

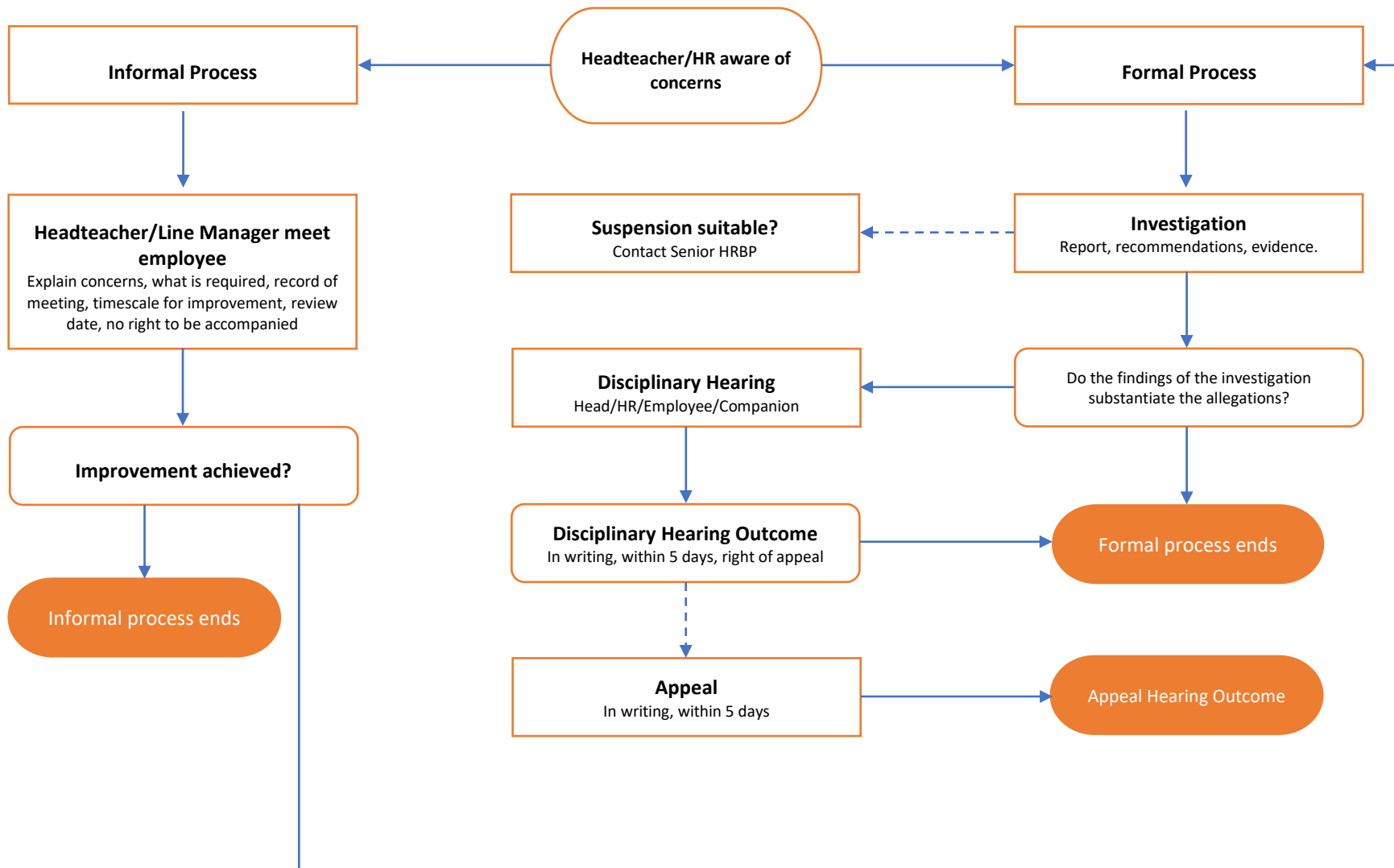
# **East Midlands Academy Trust**

## **Disciplinary Policy 2021-23**

**'Every child deserves to be the best they can be'**

Scope: East Midlands Academy Trust & Academies within the Trust	
<b>Version:</b> v1: 9 <sup>th</sup> July 2020 v2: 3 <sup>rd</sup> Sept 2021	<b>Filename:</b> EMAT Disciplinary Policy
<b>Approval: October 2021</b>	<b>Next Review: October 2023</b> <i>This Policy will be reviewed by the Trust Board (FHRE) every two years</i>
<b>Owner:</b> East Midlands Academy Trust Board of Trustees and Senior Workforce Planning and HR Business Partner.	

