

Disciplinary policy

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1 Policy statement

- 1.1 The aims of this Disciplinary Procedure and its associated Disciplinary Rules are to set out the standards of conduct expected of all staff and to provide a framework within which Beckfoot Trust can work with employees to maintain satisfactory standards of conduct and to encourage improvement where necessary.
- 1.2 It is the Trust's policy to ensure that any disciplinary matter is dealt with fairly and that steps are taken to establish the facts and to give employees the opportunity to respond before taking any formal action.
- 1.3 This procedure does not form part of any employee's contract of employment, and it may be amended at any time following consultation. We may also vary application of this procedure, including any time scales for action, as appropriate.
- 1.4 The policy has been implemented following consultation with recognised trade unions. It has been formally adopted by the Trust Board.

2 Scope and purpose of policy

- 2.1 The procedure applies to all employees regardless of length of service. It does not apply to supply staff, contractors or volunteers.
- 2.2 This procedure is used to deal with misconduct. It does not apply to cases involving genuine sickness absence, proposed redundancies, or poor performance. In those cases, reference should be made to the appropriate policy or procedure available on the website.
- 2.3 Minor conduct issues can often be resolved informally between employees and their line manager. These discussions should be held in private and without undue delay whenever there is cause for concern. Where appropriate, a note of any such informal discussions may be placed on the employee's personnel file. In some cases, an informal verbal warning or letter of guidance may be given, which will not form part of the disciplinary records but may be referred to as part of any future disciplinary proceedings where appropriate. Formal steps will be taken under this procedure if the matter is not resolved, or if informal discussion is not appropriate (for example, because of the seriousness of the allegation). A letter of guidance will be reviewed after 3 months and will be removed from file when it no longer applies or when sufficient improvements have been made.
- 2.4 Employees will not normally be dismissed for a first act of misconduct unless the panel decides that the conduct amounts to gross misconduct or the employee has not completed a probationary period.

- 2.5 As recognisable figures in the local community the behaviour and conduct of staff outside of work can impact on their employment particularly if it may make an individual unsuitable to work with children This is known as a transferable risk. Conduct outside work may be treated as a disciplinary matter if it is considered that it is relevant to the employee's employment (see Code of Conduct and Keeping Children Safe in Education).
- 2.6 We offer access to confidential counselling should you require it through our Employee Assistance Programme, details are available on the website. Alternatively, we may refer you to occupational health.

3 Confidentiality and data protection

- 3.1 It is the aim of the Trust to deal with disciplinary matters sensitively and with due respect for the privacy of any individuals involved. All employees must treat any information communicated to them in connection with an investigation or disciplinary matter as confidential during or after an investigation into an allegation
- 3.2 A breach of confidentiality will be taken seriously and may warrant its own investigation.
- 3.3 The hearing/appeal may be digitally recorded to ensure a clear and accurate account of the meeting is obtained. All present will be asked to consent to this. The meeting minutes along with the digitally recorded version remain the property of the school. A hard copy of the meeting minutes can be made available upon written request from the Chair of the Panel as can the digital recording.
- 3.4 Employees will normally be told the names of any witnesses whose evidence is relevant to disciplinary proceedings against them, unless there is good reason that a witness's identity should remain confidential.
- 3.5 The amended Education Act 2002 introduced reporting restrictions, in respect of any allegations made against a teacher, preventing the publication of any material that may lead to the identification of a teacher in a school who has been accused by or on behalf of, a pupil from the same school. This applies to parents and carers as well as the press. If for any reason Schools/Academies/Trusts need to make parents aware of any allegations, they should equally make them and others aware there are restrictions on publishing information.
- 3.6 During informal action, formal investigation, and any subsequent stages of the procedure, the School or Trust will collect, process and store personal data in accordance with our data protection policy. The data will be held securely and accessed by, and disclosed to, individuals only for the purposes of completing the disciplinary procedure. Records will be kept in accordance with **Data Protection Legislation** (being the UK General Data Protection Regulation and the Data Protection Act 2018) and any implementing laws, regulations, and secondary legislation, as amended or updated from time to time. Any breach of data protection may constitute a disciplinary offence and be dealt with under this procedure.

