POLICY	**Disciplinary procedure for Multi-Academy Trusts**
STATUS/DATE OF THIS VERSION	**March 2022**
APPROVED BY	**Board of Trustees**
RATIFIED BY	**Board of Trustees March 2022**
REVIEW	**March 2023**

This policy is operated by all the schools in Unity Education Trust (as listed below).
There may be sections that are specific to one school and these will be added by the school either as an annex or in place of yellow highlighted sections below.

Any queries about the policy should be directed, in the first instance, to the Headteacher/Head of School:

- **Beeston Primary**
- **Garvestone Primary**
- **Grove House Infant**
- **Kings Park Infant**
- **Northgate High School and Dereham Sixth Form College**
- **The Pinetree School**
- **The Short Stay School for Norfolk**
- **Churchill Park**
- **Greyfriars Primary**
- **Highgate Infant School**
- **Kings Oak Infant School**
- **Wimbotsham and Stow Primary**
- **Magdalen Primary**
- **St Germans Primary**
- **Great Dunham Primary**

Disciplinary procedure for Multi-Academy Trusts

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Procedure guidance

There is a statutory requirement on all employers to provide a disciplinary procedure for its employees. This policy is designed for use in Multi-Academy Trusts.

It is likely that a Multi-Academy Trust will want to determine a policy to be applied to all academies it is responsible for because it has responsibility for ensuring equality across all employees. However, where TUPE applies any contractual terms and conditions, which may be affected by this policy, should continue to apply to the group(s) of staff who have TUPE transferred.

This policy and procedure covers the requirements of the ACAS Code of Practice. Any Trust choosing not to adopt this model will need to ensure that any locally developed procedure complies with the requirements of the ACAS code. A local procedure would need to be the subject of full consultation with recognised trade unions before adoption.

A failure to follow the ACAS code does not in itself make a person or organisation liable to proceedings. However, Employment Tribunals will take the Code into account when considering relevant cases and can adjust awards by up to 25% for unreasonable failure to

comply with the Code. Awards can be adjusted up or down e.g. if the tribunal believes the Trust has acted unreasonably, they can award 25% more, or conversely, if they believe the employee has unreasonably failed to follow the guidance in the code they can reduce the award by 25%.

Throughout the document, references to the Board should be taken to refer to the entity that is responsible for exercising governance functions within the Trust. Depending on the Trust's Scheme of Delegation, some decisions may need to be taken by the overarching Board of Trustees, whilst others may be delegated to committees, local Governing Boards or the Chief Executive Officer (CEO). However, because of the specific requirements around disciplinaries, some responsibilities may be delegated by the CEO to individual academy leaders (e.g. Principal, Head of School etc.) or other line managers. The Board should ensure when considering adoption, that the Scheme of Delegation is reflected appropriately in the policy document.

Where decisions are required by a specific person(s) this document refers to 'the Board' or 'Manager' or 'the decision maker' - where dismissal could be an option or a decision by a person in authority has to be made - or the 'appeals committee'. The Board should ensure when considering adoption, that the Scheme of Delegation is reflected appropriately and that the appropriate degree of separation is applied between each level of decision making. Allowance should also be made for who in the Trust will manage any disciplinaries relating to the Head teacher and Chief Executive Officer.

For the purposes of this policy the UET Board of Trustees has determined the following responsibilities;
Manager = Head teacher/Head of School for all staff in their school; CEO for Head teachers/Heads of School and for UET central staff; Trust Board (normally acting through the Chair) for the CEO.

Investigating Officer = a person appointed by the Manager after consultation with their manager.

Decision maker = CEO for all staff except Head teachers/Heads of School; Trust Board (normally a Trustee or Trustees appointed by the Board) for Head teachers/Heads of School and CEO.

Appeal Panel = appointed by the Trust Board

Please note that 'academy' in this document refers to any academy within the trust.

1. Purpose and scope

1.1 Through the implementation of this procedure, the Trust will be mindful of the employer obligation to seek to maintain and protect the mental health and wellbeing of all staff as far as is reasonably practicable.

1.2 The Discipline procedure supports the Trust's standards and rules (including the Guidelines on Conduct) and aims to ensure consistent and fair treatment for all. It is not designed to deal with problems associated with unsatisfactory work performance arising from an employee's lack of capability or medical issues.

