



**Disciplinary/Grievance/Whistleblowing Policy**

Effective Date  
**June 2017**

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## Disciplinary Policy Statement

- 1.1 The Trust expects all employees to conduct themselves in an appropriate manner in their day to day work, including in their dealings with colleagues, students and external organisations.
- 1.2 Employees should familiarise themselves with those Trust policies which set out expected standards of behavior. Where employee conduct falls short of these standards, managers will attempt to resolve the matter through informal means where appropriate so that employees are given the opportunity to improve.
- 1.3 If these actions do not provide a resolution, then the Formal Disciplinary Procedure set out in this document should be followed.
- 1.4 The Trust aims to deal with all disciplinary issues in a fair and consistent manner. It recognises that, for the employee and manager concerned, involvement in a Disciplinary Procedure can be difficult and stressful. The Trust will therefore ensure that those involved are made aware of available guidance and support, and that disciplinary issues are dealt with as quickly as the specific circumstances allow.

## Scope and Purpose

- 2.1 This policy is written in accordance with the ACAS Statutory Code of Practice issued under section 199 of the Trade Union and Labour Relations (Consolidation) Act 1992 and was laid before both Houses of Parliament on 16 January 2015. It comes into effect by order of the Secretary of State on 11 March 2015 and replaces the Code issued in 2009 and applies to all employees, except for those in a probationary period and those explicitly employed on non-standard terms and conditions.
- 2.2 This Policy has been designed to deal with instances of misconduct. The Trust has defined some illustrative examples of such offences which are outlined at **Appendix A**. This is not an exhaustive list.
- 2.3 The examples given indicate how offences will normally be regarded, including those which might result in dismissal for a first offence on the grounds of gross misconduct. An offence will also be regarded as more serious if it is repeated.
- 2.4 There is however no rigid code of disciplinary action for particular examples of misconduct. The treatment of the misconduct will reflect what is reasonable taking into account all the circumstances of the case; precedent; the employee's record of employment; previous patterns of behavior (including any current warnings on record); and whether the actions were willful or malicious.

## Principles of the Policy

- 3.1 The Trust will observe the following principles in all disciplinary matters:
  - \* All disciplinary matters will be treated with due confidentiality.
  - \* The Headteacher/Line Managers will initially aim to resolve minor disciplinary issues through an informal procedure.
  - \* The Trust will make every effort to deal with disciplinary allegations as quickly as possible, at the appropriate management level.
  - \* No disciplinary action will be taken before a case has been fully investigated.
  - \* Except in cases of gross misconduct, employees will not normally be dismissed for a first disciplinary offence.
  - \* At every stage in the Disciplinary Procedure, employees will be clearly advised in writing, of the nature of the allegations against them, and will have the opportunity to state their case before any decision regarding disciplinary action is made

- \* Employees will be provided with evidence gathered through the investigation before any Disciplinary Hearing. This will include any statements by third parties and records of interviews.
- \* At all stages of the formal Disciplinary Procedure, employees will have the right to be accompanied by a suitably qualified Trade Union representative or workplace colleague.
- \* The appointment of an Investigating Officer, the Chair of a Hearing or a Panel, will always be subject to avoiding potential conflicts of interest.
- \* Where the formal Disciplinary Procedure has commenced, employees should be reminded of the support available from the Trust's Counselling Service.
- \* At no stage in the procedure can meetings or hearings be recorded using audio or video recording equipment without the prior written agreement of all present.
- \* Employees always have the right of appeal against any disciplinary action taken as a result of a Disciplinary Hearing.

## Responsibilities

4.1 Headteachers/Department Heads are responsible for ensuring that:

- \* All employees are aware of the Disciplinary Policy.
- \* Disciplinary issues are dealt with as soon as they become apparent.
- \* Guidance is sought from the HR Department where there is a possibility of formal action being taken.
- \* They respect the need for confidentiality in relation to disciplinary issues.
- \* They implement this Policy in line with all data protection legislation.

4.2 **Employees are expected to:**

- \* Conduct themselves in an appropriate manner in their day to day work.
- \* Familiarise themselves with those Trust policies which set out expected standards of behavior.

## Cooling Off Periods

5.1 There may be occasions where managers need to address a situation at work quickly. This could include asking any employees involved in the situation to stop work and go home for the day to allow a 'cooling off period' before a decision is taken on how to handle the matter. This is not classed as suspension from work or annual leave.

## Fact-Finding Investigation

6.1 When managers become aware of an alleged breach of discipline, a fact-finding investigation should be carried out immediately and without delay. The information gathered during this process will enable managers to decide whether there is a case to answer, and if so, whether to treat the matter as an informal or formal one. There is no right to be accompanied at this fact finding meeting.

6.2 Where it is established that there is no case to answer, this will be confirmed in writing to the employee and their line manager, and all associated documentation will normally be destroyed and disposed of. In these circumstances, their manager should consider if any informal guidance for the employee (or others involved) is appropriate with the assistance of the HR Department.

**The Informal Procedure**

7.1 Where appropriate, minor instances of misconduct may be dealt with informally through the provision of advice, coaching or training. Examples of such offences include isolated instances of:

- \* Poor time keeping
- \* Persistent short term absence
- \* Non-compliance with sickness notification rules

In these circumstances, the employee's manager is responsible for bringing the matter to the employee's attention and discussing it with them.