4 Allegations

- 4.1 Allegations may be brought to the managers attention in several ways and through a variety of sources. Appendix 1 sets out the disciplinary rules. As with disclosures made by children and young people, adults need to be aware that in making an allegation or raising a concern it is not always possible to keep the matter confidential. The Headteacher/Senior Manager will need to decide upon the most appropriate course of action and may choose to proceed with an investigation even if the person making the allegation does not want them to.
- 4.2 Allegations which involve issues of child protection and/or abuse of children by staff should be referred immediately to the Headteacher who will contact the Designated Officer of the Local Authority and the Director of HR. See the Child protection and Safeguarding Policy for further guidance on the management of this type of allegation. No further action under this procedure will usually be taken until the Local Authority Designated Officer (LADO) has been consulted.

5 Investigations

5.1 Preliminary investigation

- 5.1.1 Upon receiving any allegations against employees, it is likely that further information will be required to establish what the next course of action should be. The Headteacher or other senior manager should seek to establish the basic facts of the situation; this may involve looking at records, speaking to witnesses, reviewing CCTV etc. A senior manager may delegate to a member of their team to carry out an initial fact find.
- 5.1.2 A preliminary fact-finding meeting may be held with the employee to establish the basic facts of the circumstance and to enable the Manager to determine whether further investigation is required. Such a meeting can sometimes give a reasonable explanation in response to allegations which then enables the matter to be concluded informally. A preliminary meeting will not be required in all cases, and it is for the Manager to decide if this is appropriate. If an informal fact find meeting is conducted, any notes will only be used to establish next steps and would not be used in the case of a subsequent formal investigation or hearing.

5.2 Further investigation

- 5.2.1 After a preliminary fact-finding investigation where it is determined that there is a need for investigation, or if the concerns are serious enough to warrant investigation immediately, the Head Teacher or Senior Manager will usually appoint an Investigating Officer to carry out the investigation. This will be an appropriate person with regard to the nature of the allegation/s and the role of the employee. In the case of allegations made against the Headteacher, the Chief Executive Officer (CEO) will be responsible for the management of the procedure and determining an appropriate investigating officer,

either internally or externally. In the case of the CEO, The Chair of the Trust will appoint an external investigating officer.

- 5.2.2 The purpose of an investigation is to establish a fair and balanced view of the facts relating to any disciplinary allegations made against an employee, before deciding whether to proceed with a disciplinary hearing. The amount of investigation required will depend on the nature of the allegations and will vary from case to case. It may involve interviewing and taking statements from the employee and any witnesses, and/or reviewing relevant documents and other information.
- 5.2.3 It may be necessary to interview witnesses who may have information that is relevant to the allegations. A record of the meeting will be made, and the witness will have the opportunity to review the record, make amendments for clarification purposes and sign and date the record. As employers, we recognise that some employees may find this difficult or worrying, however all employees are expected to fully participate in any such investigation.
- 5.2.4 Investigation meetings are solely for the purpose of fact-finding and no decision on formal disciplinary action will be taken until after a disciplinary hearing has been held. A record of the meeting will be made, and the employee will have the opportunity to review the record, make amendments for clarification purposes and sign and date the record.
- 5.2.5 Employees must co-operate fully and promptly in any investigation. This will include providing the names of any relevant witnesses, disclosing any relevant documents or information and attending investigative interviews if required. As each investigation will vary in length and complexity it will be completed in as short a time frame as possible. At the point of a formal investigation meeting, the employee will be given a minimum of 5 working days' notice and offered the opportunity to be accompanied by a suitable colleague who is not a witness, or their Trade Union Representative.
- 5.2.6 Whilst we support employees in allowing trade union representatives or a companion to attend formal investigations and we will be flexible to accommodate this, we will not allow an investigation to be unnecessarily stalled if a companion cannot be sourced in reasonable time.
- 5.2.7 The Headteacher, Executive Head or CEO may decide that following a full investigation, an informal letter of guidance is more appropriate than a full hearing. This will be kept on the employees file, but not referred to in the case of a reference, unless there is a question about investigation, rather than disciplinary hearing.

6 Criminal charges

- 6.1 Where conduct is the subject of a criminal investigation, arrest, charge, or conviction the facts will be investigated before deciding whether to take formal disciplinary action. Disciplinary action will

not be automatic and will depend upon the circumstances. Employees should inform their Headteacher/Manager immediately if they are involved in a criminal investigation, arrest, or are subject to a charge or conviction. Failure to notify their line manager may result in disciplinary action.