1.3 The procedure applies to all employees, including support staff in their probationary period. Where this is the case, Trusts should take into account para 2.5 and 2.6 of this procedure. Additionally, any disciplinary action will be taken into account at the final assessment of the probationary period. Please refer to the Trust's Probation policy for further considerations when this situation arises. Strategy consideration - Paragraphs 4 and 5 of the model *Probation policy P113* detail these considerations. *P113* is available on InfoSpace.

1.4 Any complaints from parents (or others associated with the Trust) concerning the conduct of a member of staff should be dealt with under this disciplinary procedure and not the Trust's complaints procedure. The details of the investigation and any sanction given as an outcome will remain confidential.

1.5 Disciplinary issues relating to all employees must be handled in a fair and equitable manner. Each case must be looked at on its own merits and any relevant circumstances taken into account.

1.6 The Board is responsible for operating this procedure within the Trust and is able to issue disciplinary warnings. Dismissal decisions are made by the Decision Maker delegated with the responsibility for dismissal of staff. The Board should, on at least an annual basis, discuss and agree where responsibility for dismissal of staff will fall and the decision should be formally recorded.

1.7 Where the conduct of the Headteacher is the focus of this procedure, all references to 'Headteacher' in the text should be read 'the Board' (where the Board undertakes this role. Where it is delegated the correct title should replace 'the Board'). Where there is a case to answer the Board shall be convened to consider the allegations and take disciplinary action, including dismissal, where appropriate.

1.8 The Trust is advised to consult *Discipline guidance G303* for more detailed support in how to consider alleged disciplinary offences. Where alleged misconduct appears to warrant action under the procedure, advice should be sought from the Trust's HR provider. **[Where this is EducationHR, please contact by telephone on 01603 307760 or by emailing** EHRenquiries@norfolk.gov.uk**.]**

1.9 The Board has overall responsibility for specifying the standards of behaviour required, enforcing the rules and ensuring that any breaches are tackled promptly.

1.10 Employees who abuse this (or any other) procedure by making malicious or frivolous allegations may face disciplinary action.

1.11 All parties involved in a disciplinary matter should treat the information which is the subject of the disciplinary investigation in strict confidence.

1.12 Information should not be shared with anyone who is not directly involved in these procedures. However, those involved can discuss these matters with their representatives or advisers and, in some cases, there will be a requirement for information to be shared with other bodies (for example, where allegations of abuse are made or suitability to work with children in the future may be a concern).

1.13 Not every act of misconduct will warrant the formal disciplinary procedure to be initiated. Low level acts of misconduct may result in an informal conversation with the Headteacher to ensure the employee understands their act of misconduct was not acceptable. The employee can be accompanied by a trade union representative or a work colleague if they wish. The employee may also be given a 'letter of expectation' to help them understand what is expected of them. Where low level acts of misconduct are repeated or are sufficiently serious the disciplinary process will be initiated.

2. Procedure

2.1 An employee who is subject to this procedure has the right to be:

- accompanied by a trade union representative or work colleague at the investigation stage; and
- represented by a trade union representative or work colleague at a disciplinary/appeal hearing.

2.2 The employee is responsible for arranging to be accompanied or represented.

2.3 Where an employee discloses a mental health issue, which could be a disability, reasonable adjustments will be made to the procedure. Where it is clear the process is causing repeated signs of distress to someone involved in the procedure the Headteacher will ensure the individual is aware of the support offered **[by Norfolk Support Line (where purchased)]** or suggest the employee seeks advice from their GP. In some cases, help may need to be sought from Occupational Health, with the agreement of the employee, to determine how the procedure can continue fairly. Advice will be sought from HR in these situations.

2.4 An employee can be offered transfer to alternative employment within the Trust (including demotion to a post with less responsibility on a lower grade) as an alternative to dismissal, either as a result of a disciplinary hearing or on appeal, if this is considered appropriate and the employee is in agreement. This would not be an option in cases of summary dismissal for gross misconduct and is unlikely to be deemed appropriate where the employee's misconduct was linked to working with children.