Policy type:	
Statutory	Replaces Academy's current policy



## Disciplinary Policy and Procedure

### 1. Introduction

EMAT expects all its employees to recognise their obligations to their Academy, the public, pupils, and other employees and to conduct themselves properly at all times and in accordance with the Trust's Code of Conduct and all other policies and procedures. Appendix 1 gives examples of gross misconduct and misconduct, but these lists are not to be treated as exhaustive.

This procedure is designed to reflect the employee's right to natural justice, including the rights identified in the Human Rights Act, and the law as set out in Employment Acts and regulations, specifically the Employment Relations Act 1999.

Where allegations are made against an employee, he / she should be informed of his / her rights to be represented at all formal meetings by a qualified trade union representative or work colleague.

This Policy is in line with the ACAS code of practice.

The policy does not replace the normal interaction between line manager and employee and recognises that minor breaches of conduct should be dealt with promptly and informally without referring to formal disciplinary procedures.

Action under this policy relates both to conduct at work and instances where conduct outside work has a direct relationship to the Trust, Academy, or employee's duties. This includes action or conduct that is likely to bring the Trust into disrepute or raises concerns about an employee's suitability to continue to work in a position of trust.

### 2. Purpose

To achieve centres of excellence in education and foster good employee relations, this procedure aims to:

- improve conduct primarily by advice and correction rather than by disciplinary measures;
- work in a collaborative and supportive manner with all employees and provide a fair method of dealing with any allegations of breaches in standards of conduct.

### 3. Scope

This procedure applies to all employees (teaching and support staff) employed within EMAT who either have a permanent contract of employment or have more than three months' continuous service. It does not apply to employee's subject to probation or induction, who are subject to separate procedures i.e., probationary procedures. It does not apply to agency workers or self-employed contractors.

No action should be initiated against a Headteacher under the disciplinary procedure without referring the matter to the Chief Executive of EMAT.

Any proposed disciplinary action against a Trade Union officer will not be taken without referring to the EMAT HR team first consulting with and notifying a full time Trade Union official.

#### 4. Equal Opportunities

The disciplinary procedure must always be applied fairly and in accordance with employment law and Equalities Legislation. The provisions of the Equality Act 2010 will be applied throughout the implementation of this Policy.

#### 5. General Principles

The Trust will adhere to a number of principles, which ensures that any individual who is subject to disciplinary action will receive consistent and fair treatment. These principles are as follows:

- The procedure will be applied objectively to all members of staff concerned and is designed to ensure that all members of staff are treated fair and consistently and in accordance with Equalities Legislation.
- It is a fundamental principle that disciplinary matters are dealt with at the lowest level possible, appropriate to the disciplinary matter under investigation.
- The procedure should be used primarily to help and encourage employees to improve rather than as a way of imposing a punishment.
- The Trust executive team will clearly define the Trust's standards of conduct and performance required and ensure members of staff are aware of them.
- The employee should be informed of any complaint / allegation against them and be provided with as much information as deemed appropriate without compromising the investigation.
- All allegations will be confirmed in writing and substantive evidence provided to any employee who may be the subject of disciplinary action.
- Any decision to take formal action against a member of staff will be taken only after a full investigation and with proper safeguards for the individual. No disciplinary action will be taken until the employee has been informed of the nature of the problem and given the opportunity to make representation.
- The employee should be provided with an opportunity to state their case before decisions are reached.
- Each employee / representative has the right to be accompanied and represented by a qualified Trade Union official or by a work colleague of their choice at any formal stage during the procedure. There is no statutory right to be accompanied to an investigation meeting.
- All meetings held within this procedure will be arranged at a mutually agreed date, time, and venue.