- 6.2 Beckfoot 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 the available evidence.
- 6.3 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.
- 6.4 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 following advice from the Local Authority Designated Officer (LADO).

7 Suspension

- 7.1 In some circumstances it may be necessary to suspend the employee from work, where there are either reasonable grounds to suspect a member of staff, child, or other children at any of our schools are at risk of harm or the case is so serious, there are potential grounds for dismissal, and it would not be appropriate for the member of staff to remain at work. The suspension will be for no longer than is necessary to investigate the allegations and conclude the disciplinary process. The arrangements and the reasons for suspension will be confirmed to the employee in writing as soon as possible or within one working day if in relation to a safeguarding concern or allegation.
- 7.2 Suspension of this kind is not a disciplinary sanction and does not imply that any decision has already been made about the allegations. Employees will continue to receive normal salary and benefits during the period of suspension and appointed a named contact within the school or central team who will provide welfare support
- 7.3 Alternatives to suspension, for example re-organisation of duties, work location, temporary redeployment to another role, providing an assistant to be present when the individual has contact with students, moving the student/s to a different class where they will not come into contact with the member of staff etc will be explored where relevant before a decision to suspend is made. The nature and severity of the allegations will need to be considered as well as the employee's role and if their continued presence would potentially result in harm to the organisation, the individual or others or make it difficult to investigate.
- 7.4 Where allegations are made that involve the protection of children, suspension will not be considered to be automatic. A reasoned decision will be made based on all available information in consultation with the Local Authority Designated Officer (LADO), including the views of the police and social care. Additional information on the management of these allegations is available in Keeping Children Safe in Education.

- 7.5 The suspension will be kept under review as the investigation progresses (review every 2 weeks). As information is gathered it may become appropriate to lift the suspension during the course of the investigation or prior to any disciplinary hearing.
- 7.6 The Trust will not prevent social contact with work colleagues and friends during the suspension unless there is evidence to suggest this may prejudice the gathering of evidence. We will advise that the incident must not be discussed with any colleague other than the senior manager supporting (See paragraph 3).
- 7.7 The decision to suspend an employee can be made by a Headteacher, Central Director, or the CEO.
- 7.8 The Trust has no authority or power to suspend a member of agency staff where an allegation is made against them. Instead, the Trust will cease to use the services of that member of agency staff or self-employed contractor but not without first finding out the facts and liaising with the LADO to determine a suitable outcome. Further information can be found in Keeping Children Safe in Education.

8 Disciplinary hearing

- 8.1 Following any investigation, if there are grounds for disciplinary action, the employee will be required to attend a disciplinary hearing. The employee will be informed in writing of the allegations against them, the basis for those allegations, and what the likely range of consequences will be if it is decided at the hearing that the allegations are true. The following will also be included where appropriate:
- a summary of relevant information gathered during the investigation.
 - a copy of any relevant documents which will be used at the disciplinary hearing; and
 - a copy of any relevant witness statements, except where a witness's identity is to be kept confidential, in which case as much information as possible will be provided while maintaining confidentiality.
- 8.2 The Headteacher, Executive Headteacher or CEO will be responsible for ensuring that all the arrangements for the hearing are made and that the employee receives the appropriate paperwork and notice of the hearing.
- 8.3 Five working days written notice of the date, time and place of the disciplinary hearing will be given to provide the employee with a reasonable amount of time to prepare their case based on the information that they have been provided with. The hearing will be arranged as soon as is practicably possible.
- 8.4 If the employee and/or their companion cannot attend the hearing they should inform the Headteacher/Executive leader 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. Failure to attend without good reason, or persistent inability to do so (for example for health reasons), may lead to a decision being taken based on the available evidence.

- 8.5 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.
- 8.6 In the case of potential gross misconduct, the Headteacher should arrange for an Executive Head or the CEO to be present at the hearing in case there is a possibility of dismissal.
- 8.7 In the case of misconduct of a member of the central team, the Chief Finance Officer may hear with a Headteacher
- 8.8 In the case of potential gross misconduct of a member of the central team, the CFO (Chief Finance Officer) may hear with an Executive Head and can dismiss.
- 8.9 A panel will always be chaired by a leader or manager more senior than employee who has been investigated.