2.5 If the employee concerned is a trade union steward or officer, the Decision Maker should, with the agreement of the employee, inform the full-time trade union officer prior to commencement of this procedure. Advice on this should be taken from the Trust's HR provider.

2.6 No employee will be dismissed for their first breach of discipline, unless it is a case of gross misconduct.

2.7 This procedure does not apply in respect of a dismissal that is:

- As a consequence of the expiry of temporary employment or a fixed term contract
- As a consequence of redundancy (see separate arrangements in the Trust's Staffing Adjustment Procedure)

- When less than 6 months of probationary service has been completed (support staff only) and dismissal arises from unsuitability for confirmation of employment (see the Trust's probationary policy and guidance for further information)
- As a consequence of ill health (either short or long term sickness absence)
- As a consequence of the application of the capability procedure.

3. Cases involving child protection issues, financial irregularities or health and safety concerns

3.1 Any complaint involving allegations relating to child protection issues must, in accordance with Section 8.3 of the NSCB's policies and procedures manual, be discussed with the Local Authority Designated Officer (LADO) and then their advice must be considered before any investigation takes place under this procedure. There is no discretion for Trusts over whether or not to discuss such allegations with the LADO. All cases must be discussed where a child is involved and/or may be at risk or where the allegation is such that if judged to have foundation may bring into question the employee's suitability to work with children in the future. The LADO will then determine whether a formal LADO referral needs to take place and will advise on the appropriate course of action in line with the statutory guidance on handling allegations against members of staff who work with children.

3.2 **[Academies should notify EducationFinance (where the service is bought) for advice on referral to appropriate bodies where concerns or allegations exist regarding financial irregularities.]**

3.3 Where the allegations made raise questions about health and safety practice in the Trust, the obligation to make a statutory referral rests with the Trust. The Trust should contact the Health and Safety Executive (HSE) direct where it is believed the threshold for referral has been met. **[Where a NCC Health, Safety and Wellbeing subscription is purchased the Trust can approach the Norfolk County Council (NCC) Health, Safety and Wellbeing Manager for advice.]**

4. Covert recordings

4.1 The Governing Board believes that the covert recordings of workplace meetings undermines trust between individuals.

4.2 The covert recordings of any meetings or proceedings, including disciplinary and grievance hearings and appeals, by an employee potentially constitutes an act of gross misconduct. It features in the list of non-exhaustive acts of gross misconduct in the school's guidelines on conduct document. Without sufficient mitigation, the covert recording by an employee of colleagues in such a meeting may lead to the employee's summary dismissal.

4.3 The employee will be informed of this policy position before any disciplinary, grievance or capability meeting.

4.4 Similarly, no covert recording of the deliberations of a panel at the end of any hearing may be made by an employee. This would also potentially constitute an act of gross misconduct likely to lead to the employee's summary dismissal.

4.5 In some circumstances, it may be appropriate for a meeting to be recorded but in these cases, there must be written agreement between management and the employee and consent will need to be obtained by all persons who will be included in the recording. The management and employee will then be under an obligation to ensure that all recordings are processed, securely stores and used in a manner consistent with the Data Protection Act 2018.

5. Suspension

5.1 In the case of employees the Manager takes the decision to suspend. In the case of suspension of the Headteacher, the Board would take the decision.

5.2 If there are clear indications that an employee has acted in a manner which may constitute gross misconduct, and because there is no alternative having considered the situation, suspension would be appropriate. NB. Certain points must be considered before the decision to suspend is made. *Suspension checklist C303* is available on InfoSpace for this purpose. The Manager should consult the employee before the decision to suspend is taken.

5.3 When a decision to suspend is taken, it must be made clear that the suspension is neither a disciplinary penalty nor an assumption of guilt. The employee must be given the details of people or organisations they can contact for support whilst suspended **[e.g. Norfolk Support Line, where the service is bought]** and an internal point of contact (should not be involved in the disciplinary investigation in any way) who will keep the employee informed of everyday developments within the employee's individual academy in order to minimise any sense of isolation during the period of suspension and can be a conduit for the suspended employee's requests for information that fall outside the remit of the investigation (e.g. information relating to their normal terms and conditions of employment).

