that no further action by external agencies or Academy Transformation Trust is to be taken in regard to:

The individual facing the allegation. The decision and reasons for this will be recorded. The Principal/Chair of Governors 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 Principal/Chair of Governors will inform the employee

about the allegation and provide them with as much information as possible at the time. Please seek guidance and support from Regional HR Business Partner.

OR

The initial sharing of information and evaluation may lead to a decision that no further action by external agencies, but the Principal/Chair of Governors determines further action is required and will refer to the disciplinary procedure.

OR

The initial sharing of information leads the LADO to determine 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 Principal/Chair of Governors. The Principal/Chair of Governors will agree with the LADO, police or local authority's social care services what information should be put in writing to the employee, bearing in mind the employees subject access rights under the Data Protection Act. Information may be withheld from the employee only if disclosure is likely to prejudice a criminal investigation. The strategy discussion will determine what action will be taken and by whom. The point at which Academy Transformation 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

Suspension will not be an automatic response when an allegation is reported and alternative arrangements will be considered. The risks of the member of staff remaining within Academy Transformation Trust during any process of investigation will be carefully evaluated. In cases where there is cause to suspect children at Academy Transformation Trust 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.

The Principal/Chair of Governors will consider the advice of the local authority children's social care services or the police with regard to suspension, but will form their own informed view with regard to the suspension of any member of staff. The Principal/Chair of Governors should discuss their views and recommendation to suspend with the Trust before suspending an employee.

Suspension will be managed as per section 8 of this policy and authorisation from the Trust will be required in order to suspend an employee.

4. Support for staff

Where an employee is the subject of an allegation of abuse Academy Transformation 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. If the employee feels it is beneficial a referral to the Trust's occupational health provider will be arranged. In addition access to the Trust's employee assistance programme at www.employeeecare.com, password is 72247.

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. Academy Transformation Trust will make every effort to maintain confidentiality and guard against unwanted publicity. During the process of managing these types of allegation Academy Transformation Trust will only release information to the wider community for the purposes of reducing speculation, and within the reporting restrictions contained within the Education Act 2011.

6. Investigations

Investigations under the disciplinary procedure will not commence until agreement from the LADO and any other external agencies involved in dealing with the allegations have agreed that Academy Transformation Trust 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.

Interviewing pupils

The Investigating Officer will avoid interviewing pupils unnecessarily. Information will be gathered from the local authority social services and the police where available and accessible.

Photographing pupils

The Investigating Officer or any other person at Academy Transformation Trust will not take photographs of pupils to support allegations of abuse. In cases where the Principal/Chair of Governors determines it appropriate to record injuries to a pupil they will use the appropriate procedure, e.g. 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. Malicious allegations

Academy Transformation Trust considers 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.

8. 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 unsubstantiated, unfounded, false or malicious will not be referred to in any reference that Academy Transformation Trust provides for the employee concerned.

Appendix 2 – Disciplinary rules

1. Policy statement

These Disciplinary Rules form part of the Disciplinary Policy. They set out the standards of conduct expected of all staff and to provide a framework within which the Principal and line managers can work with staff to maintain those standards and encourage improvement where necessary.

It is the academy's / trust's policy to ensure that any disciplinary matter is dealt with fairly and in accordance with the Disciplinary Policy.

If any employee is in any doubt as to their responsibilities or the standards of conduct expected they should speak to their line manager or a member of Human Resources.

2. Rules of conduct

While working for the academy/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;
 - (iii) any other important contractual terms.
- b) ensure that you understand and follow our Code of Conduct which is available at **[insert location]**
- c) observe all of the academy's / trust's policies, procedures and regulations which are located in **[insert location]** and are notified to you from time to time by means of notice boards, e-mail, the intranet or otherwise
- d) take reasonable care in respect of the health and safety of colleagues, pupils and third parties and comply with our Health and Safety Policy
- e) comply with all reasonable instructions given by the Principal and managers
- f) act at all times in good faith and in the best interests of the academy / trust and those of our pupils and staff.

Failure to maintain satisfactory standards of conduct may result in action being taken under the Disciplinary Policy.