- The Trust exercises its right not to allow the recording of the meetings/hearings by any media.
- Issues should be raised and dealt with promptly and there should not be unreasonably delay in conducting the meetings, decisions or confirmation of those decisions. This applies to both parties.
- If, without good cause, the employee is unable or unwilling to attend a disciplinary hearing, the matter may be heard in their absence and a decision made based on all the evidence available.
- Where possible, the Chair (Headteacher / EMAT executive team member) should not have had any prior involvement with the investigation. Those conducting an appeal should not, where practicable, have had any prior involvement with the investigation or the disciplinary hearing.
- All employees have the right of appeal against any action taken against them at any of the formal stages of this procedure.
- No employee will be dismissed for a first disciplinary offence except in the case of gross misconduct when the penalty could be dismissal without notice or pay in lieu of notice.
- Where an employee has been warned before about their conduct or behaviour, it should be made clear at that time that if there is a further instance of misconduct, formal disciplinary action could be taken.
- Any action taken should be reasonable in the circumstances of the case.

## 6. Responsibilities

The Trust is responsible for maintaining fair, consistent, and objective procedures for matters relating to staff discipline.

Employees and the employer have a joint responsibility to maintain good employment relationships.

Employees are expected to observe all Trust rules, policies, and procedures.

## 7. Timing

Disciplinary matters should normally be conducted within the timescales laid down in the procedure. However, if there is a valid reason to do so, timescales can be varied. If this is initiated by the Trust, the employee should be given an explanation and informed when a response or meeting can be expected.

All efforts should be made by employees to attend meetings that constitute part of this procedure. When there are valid reasons to reschedule meetings then these should be rearranged without undue delay but no later than 5 working days after the original hearing date.

## 8. Criminal charges

Where conduct is the subject of a criminal investigation, arrest, charge, or conviction the facts will be established before deciding whether to take any formal disciplinary action. Disciplinary action will not

be automatic and will depend on the circumstances. Employees should inform their Headteacher / Line Manager / HR immediately if they are involved in a criminal investigation, arrest, or a subject to a charge of conviction. Failure to notify the Trust may result in disciplinary action.

The Trust will not 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 available evidence.

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

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

## 9. Informal Action

Less serious breaches of conduct should be dealt with informally by meeting with and discussing the matter with the employee in private.

This involves drawing the employee's attention to the unsatisfactory conduct, listening to their point of view, and agreeing a clear and reasonable timescale for the employee's conduct / behaviour to improve.

Consideration should be given to any difficulties which an employee may be facing, and a genuine attempt should be made to help the employee to overcome them. Where considered appropriate, managers should seek Occupational Health advice when managing staff who may be suffering from mental illness, alcohol, or substance abuse.

The Headteacher / line manager is required to keep notes of the date and content of the informal discussion. If no further action is taken after a period of 12 months, then these should be destroyed.

## 10. Formal Action

If there has been no improvement in conduct or performance, or the matter is of a serious or gross misconduct nature, it will be necessary to commence the formal procedure. Before holding a formal disciplinary hearing, an investigation should be carried out by the nominated investigation officer to determine the most appropriate action.

In very serious or complex cases such as suspected fraud, theft, accusations of any form of racial or severe harassment, or where criminal proceedings may ensue, a detailed formal disciplinary investigation will need to be conducted. EMAT Senior Workforce Planning and HR Business Partner will advise the academy/school on the processes for setting up independent, formal investigations and will suggest suitable qualified people to undertake the work, depending on the individual circumstances of the investigation.

A member of staff may be suspended from work during a formal disciplinary investigation (see section below on suspension).

### **11. Investigation**

The Headteacher / line manager is responsible for appointing an investigating officer (IO) who must be competent to undertake the role. The IO should familiarise themselves with the EMAT Disciplinary Policy. Investigations should normally be carried out by the nominated IO, or as nominated by EMAT.

The process must be completed as quickly as possible, and should usually take no more than 10 days, ensuring that all parties have had the opportunity to present their evidence.

The case must be thoroughly investigated, have a written investigation report and supporting evidence. A template of the investigation report can be obtained from the HR team.

### **12. Timescales for Investigations**

All allegations and complaints against employees must be investigated without delay (particularly in cases of potential gross misconduct). The Headteacher should ensure the IO has reasonable time off from normal duties to complete the investigation promptly.

As a guide, from the time the IO begins their investigation, the investigation report should be completed without delay, and normally within 15 working days, for allegations of misconduct and other cases where the fact finding is relatively straightforward. For allegations of gross misconduct and more complex cases, the investigation process should take no longer than 25 working days. In very complex cases or exceptional circumstances, a reasonable timescale will be agreed by the EMAT HR team.

On completing the investigation, the IO will recommend to the Headteacher / line manager / HR whether a formal disciplinary hearing is necessary and, if so, on what basis.