5.4 Gross misconduct is generally defined as misconduct serious enough to fundamentally undermine (i.e. damage beyond repair) the employment contract between the employer and the employee and to make any future working relationship and trust impossible. Examples of gross misconduct are given in the Trust's Code of Conduct. Strategy consideration - *Discipline guidance G303* also provides examples and can be found on InfoSpace.

5.5 If a suspended employee is certificated by their GP as being unfit for work, they will be paid in accordance with their sick pay entitlement for that period of certification. This means that if a period of certificated sick leave continues beyond the employee's entitlement to full pay, they will receive pay in line with their sick pay entitlement which may be at half pay or no pay rate.

5.6 At frequent intervals, the Manager should review whether an employee should remain suspended. Any suspension which extends beyond four working weeks must be reported to the Board with details of how the investigation is progressing and when it is likely to end. Where any suspension continues for three months, the employee must be notified of the reasons for the suspension continuing and when it is likely to come to an end.

5.7 The responsibility for lifting suspension rests with the Manager/Decision Maker.

6. Investigation

6.1 Disciplinary action must not be taken before there has been an investigation into the circumstances.

6.2 Good practice suggests that the investigation should be undertaken by an appropriate individual other than the individual who will consider whether a sanction should be applied. For example, the investigation could be conducted by a Headteacher or Deputy Headteacher in the individual academy, leaving a member of the Trust Leadership Team free to hear the case. Consideration as to who will carry out the investigation will be particularly important where the authority to dismiss has been delegated to the Headteacher within an individual academy.

6.3 The employee may be required (and this would normally be the case) to attend a formal investigatory interview. The employee must receive at least five working days' notice, in writing, of the requirement for them to attend. The letter should give them information about the allegations and their opportunity to be accompanied by a trade union representative or work colleague.

6.4 The investigation should be completed within four working weeks unless there are exceptional circumstances.

6.5 On completion of the investigation, the Manager should review all the information available and decide which of the following is appropriate:

- no action*;
- informal advice and discussion;
- consideration under the formal disciplinary procedure (see 6 below).

The Manager should also decide that if an allegation is shown to be malicious or frivolous, whether any disciplinary action should be taken against the person who made it. If this person was not an employee (e.g. a pupil) the procedure for this is outside the scope of this policy.

*In some cases, specifically those where allegations are made by a pupil or relate to claimed abuse of a pupil, a "no action" decision is likely to be the outcome when the allegation was either substantiated but not serious enough to warrant disciplinary action, unsubstantiated or malicious. The child protection process overseen by the LADO will help in this determination and will ensure that a finding is made. The issue of whether an allegation is found to be unsubstantiated or even malicious is significant for the employee, particularly around what records are held on file and what is said in a reference.

7. Disciplinary hearing

7.1 If the Manager concludes, following investigation, that there is a case to answer at a disciplinary hearing, the employee will be notified in writing that a hearing will take place. The employee should be given at least five working days' notice of the hearing. If the employee's union representative is unable to make the specified date, the employee can propose a reasonable alternative date within five days. However, consideration will be given to allow more time for a re-arranged meeting, particularly

in cases that might result in a dismissal, as long as the longer postponement will not cause unreasonable delay in the procedure. In these situations, the Headteacher (or nominated Governor) will consider the facts of the case and decide what is fair and reasonable in the circumstances. Because of this the approach may be taken to consult the union representative on their availability before setting a date.

The following information should also be included in the letter:

- who will make the decision regarding disciplinary action;
- a copy of the disciplinary procedure;
- the date and time of the hearing;
- details of the allegations;
- reference to all documents that may form part of the evidence supporting the complaint or allegation and, where possible, a copy of these;
- the names of any witnesses to be called;
- the fact that the employee will have the opportunity to state their case and question any witnesses;
- the right to invite a trade union representative or work colleague to represent them;
- any previous warnings will be included where there is justification for doing so[1]. If they are included, they could be taken into account when deciding the level of any disciplinary action;
- the fact that, depending on its findings, the hearing could result in disciplinary action and (adding where appropriate) that this could include dismissal;
- a statement that the employee must take all reasonable steps to attend the meeting.