3. Misconduct

The following are examples of matters that will normally be regarded as misconduct and will be dealt with under the Disciplinary Policy:

- a) Minor breaches of the academy's / trust's policies, including the sickness absence policy, electronic information and communications systems policy and health and safety policy
- b) Minor breaches of an employee's contract of employment
- c) Damage to, or unauthorised use of, the academy's/trust's property
- d) Poor timekeeping or time wasting
- e) Unauthorised absence from work
- f) Refusal to follow reasonable instructions
- g) Excessive use of the academy's / trust's telephones for personal calls
- h) Excessive personal e-mail or internet usage
- i) Obscene language or other offensive behaviour
- j) Negligence in the performance of duties
- k) Smoking in no-smoking areas

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

4. Gross misconduct

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

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 academy / trust, or the property of a colleague, contractor, pupil or member of the public

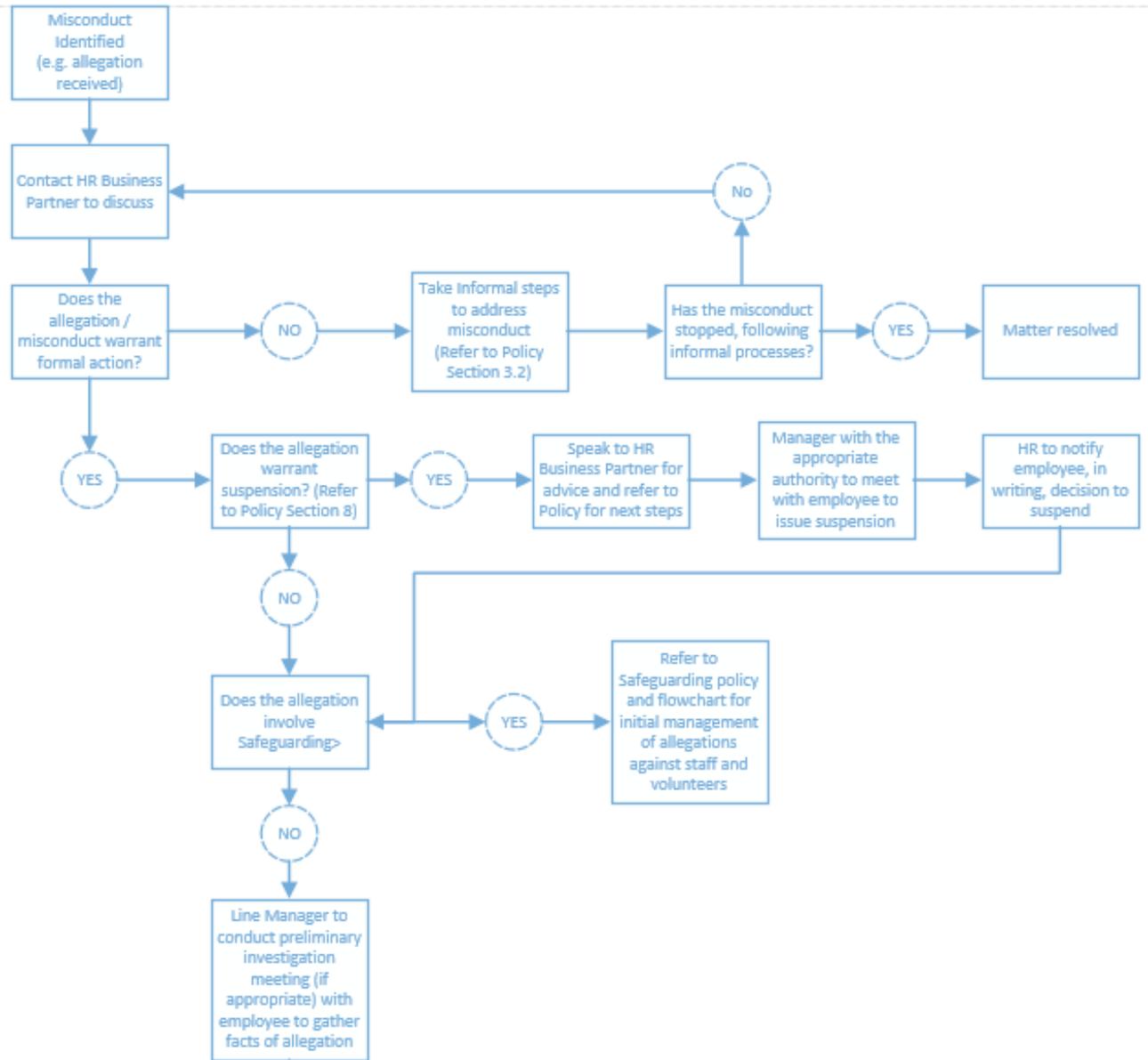
- e) Inappropriate conduct with children or young people, including failing to maintain appropriate professional boundaries
- f) Serious failure to follow the academy's child protection procedures
- g) Serious misuse of the academy's / trust's property or name
- h) Deliberately accessing internet sites containing pornographic, offensive or obscene material using academy equipment whether on academy premises or offsite
- i) Repeated or serious failure to obey instructions, or any other serious act of insubordination
- j) Bringing the organisation into serious disrepute
- 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) Acceptance of bribes or other secret payments
- p) Accepting a gift from a customer, in breach of the Anti-Corruption and Bribery Policy (including gifts and hospitality) from a supplier, contractor or other third party in connection with your employment without prior consent from your line manager
- q) Conviction for a criminal offence that in the opinion of the academy / trust may affect our reputation or our relationships with our staff, pupils, parents or the public, or otherwise affects your suitability to continue to work for us
- r) Possession, use, supply or attempted supply of illegal drugs
- s) Serious neglect of duties, or a serious or deliberate breach of your contract or operating procedures
- t) Knowing breach of statutory rules affecting your work
- u) Unauthorised use, processing or disclosure of personal data contrary to our Data Protection Policy
- v) Harassment of, or discrimination against, employees, pupils, parents or members of the public, related to gender, marital or civil partner status, gender reassignment, race, colour, nationality, ethnic or national origin, disability, religion or belief, sexual orientation, age or pregnancy and maternity contrary to our Equal Opportunities Policy