The allegations must be confirmed in writing within 10 working days of the completed investigation.

### **13. Employee Representation / Companion at Meetings and Hearings**

Where allegations are made against an employee, he / she should be informed in writing of their right to be represented at all formal meetings and related hearings by an official trade union representative or other Trust employee.

An employee may bring a companion to any hearing or appeal where a formal warning may be issued, or dismissal may be a potential outcome. The companion may be either an official trade union representative or a work colleague. The employee must inform the Headteacher / Line Manager / HR of the companion they wish to bring to the meetings, in good time before the hearing.

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.



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

#### 14. Suspension

The suspension of a member of staff should only be used to enable a matter to be investigated, or, in the interests of protecting children and / or staff, while a matter is investigated pending any further action that may be necessary. Suspensions are a precautionary measure and should not be regarded as prejudging the matter. Suspension is not considered a disciplinary action and should be kept confidential wherever possible. If at any stage during, or at the end of, the investigation, or at any stage of the disciplinary procedure, it is considered that this suspension should be lifted by the Headteacher the employee will be informed immediately.

Suspension from duty is a 'working arrangement' whereby the employee must not enter any Trust building or contact any Trust employee without the express permission of the Headteacher / line manager. Nor must a suspended employee contact pupils or their parents or anyone else with whom they would come into contact during the course of their duties. Failure to observe this requirement may render them liable to disciplinary action.

Where an employee is suspended and needs to contact witnesses to provide evidence at a hearing, then this may be considered on a case-by-case basis and achieved via their qualified trade union representative or by a request to the Headteacher /Line Manager / HR.

Where the allegation concerns the safeguarding of children, a risk assessment must be discussed with the designated safeguarding lead. Once this assessment has been made, a decision about suspension can be taken.

Alternatives to suspension, for example re-organisation of duties, work location, temporary redeployment to another role 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 well as the employee's role and if continued presence would result in potential harm to the Trust or others, or make it difficult to investigate.

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

The responsibility for formally suspending a member of staff belongs to the CEO or the Headteacher. Only the CEO of EMAT or his / her nominee may suspend the Headteacher. You must contact the Senior Workforce Planning and HR Business Partner before suspending a member of staff.

An employee may be suspended on full pay when an act of gross misconduct is either suspected or alleged to have been committed or for "other good and urgent cause", which is normally taken as when the employee is suspected of, or has been arrested for, doing something which would render him or her unsuitable to remain in the Academy. The period of suspension should be as brief as possible and should be kept under review.

Where the power of suspension has not been delegated to the Headteacher / line manager, the Headteacher / line manager or his / her nominee can send a member of staff home, pending ratification.

Where suspension occurs, this should be confirmed in writing giving the details of the allegation(s). In all cases, the Senior Workforce Planning and HR Business Partner needs to be informed.

#### 14. Disciplinary Hearings

Where the results of the investigation recommend that there are reasonable grounds to suggest misconduct or gross misconduct, a Disciplinary Hearing should be arranged as soon as possible

The IO's report and all relevant documentation should be sent to the employee with a letter specifying the date, time, and place for the hearing, giving no less than five working days' notice. The letter must contain sufficient information on the alleged misconduct and its possible consequences.

The letter should inform the employee of their right to be accompanied by a qualified trade union representative or other Trust Employee.

If the employee and / or their companion cannot attend the hearing they should inform the Headteacher / Line Manager / HR immediately and consideration will be given to arranging an alternative time. 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 a good reason, or there being a persistent inability to do so (for example for health reasons), may lead to a decision being taken based on available evidence.

The hearing will normally be chaired by the Headteacher. The Investigating Officer will also normally attend to present the investigation. A member of the HR team may also be present.

At the disciplinary hearing the Investigating Officer will go through the allegations against the employee and the evidence that has been gathered. The employee (or their companion on their behalf) will be able to respond and present any evidence of their own. A format for a disciplinary hearing is attached at Appendix 3.

Relevant witnesses may be asked by the Investigating Officer or the employee to appear at the hearing. The employee must give sufficient advance notice if they wish to call witnesses to ensure that there is time to arrange their attendance. However, the employee will not normally be permitted to cross-examine witnesses unless, in exceptional circumstances, the Chair decides that a fair hearing could not be held otherwise.

The Chair 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 convened.