7.2 The employee should be clearly advised of the specific standard of behaviour expected of them, and should be warned that if there is no improvement they may be subject to formal disciplinary action in the future.

7.3 If there are any actions arising from this discussion, managers should confirm in writing to the employee, setting out any agreed objectives, expectations and timescales.

**The Formal Disciplinary Procedure**

8.1 More serious allegations or repeated allegations of minor breaches will be dealt with under the formal Disciplinary Procedure.

8.2 If a manager believes a matter should be dealt with formally, they must immediately contact the HR Department to agree the next steps, who will provide guidance and support through the procedure.

8.3 If the case is to proceed as a formal disciplinary matter, the allegation must be put in writing to the employee, along with an explanation of the stages of the process and the name of the person who will carry out the investigation.

8.4 There are four stages to the Formal Disciplinary Procedure:

- Stage 1 - Investigation evidence establishes formal disciplinary action is necessary.
- Stage 2 - The investigation evidence (including the fact finding notes) into the alleged misconduct is passed to the employee and Chair of the Disciplinary Hearing.
- Stage 3 - A Disciplinary Hearing with the employee is held. A decision will be taken following a hearing as to whether any disciplinary action is necessary, and if so, what is appropriate.
- Stage 4 - The employee may appeal against any disciplinary action taken.

**Representation**

9.1 At all formal meetings held as part of the formal Disciplinary Procedure, employees have the right to be accompanied by a suitably qualified Trade Union Representative or workplace colleague. When arrangements for meetings are confirmed, employees are responsible for notifying their chosen representative of the arrangements, and notifying the Chair of the hearing of the name of the person accompanying them in advance. Should the chosen companion not be available on the date given for the disciplinary hearing, this meeting can be deferred by no more than 5 working days.

**Confidentiality**

- 10.1 All those involved in the disciplinary procedure must keep all information relating to the case confidential. Any inappropriate disclosure of information relating to the case may result in further disciplinary action being taken.
- 10.2 Where employees intend to make, or has made, a disclosure in relation to a disciplinary procedure through the Trust's Whistleblowing Policy, the guidance in that Policy should be followed.

**Suspension**

- 11.1 In some circumstances, it may be appropriate to suspend employees with full normal pay (including allowances) while the matter is investigated. Any suspension should be for the minimum period possible and usually no longer than four weeks. The reasons for the suspension must be made clear to employees in writing.
- 11.2 Where suspension is considered to be appropriate, the Headteacher or Department Manager making this recommendation must refer the matter to the Head of HR.
- 11.3 If it is decided that suspension is necessary, it is important to ensure that the matter is dealt with respect, sensitivity, maintaining confidentiality as far as possible and reassuring the employee that there is no presumption of guilt. The suspension should be for as short a time as possible and priority should be given to completing the investigation to allow the disciplinary process to conclude as soon as possible. In cases involving serious misconduct, suspension may be appropriate in the following circumstances:
- \* Where the presence of the employee may inhibit the investigation.
  - \* Where there are grounds to believe that the employee may intentionally disrupt the day-to-day work in the School and/or not work to agreed standards during the course of the investigation.
  - \* Where the presence of the employee presents a risk to the welfare of other employees, or may increase the likelihood of further misconduct.
  - \* Where there is a serious risk to the Trust's reputation or business in allowing the employee to remain at work during the investigation.
- 11.4 Suspension will be regularly reviewed throughout the investigation. The suspension may be brought to an end if there are no longer sufficient reasons for it to continue.

**Stages of the Formal Disciplinary Procedure****Formal Stage 1 – Investigation evidence**

- 12.1 Evidence from the fact finding meeting clearly establishes formal disciplinary action is necessary.
- 12.2 If the employee concerned identifies a potential conflict of interest they should immediately let the Head of HR know, and, if appropriate, alternative arrangements for the appointment of a different Investigating Officer will be made.
- 12.3 The Investigation will seek to determine the facts of the case.
- 12.4 The employee must make themselves available during the investigation to answer any questions the investigating officer may have. The employee will have the right to be accompanied to any **formal** investigation meeting (This does not include the Fact Finding Investigation). Unnecessary delay should be avoided at all costs.

**Confirming the Outcome of an Investigation**

- 12.4 The investigation should, where possible, be completed within 10 working days, after which the findings will be reported to the appropriate member of the senior leadership team and the HR Department, at which point they will determine if there is a case to answer or not.
- 12.5 Where it is concluded that there is a case to answer, the employee will be invited, in writing, to attend a Disciplinary Hearing and will receive a copy of the Investigating Officer's report and any supporting documentation. The employee will be given 5 working days' notice. If the representative for the employee is not available on the day of the hearing, then the hearing will be deferred for 5 working days only.