- w) 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
- x) Giving false information as to qualifications or entitlement to work (including immigration status)
- y) Knowingly taking parental, paternity or adoption leave when not eligible to do so or for a purpose other than supporting a child
- z) Making a disclosure of false or misleading information under our Whistleblowing Policy maliciously, for personal gain, or otherwise in bad faith
- aa) Victimising a colleague who has raised concerns, made a complaint or given evidence information under the Whistleblowing Policy, Grievance Policy, Disciplinary Policy or otherwise
- bb) Serious misuse of our information technology systems (including misuse of developed or licensed software, use of unauthorised software and misuse of e-mail and the internet) contrary to our Electronic Information and Communication Systems Policy
- cc) Undertaking unauthorised paid or unpaid employment during your working hours
- dd) Unauthorised entry into an area of the premises to which access is prohibited
- ee) Off duty misconduct which in the context of employment, fundamentally undermines the confidence or trust Academy Transformation Trust and the Local Governing Body has in the employee and/or could bring the academy into disrepute.

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

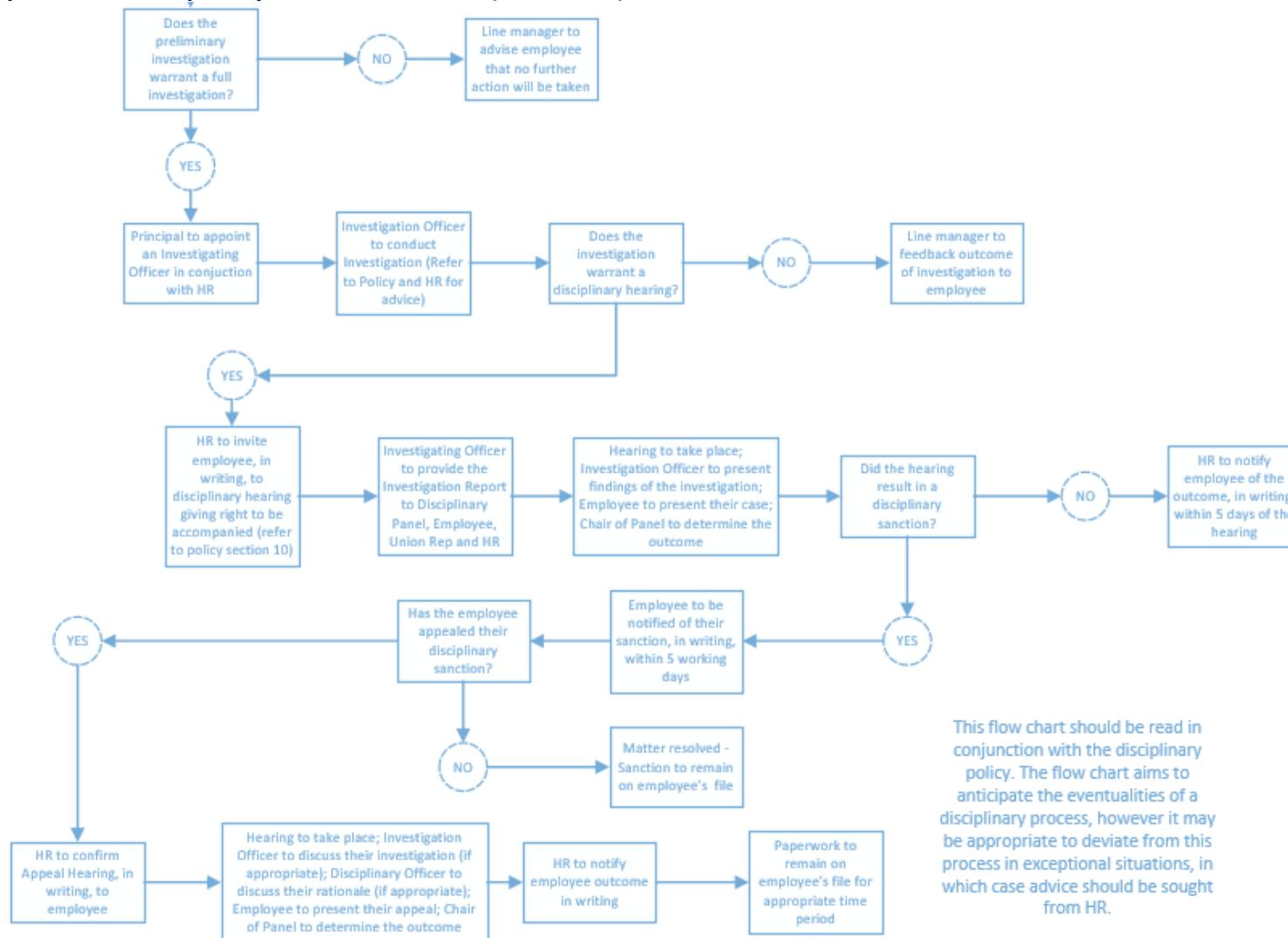
In some instances, offences which would normally constitute gross misconduct may be considered as misconduct because of mitigating circumstances. Similarly, issues which would normally be treated as misconduct may, in certain circumstances, be considered so serious that they constitute gross misconduct.

Appendix 3 – Disciplinary Procedure Flowchart (Part 1 of 2)