A second copy of the documentation above should be provided to the employee for them to pass to their trade union representative or work colleague. If requested by the employee, this second set of papers can be issued direct to the trade union representative or work colleague.

7.2 Where the alleged misconduct is not likely to require a sanction beyond a Final Written Warning, the case will be heard by the Manager.

7.3 Where the alleged misconduct has the potential to result in dismissal, the case will be heard by the Decision Maker.

7.4 At a disciplinary hearing the Trust may request the support of an Adviser at such a hearing.

7.5 The hearing should follow the sequence of steps detailed in The Trust's Disciplinary, Dismissal and Appeal Committee hearings procedure. Strategy consideration - A model is available on InfoSpace *(P303b).*

7.6 Disciplinary action can be taken at any level from a recorded oral warning to dismissal, depending on the nature of the misconduct.

8. Result of hearing - disciplinary action

[1] HR advice will be sought where this is the case.

If, following an investigation and disciplinary hearing, the Manager concludes that disciplinary action is required, the following options are available:

8.1 Recorded oral warning

If the conduct concerned is unacceptable but not serious in nature, a recorded warning will normally be appropriate. (See paragraph 8.5 about written confirmation.)

8.2 Written warning

If the offence is too serious for a recorded oral warning, or if there is further misconduct while a recorded oral warning remains in force, the Decision Maker may determine to give the employee a written warning. (See paragraph 8.4 about written confirmation).

8.3 Final written warning

If the misconduct is too serious for a written warning but not serious enough to warrant dismissal, or if there is further misconduct while a previous written warning remains in force, the Manager may determine to give the employee a final written warning. (See paragraph 8.4 about written confirmation).

8.4 Written confirmation of warnings

The Trust must give the employee written confirmation of any warning, within five working days together with an explanation of:

- the reason for the warning;
- whether it is a recorded, written or final warning;
- the employee's right of appeal (see paragraph 9);
- the fact that a permanent note will be kept on their personal file indicating that a warning has been given, the reasons for it and any required improvements in conduct which have been specified;
- the fact that further misconduct may lead to further disciplinary action which could, where appropriate, include dismissal;
- the fact that the warning will be disregarded for further disciplinary purposes after the expiry of the time period.

8.5 Dismissal with notice or other sanction

If, while a final written warning is still in force, the employee's conduct is still unsatisfactory, as determined by a subsequent investigation and disciplinary hearing, the Decision Maker will determine to dismiss with contractual notice. The Decision Maker will confirm the dismissal recommendation in writing within five working days, explaining the reasons for the dismissal, the employee's right of appeal and the effective date of termination. (See paragraph 10). The employee will receive full pay during the notice period. The Trust will issue the formal confirmation of dismissal to bring employment to an end.

Where the misconduct warrants dismissal from the job but the school is in agreement that the employee could be moved into another job within the school this can be done with the agreement of the employee. Where there is active discussion between the

employer and the employee such a move could potentially be achieved without dismissal. However, the judgement that the misconduct was significant enough that it warranted dismissal must be recorded. The alternative post should be identified when the employee is told the outcome of the disciplinary hearing and this may require the proceedings to be adjourned. The alternative post may mean demotion to a lower grade. No pay protection will apply. A final written warning will form part of such a disciplinary decision. If the employee refuses the offer of transfer/demotion, their dismissal will take place.

8.6 Summary dismissal

If, following an investigation and disciplinary hearing, the Decision Maker is satisfied that an employee is guilty of gross misconduct, the determination can be made to dismiss the employee. The Decision Maker will confirm the determination to dismiss in writing, within five working days explaining the reasons for the dismissal, the employee's right of appeal and the effective date of termination. The trust will issue the formal confirmation of dismissal to bring employment to an end.

9. Time limits for warnings

9.1 Unless there are exceptional circumstances, disciplinary warnings will be disregarded for disciplinary purposes once the following periods of time have elapsed since the warning was given:

- recorded warnings - 6 months
- written warnings - 6 months
- final written warnings - normally 1 year. However, in some circumstances the decision maker can exercise discretion in determining the period of time. See paragraph 8.3 below

See paragraph 7.1 of *Discipline guidance G303* for advice on record keeping.