**Formal stage 2 - Disciplinary Hearing**

- 12.6 The HR Department will appoint members of the Disciplinary Panel.
- 12.7 In cases where dismissal is identified as a potential outcome, either the Headteacher or the Chief Executive Officer will chair the hearing. The Head of HR will be the other panel member.
- 12.8 In all other cases, the Chair of the Panel will be in the management chain of the employee concerned, unless there is an identified conflict of interest, and there may be either one or two other panel members, at least one of which must be outside the employee's management chain
- 12.9 In all cases, a member of the HR Department will attend the hearing to provide support and guidance to the Chair.
- 12.10 The request to attend the hearing will be issued by the Chair of the Hearing and will:
- \* Set out the nature of the alleged misconduct
  - \* Confirm the names and designations of those attending the Hearing and give the employee the opportunity to identify any perceived conflict of interest
  - \* Give written details of the evidence collected and attach copies of any documents to be referred to
  - \* State the time, date, location and expected duration of the hearing
  - \* Remind the employee of their right to be accompanied by a Trade Union representative or workplace colleague
  - \* Advise the employee that if they have any additional evidence that did not come to light during the investigation, they should send it in advance to the Chair of the Hearing
  - \* Confirm the possible outcomes of the hearing.
- 12.11 The Investigating Officer will normally attend the hearing to present their findings.
- 12.12 In some exceptional circumstances, it may be appropriate for third party (e.g. witness) statements to be anonymous. If this is the case, the Chair, in consultation with the HR department, will consider how to balance the interests of the parties involved (i.e. the need to protect witnesses and the right of the employee to a fair hearing). However, there is no absolute guarantee of confidentiality as Courts and tribunals may order disclosure of documents, irrespective of whether or not they are confidential.
- 12.13 There may be occasions where hearings have to be formally adjourned. This could be because the Chair needs to discuss an issue briefly in private, with the HR advisor in which case the Hearing may continue on the same day. Where the Chair needs to seek further information, it may be necessary to arrange another date; if so; this will normally take place no longer than 5 working days of the original hearing date.

- 12.14 A non-verbatim written record of the hearing will be produced and a copy provided to the employee within one week of the hearing.

### Outcome of the Hearing

- 12.15 When all of the evidence has been heard, the Chair will adjourn to consider the decision. Normally on the day of the hearing, the Chair will decide whether to accept or dismiss any or all of the allegations and what (if any) disciplinary action to take. The decision will, where possible, be conveyed to the employee verbally that day by the Chair, and confirmed in writing to the employee and line manager within one week.

- 12.16 If the Chair decides to dismiss the allegations, all associated documentation will normally be destroyed and disposed of. The HR Department will confirm this in writing to the employee. In these circumstances, the line manager should consider if any informal guidance for the employee (or others involved) is appropriate, dependent on the matter in question.

- 12.17 If the Chair accepts the allegations, then depending on the seriousness or frequency of the misconduct, disciplinary action may take one or more of the following forms:

- \* **Written warning** (a Final written warning may include a statement that any further breach of discipline within the period of the warning may lead to dismissal)
- \* **Dismissal**
- \* **Another sanction** (loss of formal office or demotion or move to another Trust location (as alternatives to dismissal))

- 12.18 Where the Chair recommends disciplinary action, the letter of confirmation will include details of:

- \* The nature of the misconduct
- \* The nature of the disciplinary action to be taken
- \* The reason for the decision and factors taken into account
- \* The length of time any disciplinary warning will be active
- \* The likely consequences of further misconduct where appropriate
- \* Who the decision will be communicated to, e.g. the employee's Head of Department
- \* The timescale for lodging an appeal and how it should be made.

### Warning Periods

- 12.19 Formal warnings given to employees through the Disciplinary Policy will normally last for the periods of time specified below.

- \* A written warning – 6 months
- \* A final written warning – 12 months.

- 12.20 After the warning period has expired, a note of its existence will remain on the employee's record, however this will not be used towards any escalation of warnings but may be used to provide context where relevant.

### Dismissal

- 12.21 In cases where dismissal is the outcome decided by the Panel, the employee may be dismissed with pay in lieu of notice, or summarily without notice if the circumstances of the case are sufficiently serious to warrant it.

**Formal stage 3 – Appealing against Disciplinary Action**

- 12.22 Employees have the right to appeal against any formal action taken against them. Notification of an appeal must be submitted within 5 working days, to the Head of HR, of the written notification of the outcome of the Hearing under the Disciplinary Policy.

**Criminal Offences outside Employment**

- 13.1 There is no automatic application of the Disciplinary Policy if an employee becomes the subject of police enquiries or charges relating to a criminal offence outside employment or if they are absent from work because they have been remanded in custody. Each case will be determined on an individual basis.
- 13.2 In determining whether or not it is appropriate to apply the Disciplinary Procedure in this context, managers must discuss the matter with the Head of HR.

**Timescales**

- 14.1 Although it is in everyone's best interests to conclude the Disciplinary process as quickly as possible, in some circumstances an extension to the timescales associated with this Policy may be required. Where an extension is required, the HR Department will contact those involved to advise of the reasons for the extension and likely timescales.

**Policy History and Review**

- 15.1 In the event of any significant change to the legal position on Disciplinary issues, relevant statutory requirements or any other related matter, this Policy will be subject to immediate review in consultation with the local Trade Union Representatives where practicable. In the absence of such a change, the policy will be reviewed regularly by the Resources Committee.