Continued Overleaf

Appendix 3 – Disciplinary Process Flowchart (Part 2 of 2)



This flow chart should be read in conjunction with the disciplinary policy. The flow chart aims to anticipate the eventualities of a disciplinary process, however it may be appropriate to deviate from this process in exceptional situations, in which case advice should be sought from HR.

Appendix 4 – Roles and responsibilities

The Trust

- To set the strategic direction of Academy Transformation Trust and to approve policies and strategic actions for improvement including conduct and standards of behaviour
- To provide overall policy direction and guidance to the leadership team in relation to the management of disciplinary matters and to delegate responsibility for day to day management of issues to the line manager
- To participate in disciplinary hearings and/or appeals as appropriate
- To manage the suspension and disciplinary actions regarding the Principal and other employees.
- To appoint appropriately trained Investigating Officers.

Senior leaders and Principals

- To take day to day leadership of employee conduct and behaviour
- To implement the disciplinary procedures as agreed by the Trust
- To be responsible for managing employees' conduct and behaviour, setting clear standards and expectations in these areas and for taking action accordingly, proportionately and fairly where standards are not maintained
- To participate in disciplinary hearings and/or appeals as appropriate
- To manage the suspension and disciplinary actions regarding employees (agreement to suspend must be sought from the Trust before suspension takes place).
- To appoint appropriately trained Investigating Officers (Principal only).