9 Role of Companion at Meetings and Hearings

- 9.1 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 companion should be allowed to address the meeting to put and sum up the member of staff's case, respond on their behalf to any views expressed at the meeting and confer with the member of staff. The companion does not have the right to answer questions on the employee's behalf, address the meeting if the employee does not wish it or prevent the panel/person leading the hearing from explaining the management case, they must also understand the responsibility of confidentiality. The employee must inform the Head Teacher/Manager conducting the meetings who their chosen companion is, 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.
- 9.2 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.
- 9.3 If the choice of companion is not available at the time a hearing or appeal is scheduled, the employee may propose an alternative time for the hearing or appeal to take place and so long as the alternative time is reasonable and within five working days after the original scheduled date, we will postpone. If the employee's chosen companion will not be available for more than five working days afterwards, we may ask the employee to choose someone else.

- 9.4 The employee may confer privately with their companion at any time during a meeting.
- 9.5 We may, at our discretion, allow the employee to bring a companion who is not a colleague or union representative (for example, a member of family) as a reasonable adjustment if the employee has a disability.

10 Procedure at disciplinary hearings

- 10.1 The hearing will be chaired by the Headteacher or in the case of potential gross misconduct, the Executive Headteacher or CEO with the Headteacher. The Investigating Officer will also attend to present the investigation. In some cases, the Head may choose to be the IO. A member of the Human Resources department will be present to advise management and to ensure the process is fair. Clerking will be sourced from our professional service and can be arranged through the PA to the Exec.
- 10.2 In the case of central staff, the CFO, COO, CEO, or an Executive Head will chair the panel. They may be accompanied by a Headteacher or a Director. The Executive Head and the CEO may take a case to dismissal.
- 10.3 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 2.
- 10.4 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. The employee will be given the opportunity to respond to any information given by a witness. The employee or their representative 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.
- 10.5 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 reconvened.
- 10.6 The employee will be informed in writing of the decision and the reasons for it, usually within 10 working days of the disciplinary hearing. Where possible, this information will also be explained to the employee in person either at the time or by a phone call afterwards if deliberation is taking some time.

11 Disciplinary sanctions

- 11.1 The Headteacher/panel may find that there is no case to answer and may refer the case back to an informal process. Alternatively, they may give the employee a letter of guidance (unusual to happen after investigation, but possible) or a disciplinary warning. If the sanction is dismissal, an Executive Head or the CEO must be chairing the meeting. The Headteacher must ensure that where a case is gross misconduct, or is potentially gross misconduct, that an Executive Headteacher or the CEO is on the panel with them.
- 11.2 The usual sanctions for misconduct are set out below. No sanction should be imposed without a hearing. The Trust aims to treat all employees fairly and consistently, and a sanction imposed on another employee for similar misconduct will usually be considered but should not be treated as a precedent. Each case will be assessed on its own merits.
- 11.3 A disciplinary warning may be authorised by the Headteacher. A dismissal requires an Executive Headteacher or the CEO with the Headteacher, or a panel of Trustees. In the case of a central member of staff, the CFO/COO may also dismiss with the central director.. The decision letter will be given within 10 working days, although a verbal decision will, where possible, be given on the day, unless the panel must re-convene to deliberate.

First written warning

- 11.4 A first written warning will usually be appropriate for a first act of misconduct where there are no other active written warnings on the employee's disciplinary record.
- 11.5 A first written warning will remain active for up to 9 months for reference purpose.

Final written warning

- 11.6 A final written warning will usually be appropriate for:
- misconduct where there is already an active written warning on the employee's record; or
 - misconduct that is considered sufficiently serious to warrant a final written warning even though there are no other active warnings on the record.
- 11.7 A final written warning will usually remain active for 12 months (excluding the summer break). In exceptional cases verging on gross misconduct, or where a final written warning has been issued as an alternative to dismissal, a final written warning may state that it will remain active indefinitely.
- 11.8 In very particular circumstances, the Hearing Officer/panel may consider issuing a **second** warning if it is felt that the matter is entirely separate from the previous one and the employee is able to otherwise prove that their conduct has improved, they are otherwise providing reliable and

consistent service and there are mitigating circumstances that have led to the second disciplinary. A second warning will be on the employee's record for 12 months.