**Appendix A**

**The following examples are offences which may lead to disciplinary action.**

This list is not exhaustive.

**Potential Serious Offences**

- \* Repeated minor misconduct
- \* Unauthorised absence
- \* Willful neglect of duties
- \* Refusal to obey a reasonable instruction by a relevant manager or other appropriately authorised employee
- \* Smoking outside designated areas
- \* Giving false information (e.g., on a job application form)
- \* Mishandling of official contracts or transactions
- \* Inappropriate use of official vehicles
- \* Unauthorised disclosure of confidential information
- \* Offences against Health and Safety regulations
- \* Misuse of drugs or alcohol to an extent which impairs the employee's ability to carry out their duties
- \* Acts constituting harassment
- \* Conduct detrimental to the Trust outside employment
- \* Misuse of computer software, hardware, mobile phone or other Trust property
- \* Malicious accusations against a colleague.
- \* Improper use of social media

**Potential Gross Misconduct Offences**

- \* Threatening or abusive behaviour
- \* Acts of physical violence
- \* Deliberate damage to Trust property or reputation (includes improper use of social media)
- \* Gross misuse of Trust computers
- \* Improper use of Trust equipment (including mobile phones)
- \* Criminal offences within employment
- \* Criminal activities outside work, where such conduct is judged to be incompatible with the individual's employment, or where it could bring the Trust into disrepute
- \* Reckless, willful or deliberate disregard of safety regulations
- \* Theft, fraud or deliberate falsification of records, e.g. expense claims and Trust data
- \* Deliberate contravention of the Trust's financial regulations
- \* The misuse of drugs or alcohol to an extent which seriously impairs the employee's ability to carry out their duties
- \* Acts constituting discrimination or victimisation (including on the grounds of sex, race, disability, sexual orientation, religious belief or age)
- \* Deliberate serious breaches of confidentiality, except for disclosures made through the Trust's Whistleblowing Policy
- \* Improper use of the employee's position for private advantage, or an attempt to do so
- \* Improper use of Trust resources or property for private advantage, or an attempt to do so
- \* Breach of the Trust's Safeguarding Policy

**Grievance Policy Statement**

- 16.1 The Trust expects all employees to conduct themselves in an appropriate manner in their day to day work, including in their dealings with colleagues, students and external organisations.
- 16.2 Employees should familiarise themselves with those Trust policies which set out expected standards of behaviour and the routes for recourse.
- 16.3 If these actions do not provide a resolution, then the Formal Grievance Procedure set out in this document should be followed.
- 16.4 The Trust aims to deal with all issues in a fair and consistent manner. It recognises that, for the employee and manager concerned, involvement in a Grievance Procedure can be difficult and stressful. The Trust will therefore ensure that those involved are made aware of available guidance and support, and that these matters are dealt with as quickly as the specific circumstances allow.

**Introduction**

- 17.1 In order to ensure that fair and effective arrangements exist for dealing with all staff grievances relating to their employment within the Trust, the following procedure provides for full and speedy consideration of all the relevant facts in order that grievances may be resolved as efficiently, fairly and promptly as possible.
- 17.2 The procedure is designed to deal with individual grievances. It is not intended that the procedure should be applied to collective disputes or to grievances relating to matters for which specific redress is otherwise available e.g. a case of alleged harassment or bullying, an appeal against dismissal.

**Scope and Purpose**

- 18.1 This procedure is intended to help resolve grievances which employees and former employees may have about their employment as near as possible to their point of origin.
- 18.2 This procedure applies to all employees in the Trust. The grievance procedure should not be used for appeals against disciplinary decisions as that is the purpose of the disciplinary appeals procedure. However, if the complaint is against the behaviour of a manager during the course of a disciplinary case it may be raised as a grievance with a senior member of the Trust.
- 18.3 It is the Trust's policy to encourage employees with grievances relating to their employment to resolve them informally through discussion with those concerned and their manager. However, if the employee is not satisfied with the result of these discussions he/she should use the formal procedure to seek a satisfactory solution.
- 18.4 The Trust will endeavor to resolve grievances as quickly as possible to the satisfaction of all concerned. Where this is not possible every effort will be made to explain the reasons for the decision and where employees are not satisfied with the outcome they may pursue their grievance in accordance with the formal steps contained in the procedure.
- 18.5 Employees who raise grievances will be treated fairly at all times throughout this procedure. However, if a grievance is found to be malicious or to have been made in bad faith the employee concerned may be subject to the Disciplinary Procedure.

### **General Advice**

- 19.1 It is recognised that many matters that may become the subject of a formal grievance stem from simple misunderstandings. It is therefore incumbent upon both the Trust and its employees, but particularly upon individual managers, always to strive to make their actions, instructions and requirements clear and to act in such a way that all employees have confidence that they will be treated reasonably. The Trust will always respond to questions and explain the reasons for the actions. Similarly, it is incumbent upon employees not to pursue frivolous matters or malicious grievances using this procedure.
- 19.2 **The following matters cannot be raised under this grievance procedure:**
- \* Disciplinary matters for which there is a separate disciplinary/dismissal procedure which makes provision for the hearing of appeals;
  - \* Amounts deducted from income tax, national insurance and other statutory deductions from pay;
  - \* Matters where separate procedures apply e.g. Harassment or Bullying, Whistle blowing.