Governors

- To be responsible for monitoring employees' conduct and behaviour, setting clear standards and expectations
- To implement the disciplinary procedures as agreed by the Trust
- To participate in disciplinary hearings and/or appeals as appropriate
- To manage the suspension and disciplinary actions regarding employees (agreement to suspend must be sought from the Trust before suspension takes place).

Other line managers

- To treat matters fairly, proportionately, sensitively and confidentially
- To be responsible for identifying problems and taking action where conduct has become unacceptable
- To emphasise to employees the importance of standards of behaviour and conduct
- To make decisions and where appropriate implement the disciplinary procedure with advice from a HR representative / more senior manager.

Employees

- To maintain the highest standard of conduct and behaviour
- To inform their line manager of any unacceptable behaviour of colleagues
- Where required, to participate fully in any disciplinary investigation and to cooperate with the investigating officer
- If subject to this procedure to provide any relevant information to their companion if they choose to have one.

HR representative/service

- To advise and support managers, attending any meetings as deemed appropriate
- Act as an advisor at all formal stages of the procedure.

The disciplinary rules set out the types of conduct which is considered unacceptable for academy-based employees. All employees are expected to know and follow the rules as an employee of Academy Transformation Trust. The disciplinary rules and examples are set out in Appendix 1.

Appendix 5 - Procedure for a disciplinary hearing

During any disciplinary hearing conducted by Academy Transformation Trust and its academies, the following will take place:

Meeting Format

1 Introduction to the meeting

The hearing officer/chair of panel should:

- a) ensure that all parties present introduce themselves and explain each person's role at the hearing
- b) if the employee has brought a companion, confirm that they are a trade union representative or work colleague
- c) confirm that the employee's representative is not entitled to directly answer questions on behalf of the employee, though they may ask questions themselves and provide a statement on the employee's behalf
- d) if the employee has not brought a representative, confirm that they understood that they could have done so and have chosen to proceed without
- e) confirm that the meeting is being conducted in accordance with the Academy Transformation Trust Disciplinary Policy
- f) state that the purpose of the hearing is to consider the allegation that [*state allegation*]
- g) confirm that the allegation is being considered today as a case of [*gross misconduct/ misconduct*] and if the allegation is upheld, a possible outcome of this meeting may include [*a first or final written warning/ dismissal*]
- h) check that the parties received all the paperwork for the hearing
- i) confirm whether any witnesses have been asked to give evidence at the hearing, and if so, who they are
- j) explain how the hearing will be conducted
- k) state that parties may request a break at any time, for example if the employee would like to confer with their companion. The hearing officer/chair of panel may also call for a short break in proceedings where it is deemed appropriate

2 Proceedings

- a) The investigating officer will present the management case
- b) The investigating officer may then be asked questions; first by the hearing officer/ panel and secondly by the employee or their representative
- c) The employee will be asked to make their statement and put forward their case
- d) Questions may then be put to the employee by the hearing officer/ panel, then the investigating officer
- e) (If relevant) Any witnesses may then be called in to the hearing to state their evidence and be questioned by the employee, the investigating officer and the hearing officer/ panel
- f) The investigating officer and then the employee will be given the opportunity to sum up their case
- g) The meeting will then be adjourned in order to reach a decision on the outcome

3 Adjourment and Decision

The hearing officer/chair of panel can choose to either:

- deliver a decision after an adjournment, or;
- confirm a later time to reconvene the meeting to confirm the outcome, or;
- for more serious cases of misconduct the hearing officer/chair of panel can choose to adjourn for the day and confirm the employee will be contacted as soon as possible with the outcome and that this will be confirmed in writing with reasons.

The employee must be informed of the right of appeal.

4 The hearing officer/chair of panel will close the meeting

Appendix 6 – Procedure for an appeal hearing

During any disciplinary appeal hearing conducted by Academy Transformation Trust and its academies, the following will take place:

Meeting Format

1 Introduction to the meeting

The appeal hearing officer/chair of appeal panel should:

- 5 ensure that all parties present introduce themselves and explain each person's role at the hearing
- 6 if the employee has brought a companion, confirm that they are a trade union representative or work colleague
- 7 confirm that the employee's representative is not entitled to directly answer questions on behalf of the employee, though they may ask questions themselves and provide a statement on the employee's behalf
- 8 if the employee has not brought a representative, confirm that they understood that they could have done so and have chosen to proceed without
- 9 confirm that the meeting is being conducted in accordance with the Academy Transformation Trust Disciplinary Policy
- 10 state that the purpose of the hearing is to consider the fairness and reasonableness of any disciplinary measures taken at the original hearing. Appeals against disciplinary action will usually be considered by the panel in relation to one or more of the following grounds:
 - i. the *procedure* (if this is part of the employee's grounds for appeal then there is a possibility that the hearing may have to be a complete re-hearing)
 - ii. the *facts*
 - iii. the *decision*
- 11 check that the parties received all the paperwork for the hearing
- 12 explain how the hearing will be conducted
- 13 state that parties may request a break at any time, for example if the employee would like to confer with their companion. The appeal hearing officer/chair of appeal may also call for a short break in proceedings where it is deemed appropriate

2 Proceedings

- h) The investigating officer will present the management case
- i) The investigating officer may then be asked questions; first by the appeal hearing officer/panel and secondly by the employee or their representative
- j) The employee will be asked to make their statement and put forward their case
- k) Questions may then be put to the employee by the appeal hearing officer/panel, then the investigating officer
- l) (Only if the hearing is a complete re-hearing and if relevant) Any witnesses may then be called in to the hearing to state their evidence and be questioned by the employee, the investigating officer and the appeal hearing officer/panel

- m) The investigating officer and then the employee will be given the opportunity to sum up their case
- n) The meeting will then be adjourned in order to reach a decision on the outcome

3 Adjourment and Decision

The appeal hearing officer/chair of appeal can choose to either:

- deliver a decision after an adjournment, or;
- confirm a later time to reconvene the meeting to confirm the outcome, or;
- for more serious cases of misconduct the appeal hearing officer/chair of appeal can choose to adjourn for the day and confirm the employee will be contacted as soon as possible with the outcome and that this will be confirmed in writing with reasons.

The decision at an appeal hearing is final and there is no further right of appeal.

4 The appeal hearing officer/chair of appeal will close the meeting

Appendix 7 – Disciplinary Actions

<i>Level</i>	<i>Investigation</i>	<i>Written invite to hearing</i>	<i>Companion</i>	<i>Hearing conducted/ warning issued by</i>	<i>Outcome in writing</i>	<i>Appeal heard by</i>	<i>Duration of warning</i>
Informal action	Informal, gather facts	No	Not considered necessary	No hearing	Letter sent summarising discussion and agreed actions, could be a Letter of Expectation	No appeal	No warning issued
First written warning	Investigating Officer nominated by Principal ¹⁰	Yes (5 working days' notice)	Recommended (allowable during investigation, not for witnesses)	Hearing Officer can be SLT (can include Principal). Hearing Officer has power to give a sanction less than dismissal.	Yes (within 5 working days of the hearing)	Appeal Hearing Officer can be the Principal or a representative from the Trust or a governor. Appeal Hearing Officer has power to give a sanction less than dismissal.	6 months
Final written warning	Investigating Officer nominated by Principal	Yes (5 working days' notice)	Recommended (allowable during investigation, not for witnesses)	Hearing Officer can be SLT (can include Principal). Hearing Officer has power to give a sanction less than dismissal.	Yes (within 5 working days of the hearing)	Appeal Hearing Officer can be the Principal or a representative from the Trust or a governor. Appeal Hearing Officer has power to give a sanction less than dismissal.	12 months

¹⁰ In the case of allegations made against the Principal/Academy Transformation Trust then the Trust Head Office HR Department or an Academy Transformation Trust Board Member will be responsible for the management of the policy and determining an appropriate investigating officer, either internally or externally.

Level	Investigation	Written invite to hearing	Companion	Hearing conducted/ warning issued by	Outcome in writing	Appeal heard by	Duration of warning
Dismissal	Investigating Officer nominated by Principal	Yes (5 working days' notice)	Recommended (allowable during investigation, not for witnesses)	Chair of Panel can be a member of the SLT and/or a representative from the Trust and/or the Chair of Governors plus another governor. Chair of Panel has power to give any sanction available in this policy including dismissal.	Yes (within 5 working days of the hearing)	Chair of Appeal Panel can be a representative from the Trust and/or the Chair of Governors plus another governor and/or a Principal from another Trust academy. Chair of Appeal Panel has power to give any sanction available in this policy including dismissal.	Not applicable