If the employee chooses not to attend the hearing, they may choose to send a written statement for consideration at the hearing or their trade union representative may attend on their behalf.

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.

## 15. Disciplinary Sanctions

A decision on disciplinary action will be made in light of what is believed, on the balance of probabilities, to have occurred, and in reaching a decision about appropriate sanctions the Chair will take account of any mitigating or aggravating circumstances. The nature of any disciplinary action taken will be proportionate to the seriousness of the case and its surrounding circumstances and will reflect a conclusion that any reasonable employer could have been expected to reach.

The following formal stages of disciplinary action can be taken for breaches of conduct (see Appendix 1):

**Oral Warning** – may be issued where a minor misconduct has occurred.

**First Written Warning** – may be issued where misconduct has occurred, and informal discussions have not led to sufficient improvement.

**Final Written Warning** – may be issued when an employee has a current warning about conduct and insufficient improvement has been made, where further misconduct has occurred, or the misconduct is sufficiently serious.

**Dismissal** – may be issued when an employee has received a final written warning and insufficient improvement has been made, where further misconduct has occurred or where an employee has committed an act of gross misconduct.

Warnings are progressive from First to Final except for:

- Cases of gross misconduct (which, if substantiated through the disciplinary process, may result in summary dismissal with no entitlement to statutory notice);
- Cases which are less serious than gross misconduct but warrant a Final Warning being issued regardless of prior formal warnings.

Please see below table of how long the warnings will remain active for:

Disciplinary Action	Authority to issue	Duration of warning active on personnel file
Oral warning	Headteacher / line manager	6 months
First written warning	Headteacher / line manager	9 months
Final written warning	Headteacher / line manager	12 months
Dismissal	Headteacher / line manager	

Further misconduct may occur during the term of a first written warning. Where this results in a formal hearing and a final written warning is issued, the duration of the final written warning will supersede that of the first written warning.

Upon expiry, all disciplinary warnings will be expunged from record except for warnings relating to the safety and welfare of children or young people that fall under safeguarding issues.

An employee with a final written warning on file who is alleged to have committed a further occurrence of misconduct must be treated as if the allegation was of gross misconduct. This is because if the allegation is substantiated, the employee will be dismissed. Therefore, letters to the employee should include the warning of dismissal (as for allegations of gross misconduct).

Where a member of staff is dismissed, misconduct cases that relate to the safety of children and young people will be referred to Disclosure and Barring Service. This will be dealt with by the Senior Workforce Planning and HR Business Partner for the Trust. All other cases of teacher misconduct resulting in dismissal will be referred to the [Teaching Regulation Agency](#) on behalf of the Secretary of State for Education.

## 16. The Disciplinary Panel

The person(s) hearing the disciplinary will write to the employee giving details of the hearing, normally allowing 5 working days' notice.

A representative from EMAT HR team will be present at all disciplinary meetings and where dismissal is a possibility.

For all meetings, a note-taker will attend to take non verbatim notes (NVN) of the proceedings. It is their role to note the significant points of the hearing and the decision of the panel but not to produce a verbatim record.

## 17. Conducting the Hearing

At the Hearing, all parties present will be given an opportunity to ask questions or challenge the reports / evidence submitted by all witnesses.

The employee and their representative should be informed of the decision of the Disciplinary Hearing as soon as possible (unless there is an adjournment to clarify any facts) and the Chair of the Panel hearing the allegation will confirm this in writing within five working days. The letter must state:

- The precise nature of the misconduct
- Specify the disciplinary action being taken
- The timescale in which improvement is required
- Indicate the likely consequences of further misconduct
- The right to appeal against the decision and to whom the appeal should be made
- The right to be represented by a work colleague or qualified trade union representative at any appeal hearing.

## 18 Appeals Procedure

Employees have the right to Appeal against any sanction.

Appeals must be registered in writing with the Headteacher / line manager, or to the EMAT CEO in the case of a Headteacher, within 5 working days of the employee being notified in writing confirming the disciplinary decision. Appeals received after this period will not be heard.

Employees may present any further evidence which was unavailable at the time of submission of the appeal documentation at least five working days prior to the Appeal Hearing so that management has an opportunity to respond.

Appeals against the outcome of any disciplinary action may be considered in relation to one or more of the following grounds:

- i) The **PROCEDURE** – the grounds of appeal should detail how any 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.