### **Complaints and Grievances**

- 20.1 These are often confused, but in general, there should be two distinct procedures for investigating complaints and grievances. The essential difference is that:
- 20.2 A complaint is an allegation that a named employee has behaved in an unacceptable way, connected with their employment, which might justify disciplinary action being taken against them. If the complaint is upheld, it could result in them being disciplined, but it would not necessarily provide the complainant with any redress.
- 20.3 A grievance enables individuals to raise issues with management about their work, or about their employers", clients" or their fellow workers" actions that affect them. It is impossible to provide an exhaustive list of all the issues that might give rise to a grievance but some of the more common include: terms and conditions of employment; health and safety; relationships at work; new working practices; organisational change and equal opportunities.
- 20.4 A grievance raised during the course of the disciplinary procedure (including a claim of harassment) will be referred to a senior manager who will decide whether the grievance should be considered separately, or as part of the disciplinary process. Where the employee's grievance relates to the disciplinary case it will be investigated as part of the disciplinary process.

### **Investigations**

- 21.1 The Trust is committed to ensuring that all grievances are fully investigated. This may entail carrying out interviews with the employee concerned and third parties such as witnesses, colleagues and managers, as well as analysing written records and information. The investigation report will be made available to all the parties concerned. Where necessary the identity of witnesses will be kept confidential.

**Witnesses**

- 22.1 It is not normally expected that witnesses will be called to grievance meetings. The grievance meeting provides a vehicle for an employee and their manager to resolve issues of concern to the employee where informal means have not been sufficient to do so. It is a meeting not a "Hearing" and should be kept as simple as possible whilst ensuring that all relevant issues are fully explored. Statements can have been obtained beforehand if this is relevant. In exceptional cases if there is a need to involve any other employee, then both the employee and the manager will have the opportunity to ask questions. In some cases, witnesses may wish to remain anonymous.

**Former Employees**

- 23.1 There is no recognised procedure for dealing with grievances for staff who have left the employment of the Trust. Grievances received from former employees will be considered on a case by case basis and investigated as appropriate. A written response will be provided to the individual who has raised the grievance.

**Records**

- 24.1 Non-verbatim notes will be taken of all issues raised at grievance meetings and appeals. Records must be kept on the individual's personnel file of the nature of any grievance raised, the action taken and the reasons for it, whether an appeal was lodged, its outcome and any subsequent developments. These records are to be kept confidential and retained in accordance with this procedure and the Data Protection Act 1998.

**Aim**

- 25.1 The aim of the grievance procedure is to enable any member of staff to have their grievance heard and to seek to resolve a situation or seek redress. The intention is that grievances should be settled quickly and fairly and first be discussed informally with the immediate manager or other appropriate person.
- 25.2 If an employee is uncertain about the nature of their grievance or to whom it should be addressed, advice should be sought from their trade union or line manager, or the Trust's Human Resources Department. The Governors or Headteacher may also seek advice from the Trust's Operations Director on procedural issues relating to grievances.

**The use of the Grievance procedure****General Principles**

- 26.1 If a grievance contains allegations which may amount to misconduct against a named employee, it should be referred for investigation under the Disciplinary Procedure before further consideration is given to the grievance.
- 26.2 An individual grievance should not be used to challenge a general policy of the Trust. However, a grievance may relate to the application of the policy to an individual, or small group of individuals.

- 26.3 It is fundamental to any grievance procedure agreement that normal working should be maintained until all stages of the procedure have been exhausted. Where the grievance under discussion is concerned with proposed changes in working hours or other customary arrangements, the status quo should continue whilst the matter is under consideration. This shall be on the understanding that the parties involved in the grievance procedure and their representatives make themselves available to meet the timescales within the procedure and that the commencement of statutory and contractual notice periods will not normally be postponed. A grievance procedure is intended to provide a speedy method of resolving grievances and, so far as is practicable, the prescribed time limits should be observed. For the purposes of this procedure, it is suggested that a working day shall be a day that the school is open to pupils. However, there may arise on either side substantial reasons (e.g. a school holiday, sickness), why exceptionally it would be desirable to extend the time limits. Any such extension will be agreed as reasonable by all parties.
- 26.4 Formal grievances involving complaints of discriminatory acts on grounds of age, disability, gender / gender reassignment, marriage/civil partnership, pregnancy/maternity, race, religion or belief, sex, or sexual orientation, or of racial or sexual harassment, should be investigated using disciplinary procedures. Such acts, if upheld, are contrary to disciplinary rules and could be construed to be unlawful. The advice from the Head of HR should be sought in such cases.
- 26.5 The aggrieved employee shall be entitled to be accompanied or represented by a workplace colleague or a suitably qualified Trade Union Representative at any meeting relating to their grievance. Any other employee attending such meetings may be accompanied, but **not** represented, by a workplace colleague or a suitably qualified Trade Union official.
- 26.6 Nothing in the procedure should preclude the right of an official of a recognised trade union to raise independently with the Head of HR or Chief Executive Officer any employee relations matter affecting the Trust. Where an official of a trade union attends a meeting with the Headteacher or the Chief Executive Officer, the Head of HR may be invited to be present.
- 26.7 In all cases, it is recommended that the panel hearing a grievance consult informally with the and Human Resources department, to assist in resolving the grievance.
- 26.8 In cases where the panel hearing the grievance needs to obtain further information, or to enquire about policy or other issues, it is open to them to defer the matter for a period of time agreed with the member of staff and their representative to enable such enquiries to be made. The advice of the Head of HR may be requested to assist in the resolution of all grievances and it is recommended that all cases are notified to them.
- 26.9 The time limits specified in the procedure may be modified by mutual agreement and every effort will be made to deal with grievances as speedily as possible. If the time limits in the informal stage are unreasonably exceeded, the employee is entitled to request that it proceeds to the formal stage of the grievance procedure.
- 26.10 Meetings/hearings should take place during an employee's normal working hours wherever possible.