The effect of a warning

- 11.9 Written warnings will set out the nature of the misconduct, the change and expectations required, the period for which the warning will remain active, and the consequences of any further misconduct in that active period.
- 11.10 Conduct will be reviewed at the end of a warning's active period and if it has not improved sufficiently, the active period may be extended.
- 11.11 After the active period, the warning will remain permanently on the employee's personnel file but will be disregarded in deciding the outcome of future disciplinary proceedings.

Dismissal

- 11.12 Dismissal will usually only be appropriate for:
- any misconduct during the probationary period.
 - further misconduct where there is an active final written warning on the record; or
 - any gross misconduct regardless of whether there are active warnings on the record. Gross misconduct will usually result in immediate dismissal without notice or payment in lieu of notice (summary dismissal).

Alternatives to dismissal

- 11.13 At our discretion, in some cases alternatives to dismissal may be considered, and will usually be accompanied by a final written warning. This may be appropriate where the matter is particularly serious because of position. Examples include:
- Demotion/loss of seniority and or reduction in pay grade
 - Transfer to another department, job, or site.

12 Appeals against disciplinary action

- 12.1 The employee has the right to appeal against disciplinary action taken against them. This must be in writing, stating the full grounds of appeal and sent to the Headteacher/Hearing Officer within 10 working days of the date on which the employee was informed of the decision.

- 12.2 If the employee is appealing against dismissal, the date on which dismissal takes effect will not be delayed pending the outcome of the appeal. However, if the appeal is successful, they will be reinstated with no loss of continuity or pay.
- 12.3 If any new matters are raised in the appeal hearing, further investigation may need to be carried out. The Chair may adjourn the appeal hearing if there is a need to carry out any further investigations such as re-interviewing witnesses in the light of any new points that have been raised at the hearing. If any new information comes to light this will be provided to the employee with a summary including, where appropriate, copies of additional relevant documents and witness statements. The employee will have a reasonable opportunity to consider this information before the hearing is reconvened.
- 12.4 The employee must be given written notice of the date, time and place of the appeal hearing. This will normally be no less than 5 working days. The employee may bring a companion to the appeal hearing (see paragraph 9).
- 12.5 Where possible, the appeal hearing will be conducted by a more senior manager/different panel of Trustees, not previously involved in the case. The hearing may be a complete re-hearing (which would follow the format for hearings at Appendix 3) or it may be a review of the fairness of the original decision in the light of the procedure that was followed and any new information that may have come to light (in which case the format would be reversed so that the appellant would present their appeal first).
- 12.6 When lodging an appeal, the employee should state; a) If the employee is appealing against the findings that they have committed the alleged act/s of misconduct, then any appeal hearing would be a full re-hearing of all the evidence in relation to the allegations against the individual concerned as heard at the original hearing. The panel at this appeal re-hearing will have the full range of disciplinary sanctions open to them. b) If the employee is appealing against the level of disciplinary sanction imposed on them as a consequence of the original disciplinary hearing. In this case, an appeal panel would be asked to review the original decision made. This would not constitute a full re-hearing and any outcome from this review would either see the original sanction reduced or remain the same.
- 12.7 Following the appeal hearing the panel may:
- confirm the original decision;
 - revoke the original decision; or
 - substitute a different sanction. A sanction will not be increased on appeal unless there is new information or evidence being available that requires further investigation
- 12.8 The employee will be informed in writing of the decision and the reasons for it, usually within 5 working days of the appeal hearing. Where possible this information will also be explained to the employee in person. There is no further right to appeal.

13 Referrals to external bodies

In cases where employees in regulated activity are dismissed or removed due to safeguarding concerns or would have been had they not resigned during a disciplinary process, a referral should be made as soon as possible to the Disclosure and Barring Service (all staff) and Secretary of State (teachers only), where the thresholds for referral are met. This could also include when an individual is suspended and redeployed into work that is not regulated activity. A failure to do so when the criteria is met is a criminal offence.

14 Review of policy

This policy is reviewed and amended annually by the Executive and in consultation with the recognised trade unions. We will monitor the application and outcomes of this policy to ensure it is working effectively.

Appendix 1 Disciplinary rules

1 Policy statement

- 1.1 The aim of the Disciplinary Rules and Disciplinary Procedure is to set out the standards of conduct expected of all staff and to provide a framework within which the Head Teacher/Executive Headteachers, CEO and line managers can work with staff to maintain those standards and encourage improvement where necessary.
- 1.2 If any employee is in any doubt as to their responsibilities or the standards of conduct expected, they should speak to their line manager or a member of Human Resources.