9.2 Depending upon the nature of the misconduct, the Decision Maker may impose a final written warning that will remain in force for a period greater than 1 year. It is advised that the warning should have a time limit of a minimum of 1 year and a maximum of 2. In considering an appropriate timescale the Decision Maker will need to take into account the nature of the misconduct. The timeframe should not be dependent on the severity of the misconduct because the level of sanction reflects this. The timeframe should be enough that it gives time to see a positive change in behaviour. For example, if the warning relates to an event that only happens once a year or for a limited time each year (e.g. exams, SAT's, non-curriculum days), the decision may be for a two year timeframe to allow two annual cycles to be completed to ensure conduct has been adjusted. In other cases where it relates to regular events that happen every day (e.g. interaction with children or colleagues) a one year period may well be enough to see that conduct has been adjusted. In any event the employee must be told at the outset and in writing how long the warning will remain in force and the reason for the longer time period. There is no need for an employee to apply to request that the sanction is expired as it will automatically expire at the end of the time limit given, unless an extension is required. However, the record will remain on the employee's file.

9.3 As the employer the Trust should issue any notice of dismissal.

9.4 In exceptional circumstances (e.g. abuse against children), the written warning may be extended for as long as the employee concerned is employed in their current job or a similar job. If an employee considers that the extended time period is unreasonable, they may appeal to the Clerk to the Board who will convene an Appeal Hearing.

9.5 Where disciplinary action relates to abuse against children, breaches of financial regulations or issues which relate to racial, sexual or disability discrimination, the relevant documentation should be retained on the employee's personal file until the employee reaches normal retirement age or 10 years whichever is the longer, but will not form part of any subsequent disciplinary action if it is time-expired. It is important that a comprehensive summary of the allegation, details of how the allegation was followed up and resolved, and a note of any action taken and decisions reached, is kept on the file of the person accused and a copy provided to the person concerned. If the allegations are found to have been malicious, they should be removed from the employee's personal file. Strategy consideration - Currently, the Goddard Inquiry requires that all documentation is kept indefinitely for any individual who has worked with children in the Trust.

The purpose of this record is to:

- enable accurate information to be given in response to future references
- prevent unnecessary re-investigation should an allegation re-surface
- provide clarification if a future DBS check revealed the allegation (which did not result in a criminal conviction)

9.6 In all other disciplinary actions the relevant documentation will be removed from the file and will be destroyed, with the exception of the letter to the employee which confirms the outcome of the disciplinary hearing. This letter will not, however, form part of any subsequent disciplinary action if it is time-expired.

10. Appeals

10.1 Where an employee appeals against formal disciplinary action taken against them, they must put their grounds of appeal in writing to the Clerk of the Board within five working days of receiving the decision in writing. They must state the reasons for the appeal which will normally be one or more of the following:

- there was a defect in the procedure
- there was insufficient evidence to support the finding
- the disciplinary sanction was too severe
- new key evidence, not taken into account at the hearing, has come to light since the hearing which may have an impact on the decision.

10.2 It is possible that, if new evidence has come to light since the hearing, the matter is referred back to the individual or panel who made the decision rather than proceeding directly to appeal.

10.3 The Appeal will normally be conducted as a 'Review Meeting' unless it is claimed:

- there was a procedural defect at the original hearing such that the hearing was unfair.
- new evidence has come to light which needs to be heard in full.

- there is a dispute about evidence given by one or more witnesses at the original hearing.

Note that this is not an exhaustive list.

In these cases, the appeal will normally be conducted as a re-hearing (in full or part). It may be necessary to re-hear the witness evidence at the appeal.

The decision as to whether the hearing will be conducted as a re-hearing or a review meeting rests ultimately with the Appeals Committee.

10.4 For all appeals the Appeals Committee will have available all the documents presented to the original hearing. They will also have a copy of the record of the hearing, the letter confirming the outcome of the original disciplinary hearing, the letter of appeal and all other relevant information. The Appeals Committee will reach findings based on the documentation and the submissions at the appeal hearing from the parties.

10.5 Procedure for Review Meetings

The procedure for a review meeting will be that the employee and/or their representative will first put their case by explaining the grounds of appeal and presenting any relevant evidence. The management case will then be put, responding to the grounds of appeal and presenting any relevant evidence. Opportunities for questioning will be included. Relevant witnesses may be brought by either side and may be questioned by all parties.