**Informal stage (for employees other than the Headteacher or Department Head)**

- 27.1 In the first instance, where an employee has any problem, complaint, grievance or concern they should first of all endeavor to resolve the matter by direct approach to the member of staff involved, or, if this is not possible, by open discussion of the matter with their line manager (or nominated manager) with a view to resolving the grievance without resorting to the formal procedure. A written record should be made of the discussions by the manager, recording the issues raised and the proposed and/or agreed solution. Where it is not appropriate for the employee to discuss the matter with their line manager, they may raise the issue with a senior manager, or if necessary, with the Headteacher or Department Head.
- 27.2 Where a member of staff requests a personal interview with the appropriate senior line manager, Headteacher or Department Head, it shall be granted within five working days of the request being made.
- 27.3 The appropriate senior manager, Headteacher or Department Head shall seek to resolve the problem personally or by mutual agreement, in consultation with other member(s) of staff. The Headteacher or Department Head may also seek consultation with the Head of HR as may be considered appropriate.
- 27.4 Where a member of staff has a grievance with the Governing Body of the Trust, a direct approach shall be made to the Chair of Governors who will arrange for the matter to be considered under the appropriate procedure.
- 27.5 Many complaints or minor grievances are best resolved informally. If, however, the matter is not resolved as a result of the informal approach, the formal grievance procedure will be invoked.

**Formal stage (for employees other than the Headteacher or Department Head)****Step 1: Statement of Grievance**

- 28.1 Where the grievance has not been resolved under the informal procedures described above and the Headteacher or Department Head has not previously been involved, the employee may raise a formal grievance by setting out the grievance in writing as fully as possible to their senior line manager, together with any relevant supporting documents. The employee should clearly state why they are raising a formal grievance, the nature of the grievance, and the outcome/resolution they are seeking. If the grievance is with their senior line manager it should be sent to the Headteacher or Department Head and if it is with the Headteacher or Department Head to the Chief Executive Officer.

**Step 2: Formal Meeting**

- 28.2 The senior line manager/Headteacher/Department Head receiving the formal grievance (henceforth referred to as the Arbiter), shall immediately write to acknowledge receipt, promptly consider the contents, and shall ask the person about whom the grievance has been raised to make available within five working days a written response to the formal statement of grievance, accompanied by any relevant supporting documents.
- 28.3 If necessary, an independent manager will be asked to formally investigate the grievance. Any such investigations should normally be completed within 5 working days of receipt of the formal grievance.
- 28.4 The Arbiter will make arrangements for a formal meeting to discuss the grievance. All parties shall have a responsibility to agree the earliest date appropriate, taking account of the availability of all those involved. This meeting shall normally take place within 10 working days of receipt of the formal grievance.

- 28.5 The HR Department will write to both parties stating:
- \* the date, time and place of meeting;
  - \* that the meeting has been arranged in accordance with the Trust's Formal Grievance Procedure. A copy of the procedure for the conduct of the hearing will be sent to both parties;
  - \* that the employee has the right to be accompanied and represented as stated in paragraph 6.5 and to support their case with written representation if they have not done so already.
- 28.6 The procedure to be followed is set out in Appendix 1. All relevant documents shall be submitted to the Arbiter and all parties concerned at least three working days in advance of the meeting. All parties shall have the right to be accompanied by a suitably qualified trade union representative or a workplace colleague employed at the Trust.
- 28.7 Within 5 working days of the meeting the Arbiter will inform the employee in writing of their decision in response to the grievance, notifying the employee of their right of appeal against the decision if they are not satisfied with it.
- 28.8 Where the employee fails to attend the meeting, a second written invitation will be made for the meeting to be held within 5 working days of the day after the original scheduled meeting. Should the employee fail to attend the second meeting without good reason, the grievance will normally be considered closed and the procedure will cease at this point.