Appeal hearings will be convened as soon as is reasonably practicable and the employee will be given no less than 10 working days' notice of the time and place of the Appeal hearing.

The Appeal will concentrate on the area(s) of dispute only and will not be a re-run of the whole disciplinary hearing. Accordingly, it is important that the employee is explicit about the grounds for appeal and must provide clear and specific reasons in writing. Such written notice of the Appeal must include reference to any new facts the employee intends to raise at the Appeal.

The result of the Appeal and the reasons for the decision will be conveyed to the employee as soon as possible. Normally this will be on the same day as the appeal hearing, but in exceptional circumstances this may not be possible. In all cases the employee and his/her representative will be notified within 5 working days of the appeal meeting in writing by the Chair of the Appeal, or by EMAT in the case of the Headteacher.

## 19. Safeguarding

If allegations are made against staff which involve safeguarding issues, the Trust's Safeguarding Policy and procedure must be followed, irrespective of how the allegation arises.

Schools should ensure they are familiar with their Designated Officer (DO), also known as a Local Authority Designated Officer (LADO) from the Local Authority who handles child protection/safeguarding allegations. The Designated Officer has a statutory duty to ensure that allegations about safeguarding are handled properly and quickly.

Employees may be suspended on full pay pending the outcome of the Safeguarding Policy and procedure; however, suspension should not be the default option. If the relevant safeguarding agencies decide not to pursue action against the employee, the matter will be referred back to the Trust for consideration under the appropriate procedure.

If the Safeguarding Policy and procedures are involved, other disciplinary procedures will begin only if and when the matter has been referred back to the Trust. The fact that external agencies have not acted should not be taken as an indication of the employee's innocence or guilt.

The Trust will operate within statutory guidance when handling cases of safeguarding.

## 20. Monitoring

The Trust will monitor cases in line with Equalities Legislation to ensure consistency and fairness in its application.

## 21. Special Situations

### **Grievances raised during the course of the disciplinary procedure**

Sometimes an employee may raise a grievance during the course of a disciplinary case. Where this happens, and depending on the circumstances, it may be appropriate to suspend the disciplinary procedure for a short period until the grievance can be considered. The employee will however have to raise the grievance in accordance with the EMAT Grievance Procedure.

Depending on the nature of the grievance, the Academy may need to consider bringing in another manager to continue to hear the disciplinary case.

## 22. Review

This policy will be reviewed every two years by the FHRE committee.

## APPENDIX 1: GROSS MISCONDUCT AND MISCONDUCT

### GROSS MISCONDUCT

Gross misconduct is defined as misconduct of such a serious nature that the employer is no longer prepared to tolerate the employee's continued presence at the place of work. Where allegations are substantiated, they may lead to a hearing panel being convened and dismissal proceedings invoked.

The following are examples of gross misconduct, but are **not intended to be exhaustive**:

- Prolonged unauthorised absence from work (at least 10 working days without contact);
- While purporting to be absent sick, working or engaging in activities which are likely to be inconsistent with the reason for absence and / or which are unlikely to be conducive to recovery;
- Inappropriate conduct towards, or contact with, pupils;
- Serious acts of insubordination;
- Serious breaches of the Trust's Financial Regulations or individual Academy's Code of Conduct;
- Theft or misappropriation of, or failure to account for, or falsely claiming entitlement to, the property, assets or funds of the academy or its employees;
- Fighting or acts of violence at the workplace, serious threatening or abusive behaviour towards, pupils, parents or fellow employees;
- Criminal offences outside work (including fraudulent activities) which may affect the individual's employment suitability;
- Unauthorised removal and use of Trust property;
- Failure to follow a lawful instruction;
- Failure to report or record any serious matter which it is the employee's contractual duty (either expressed or implied) to report;
- Falsification of documents likely to be of financial benefit to the employee or other persons e.g. time sheets, bonus / expense claims, qualifications etc.;
- Obtaining a job by lies or deception in the course of selection procedures;
- Making false claims under any of the Trust's policies and / or procedures;
- Discrimination / harassment against a pupil, employee or parent, on the grounds of sex, transgender status, sexual orientation, religion or belief, marital status, civil partnership status, age, race, colour, nationality, national origins, ethnic origin or disability;
- Bullying;
- Aggressive behaviour towards another member of staff, pupil or parent;
- Being incapable of adequately performing duties as a result of the intake of alcohol or misuse of drugs;
- Serious breaches of the Trust's Health and Safety policies or practice;
- Serious contravention of the Trust's Policy on various ICT policies, such as Social Media, Internet Access;
- Acts or omissions that would expose the Academy or Trust to criticism or cause reputational damage;
- Disorderly or indecent conduct, whether at the Trust, Academy or otherwise; and
- An act committed outside the place of work where the act has an adverse bearing on the employee's suitability for the job or which would bring the Trust into disrepute.