10.6 Procedure for Re-hearings

The procedure for a 'rehearing' will be:-

The procedure for a review meeting will be that the grounds for appeal will be clearly established. The management case will then be presented with relevant evidence followed by the employee and/or their representative presenting their response with relevant evidence. Opportunities for questioning will be included. Relevant witnesses may be brought by either side and may be questioned by all parties. The '*Disciplinary, Dismissal and Appeal Committee hearings procedure P303b'* may be used as a framework for a re-hearing

10.7 The employee will be given at least five days' notice of the appeal hearing and will be given the following information in a letter:

- who will hear the appeal,
- the procedure to be followed (i.e. a re-hearing or a review meeting)
- date, time and place of the appeal hearing,
- a reference to any key documents that may form part of the hearing and, if appropriate, copies of these,
- the right of the employee to be accompanied by a companion,
- a statement that the employee must take all reasonable steps to attend the meeting,
- the names of any witnesses to be called by those putting the case against the employee; similarly a statement that the employee may call witnesses,

- a statement of the range of possible outcomes of the hearing.

10.8 An appeal against any warning or dismissal will be heard by an Appeals committee. This should involve individuals who have not previously been involved in the case. The appeal will normally take place within six working weeks of the appeal request being received by the Clerk to the Board of Trustees.

10.9 At an appeal hearing against dismissal the Trust may like a member of their HR provider to be present. **[Where the appropriate service is brought from EducationHR, the Trust can request for a senior member of the EducationHR team to be present.]**

10.10 In cases of gross misconduct, dismissal will be summary following the first hearing and if the employee is reinstated on appeal, pay will be reinstated and backdated to the date of the first hearing. In other cases of dismissal, employees shall be given contractual notice of dismissal following the first hearing. Every effort will be made to conclude any appeal process within the notice period.

10.11 The outcome of the appeal with be either:-

- the case against the employee is upheld (in whole or part) in which case the sanction will then be the same or a lesser penalty.
- the case against the employee is not upheld (i.e. the appeal is successful) in which case any related sanction will be removed.

10.12 The Chair of the Appeals Committee must confirm the decision of the Panel in writing to the employee within five working days.

11. Further statutory requirements

11.1 Disclosure and Barring Service (DBS)

The Safeguarding Vulnerable Groups Act (SVGA) 2006 places a duty on employers of people working with children or vulnerable adults to make a referral to the DBS in certain circumstances. This is when an employer has **dismissed or removed** a person from working with children or vulnerable adults (or would or may have if the person had not left or resigned etc.) because the person has:

i. Been cautioned or convicted for a relevant offence; or
ii. Engaged in relevant conduct in relation to children and/or vulnerable adults [i.e. an action or inaction (neglect) that has harmed a child or vulnerable adult or put them at risk of harm]; or
iii. Satisfied the Harm Test in relation to children and/or vulnerable adults. [i.e. there has been no relevant conduct (i.e. no action or inaction) but a risk of harm to a child or vulnerable adult still exists].

11.2 Teacher Regulation Agency

Whether or not a teacher who has been dismissed for misconduct is referred to the DBS, they must be referred to the Teacher Regulation Agency.

11.3 Statutory guidance exists which requires employers to see through to a conclusion disciplinary cases linked to child safeguarding. Even in situations where an

employee resigns from the school when they could have been dismissed, the case should be heard in accordance with this procedure so that a decision is reached and referral made to the DBS and/or Teacher Regulation Agency can be made as appropriate.

11.4 There is a requirement for any post-dismissal referrals (DBS and/or Teacher Regulation Agency) to be completed within one month of employment ending.

12. Data protection

The Trust processes personal data collected during the investigation stage and any subsequent stages of disciplinary action in accordance with its data protection policy. In particular, data collected as part of the investigation stage and any subsequent stages of disciplinary action is held securely and accessed by, and disclosed to, individuals only for the purposes of completing the disciplinary procedure. Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with the Trust's data protection policy immediately. It may also constitute a disciplinary offence, which will be dealt with under this disciplinary procedure.