### **Right of Appeal**

- 29.1 There shall be a right of appeal against the decision of the Arbiter on the part of the aggrieved employee only. If the employee wishes to appeal, they must do so in writing within 5 working days of receiving written notification of the Arbiter's decision. The notice of appeal must be submitted to the Chief Executive Officer via the Head of HR and must state fully the ground(s) for appeal and what outcome/resolution is sought. The appeal shall be heard by the Chief Executive Officer and the Head of HR.
- 29.2 The Head of HR will write to the employee, inviting the employee to attend an appeal meeting which will be held on a convenient date that is within 10 working days of receipt of the written grounds of or as soon as reasonably practicable thereafter.
- 29.3 All relevant documents shall be submitted at least five working days in advance of the hearing to the Head of HR and circulated by him/her to all parties concerned within 2 working days of receipt. All parties shall have the right to be accompanied by a suitably qualified trade union representative or a workplace colleague (please refer to para 26.5).
- 29.4 The decision of the Appeals Panel shall be notified to the parties concerned in writing by the Head of HR within 5 working days of the appeal hearing and no further right of appeal shall exist.

### **Grievances raised by the Headteacher/Department Head**

#### **Informal Stage**

- 30.1 Where the Headteacher/Department Head has a grievance relating to their employment, they should first endeavor to resolve the matter by direct approach to the person concerned. If not resolved, they should then discuss the matter with the Chief Executive Officer. The Chief Executive Officer may seek consultation with representatives of the recognised trade unions concerned and/or the Head of HR as appropriate.

**Formal Stage**

**Statement of Grievance**

- 31.1 Where the matter is not resolved at the informal stage, the Headteacher/Department Head should formally submit the grievance in writing to the Chief Executive Officer or if the grievance is against the Chief Executive Officer then to the Chair of Governors via the Clerk of the Governors.

**Meeting**

- 32.1 A meeting should be arranged within 10 working days or as soon as is practicable thereafter. The Headteacher/Department Head and any other employee who may be involved shall be entitled to be accompanied by a workplace colleague or an official representative of their trade union. It is strongly recommended that Trust's Head of HR is consulted to enable advice to be given to the grievance panel.

**APPENDIX 1**

**AGENDA FOR A GRIEVANCE MEETING AND APPEAL**

**Introductions**

Explanation of the purpose of the meeting

**Submissions**

Employee raising the grievance to submit their grievance

**Questions**

Employee against whom the grievance has been raised may ask questions

**Response**

Employee/Representative answer any clarification questions raised

**Questions**

Employee raising the grievance may ask further questions

**Summing Up**

Employee/Representative raising the grievance may make a statement in summing up

**Closing Submissions**

Employee against whom the grievance has been raised has the opportunity to make a statement

**Adjournment**

Both parties and representative leave the room. A decision will be communicated to both parties within 5 working days

**Appeal Provision**

Aggrieved employee has the right of appeal to be lodged within 10 working days. Written confirmation to be sent in 5 working days

## **Whistleblowing Policy**

### **Introduction**

- 34.1 This procedure has been designed to operate in accordance with the provisions of the Public Interest Disclosure Act 1998, which gives protection to people who disclose reasonable concerns about serious conduct or malpractice at work. This is sometimes known as Whistle blowing.
- 34.2 The procedure applies to all employees in the Trust and is intended to encourage employees to raise concerns within the school as a first priority, rather than make a wider disclosure outside of the Trust.

### **Principles**

- 35.1 The Trust will treat all matters of malpractice very seriously and responsible allegations about such matters will be dealt with quickly, seriously and with appropriate confidentiality.
- 35.2 In order to meet the requirements of the Act, in addition to employees in the Trust, the procedure is applicable to agency staff, students on placements, supply staff, volunteers, contractors and suppliers operating under contract to the school. The term “employees” in this procedure is intended to cover all of these categories of people.
- 35.3 This procedure should not be confused with other existing procedures such as the individual grievance procedure that exists to enable employees to raise concerns about their own employment. It is designed to deal with major issues that fall outside of the scope of those procedures. Therefore, any matter which is more appropriately covered by those procedures is excluded from being considered under the “Whistle blowing” procedure.
- 35.4 Examples of the type of issue that would fall within the scope of this procedure are:
- \* Conduct which is a criminal offence or a breach of the law
  - \* Sexual or physical abuse of pupils or others
  - \* Major health and safety risks to staff or members of the public
  - \* Fraud and/or corruption
  - \* Other unethical conduct of a serious nature
- 35.5 The Act also covers issues relating to miscarriage of justice and environmental damage.
- 35.6 The procedure gives protection to people who, in good faith, make such a disclosure, from victimisation, discrimination or disadvantage. It also ensures employees receive an appropriate response to their disclosure and are aware of how they may pursue the matter outside of the Trust if this response is not satisfactory. It is acknowledged that there are some circumstances in which there may be a statutory requirement to report information to an external agency, such as the police.
- 35.7 Disclosures made under this procedure are likely to be of a sensitive nature and all parties should preserve confidentiality at all times.

### **Representation**

- 36.1 Employees are entitled to representation by a suitably qualified Trade Union Representative or a workplace colleague, at any meetings or interviews that are held in relation to the disclosure made.

36.2 Employees should specify that they are making a disclosure under this procedure.

### **Time limits**

- 37.1 There are no time limits on raising concerns under this procedure, but they should be raised at the earliest practicable opportunity, since delays in making a disclosure may prevent a full investigation from taking place. Where time limits are included within this procedure, they are there to ensure that disclosures are dealt with as quickly as possible, and to ensure that there is a prompt initial response from management.
- 37.2 The investigation that takes place after a disclosure is made is not time limited, but will be conducted as quickly as possible within the circumstances of the disclosure.