## MISCONDUCT

The following are examples of misconduct, but are **not intended to be exhaustive**:

- Regular lateness for work;
- Regular failure to follow employment rules e.g. reporting absence;
- Refusal to obey a reasonable instruction of a manager;
- Negligence at work leading to loss, damage or wastage of Trust or other property;
- Improper, disorderly or unacceptable conduct at, in or near the Trust;
- Making malicious or knowingly false allegations against other employees;
- Wilfully inadequate work performance (poor performance or lack of capability will normally be the subject of Capability procedure);
- Private trading.



## APPENDIX 2: SUSPENSION

When the headteacher/CEO suspends a staff member they must ensure:

- The employee's laptop and mobile phone is taken away
- Inform IT to suspend IT access
- Ask them not to contact anyone at work
- Ensure suspension is kept as brief as possible
- Send suspension letter

### **1) Introductions**

The Chair introduces him / herself and allows an opportunity for all those present to do so. The Chair ensures that all procedural steps have been adhered to and confirms the order of the agenda with all those present.

### **2) Nature of the complaint**

The Chair checks that all parties have the relevant documents and identifies the specific allegation / complaint.

### **3) Representation by investigating officer (IO)**

The Chair asks the investigating officer to present the case (including questions of witnesses). Once the IO has presented the case and questions from all parties have been asked and answered the IO will leave the hearing. If there is a need for further questioning the IO will be asked to come back.

### **4) Questions by employee**

The Employee and / or representative may ask points of clarification from the IO or witnesses after they have given evidence.

### **5) Questions by Chair or panel**

Panel members may ask points of clarification from the IO or witnesses.

### **6) Presentation by employee**

The employee and / or their representative will present his / her case, including calling any witnesses. Witnesses called may be called by the EMAT HR representative who has given advice on dealing with the disciplinary.

### **7) Questions by Chair of panel**

Panel members may ask points of clarification from the employee / representative, including each of the employee's witnesses after they have given evidence.

### **8) Re-examination of witnesses**

Both parties may re-examine their witnesses after they have been asked questions by the other party.

### **9) Final statement by employee**

The employee and / or representative may make a final statement.

### **10) Withdrawal**

Both parties withdraw to allow the panel to discuss the findings and come to a decision. Both parties may be asked to remain available in case the panel need to clarify any points.

### **11) Adjournments**

Either party may ask for an adjournment during the course of the hearing.

### **12) Sufficient breaks**

The Chair should ensure that there are sufficient breaks. If new information is presented during the course of the hearing, the Chair of the panel may decide to adjourn to allow all parties to consider it, or once the meeting has been completed further checks need to be completed.

### **13) Non-Verbatim Notes (NVN)**

NVN of the meeting should be taken. These will be circulated to all parties and will be part of any documentation used as part of an appeal.

### **14) The Appeal**

The agenda for an appeal hearing will follow the same format as outlined above, except the employee will be asked to state their case first.

The Chair of the panel for the first hearing will respond by addressing the grounds of appeal and explaining the rationale behind the decision of the panel. He / she may be supported by the Trust HR representative who advised the panel at the first hearing and may ask the IO who presented the case in the first hearing to appear as a witness.

The Appeal will concentrate on the area(s) of dispute only and will not be a re-run of the whole disciplinary hearing. Accordingly, it is important that the employee is explicit about the grounds for appeal and must provide clear and specific reasons in writing. Such written notice of the Appeal must include reference to any new facts the employee intends to raise at the Appeal.

The Appeal panel will be advised by the Trust HR representative and NVN must be taken and distributed to all parties at the end of the hearing.

All parties should be given the documents presented in the first hearing including a copy of the NVN from the first hearing and a copy of the outcome letter from the Chair of the first panel along with a copy of the letter of appeal from the employee.

The decision of the appeal panel is final, and the outcome communicated in writing within five working days by the Chair of the appeal panel.