### **Untrue allegations**

- 38.1 If an allegation is found to be untrue, but the employee has made the allegation in good faith, no action will be taken against the employee. However, employees who make allegations maliciously, frivolously or for personal gain may face disciplinary action.

### **Model Procedure**

#### **Raising a concern**

- 39.1 In the first instance, concerns under this procedure should be raised with the employee's immediate line manager, who should then deal with the problem as quickly as possible. If the employee believes that their immediate line manager is involved in the malpractice, they may raise their concerns with a more senior member of staff, including the Headteacher. If the employee believes it is not appropriate to raise the matter with the Headteacher they may approach the Chief Executive Officer via the Head of HR.
- 39.2 Within 10 working days of a concern being raised, the person hearing the concern will write to the employee to acknowledge that the concern has been received. They should also indicate what initial steps they intend to take to deal with the matter and, where possible, provide an estimate of the time it will take to provide a final response.
- 39.3 Concerns may be raised orally or in writing, although written submissions are preferred wherever possible. These disclosures should provide as much information as possible about the matter, including dates, individuals involved, other possible sources of information, etc.
- 39.4 Employees must be able to demonstrate to the person hearing the disclosure that there are reasonable grounds for making the allegations.
- 39.5 Although employees who wish to make an anonymous disclosure may do so, it may be important for the investigating officer to know the source of the information for a full and appropriate investigation to be possible. Furthermore, the investigating officer would need to take into account the nature and credibility of an allegation before deciding whether to proceed with an investigation. However, employees should be re-assured that all disclosures will be treated in confidence and every effort will be made to preserve anonymity. The Act provides protection against victimisation of anyone who makes a protected disclosure in good faith.

**Resulting action**

- 40.1 Following a disclosure made under this procedure, enquiries will be made to establish the validity of the allegations. If they are found to be true, the appropriate action will be taken, which may include:
- \* A full internal investigation, possibly resulting in disciplinary action
  - \* Referral to Social Services or the Police
- 40.2 Subject to legal constraints and the need to protect the rights of individuals, the employee raising the concern will be informed of the outcome of any investigation at the earliest practicable opportunity, to reassure them that appropriate action has been taken. Such information will not include confidential details about formal action taken against another employee.
- 40.3 For reasons of sensitivity and confidentiality, all communications with an employee who takes action under this procedure will be sent to their home address, unless an alternative arrangement has been mutually agreed.

**Taking the matter further**

- 41.1 In the event that an employee feels that their concerns have not been resolved through the above process, they may write to the Chief Executive Officer, if he/she has not already been involved, outlining their concern, the action taken to date and the reasons for their dissatisfaction.
- 41.2 Within 10 working days of a concern being raised, the Chief Executive Officer will write to the employee to acknowledge that the concern has been received and indicate what steps will be taken to deal with the matter, as well as providing an estimate of the time it will take to provide a final response. The Chief Executive Officer may decide to set up a small group, where appropriate, to investigate the concerns. The Chief Executive Officer will then inform the employee of the outcome of this process on the same basis as required of the manager above.
- 41.3 In the event that the matter cannot be satisfactorily resolved within the school, the employee may raise their concerns, in writing, with the Governing Body.
- 41.4 The Governing Body will follow the same basic procedure outlined above in the same timescales and will feed back the outcome to the individual employee.

**Action and support outside of the Trust**

- 42.1 If an employee is dissatisfied with the response of the Chief Executive Officer and the Governing Body, and subject to the concern being a matter covered by the Act, he /she can raise the matter, as appropriate, with one of the following agencies:
- \* An elected Member of the County Council
  - \* A local Member of Parliament
  - \* The Police
  - \* Public Concern at Work (0207 4046609)
  - \* A relevant professional body or inspectorate
  - \* Local Government Ombudsman

- 42.2 In taking their concern outside of the Trust, employees must ensure that, as far as possible, the matter is raised without personal information relating to other employees being disclosed.
- 42.3 An employee who approaches an accredited legal advice centre, e.g. Public Concern at Work or Citizens Advice Bureau, does not breach the duty of confidence in this procedure to the Governing Body or the Trust.

**Failure to follow this procedure**

- 43.1 Any employee who unreasonably and without justification raises such issues on a wider basis, such as with the press, without following the steps and advice in this procedure may be liable to disciplinary action.

**DOCUMENT CONTROL**

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<b>Document Reference</b>	Disciplinary/Grievance/Whistleblowing Policy	
<b>Version</b>	01	
<b>Status</b>	Pending Approval	
<b>Publication Date</b>	25 <sup>th</sup> May 2017	
<b>Related Policies</b>		
<b>Review Date</b>	June 2018	
<b>Approved/Ratified by</b>	Resources Committee	Date: 19 <sup>th</sup> June 2017
<b>Distribution:</b>		
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Any printed copies should therefore be viewed as “uncontrolled” and as such, may not necessarily contain the latest updates and amendments.		

Version	Date	Comments	Author
01	25.5.17		Ian Holden

**Review Process Prior to Ratification:**

Name of Committee	Date
Resources	19 <sup>th</sup> June 2017