2 Rules of conduct

- 2.1 Whilst working for Beckfoot Trust you should always maintain professional and responsible standards of conduct. In particular, you should:
 - 2.1.1 observe the terms and conditions of your contract, particularly regarding hours of work and confidentiality.
 - 2.1.2 ensure that you understand and follow our Code of Conduct, in particular all aspects of the duty for safeguarding.
 - 2.1.3 observe all of the School and Trust's policies, procedures and regulations which are available on the website or notified to you from time to time by means of notice boards, staff briefing, e-mail, Trust Matters and CIT bulletin (for Heads and central staff).
 - 2.1.4 take reasonable care in respect of the health and safety of colleagues, pupils and third parties and comply with our Health and Safety Policy;
 - 2.1.5 comply with all reasonable instructions given by the Head Teacher other senior leaders and managers; and
 - 2.1.6 act at all times in good faith and in the best interests of Beckfoot Trust and those of our pupils and staff.
 - 2.1.7 ensure that you never behave in a way, either inside or outside of work, that indicates you may pose a risk of harm to children/not be suitable to work with children
- 2.2 Failure to maintain satisfactory standards of conduct may result in action being taken under the Disciplinary Procedure.

3 Misconduct

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

- Minor breaches of all school and Trust policies
- Minor breaches of an employee's contract of employment (e.g., unauthorised sickness absence, careless or inadequate work)
- Damage to, or unauthorised use of, the property (if it is not extreme or intentional).
- Poor timekeeping or time wasting.
- Refusal to follow instructions/insubordination.
- Failure to meet the Teachers' Standards, despite support (e.g. planning, preparation, marking)
- Knowingly aiding an offence against discipline
- Improper disclosure of confidential information (where no safeguarding or GDPR risk is posed)
- Excessive use of the telephones, email, or internet usage for personal reasons.
- Inappropriate or other offensive or aggressive behaviour, including using obscene language, victimisation, or harassment of other members of staff, pupils or members of the public
- Breach of the Trusts' approach to equality (where not serious enough to meet gross misconduct)
- Negligence in the performance of duties.
- Smoking in no-smoking areas, which applies to anything that can be smoked and includes, but is not limited to, cigarettes, electronic cigarettes, pipes (including water pipes such as shisha and hookah pipes), cigars and herbal cigarettes
- Conduct which contravenes school or Trust policy or procedures
- Abuse of attendance policy.

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

4 Gross misconduct

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

4.2 The following are examples of matters that are normally regarded as gross misconduct:

- Theft, or unauthorised removal of property or the property of a colleague, contractor, pupil or member of the public;
- Fraud, forgery or other dishonesty, including fabrication of expense claims, illness (leading to claiming sick pay) and time sheets, pupil's work, examinations, or assessments
- Actual or threatened violence, or behaviour which provokes violence;
- Deliberate damage to buildings, fittings, property or the employer's equipment or the property of a colleague, contractor, pupil, or member of the public.
- Serious infringement or disregard for health and safety
- Inappropriate conduct with children or young people, including failing to maintain appropriate professional boundaries (see Code of Conduct);
- Serious failure to follow the Trust's child protection procedures.
- Sexual misconduct.
- Behaving in a way, either inside or outside of work, which could cause harm to a child, or could indicate that you pose a risk of harm to children/may not be suitable to work with children
- Criminal activity outside of work where such conduct is incompatible with employment in an educational setting.
- Making a false declaration or failing to disclose information in relation to the disqualification from childcare requirements, or becoming disqualified from providing childcare
- Serious misuse of the school or Trust's property or name;
- Deliberately accessing internet sites at work or at home, using School equipment, which contain pornographic, offensive, or obscene material;
- Repeated or serious failure to obey instructions, or any other serious act of insubordination;

- Bringing the Trust and the profession into serious disrepute;
- Inappropriate use of social media or behaviour that seriously contravenes the Online Safety Policy
- Being under the influence of alcohol, illegal drugs or other substances during working hours or not being capable of fulfilling your duties because of the effects of alcohol or illegal drugs or other substances.
- Causing loss, damage or injury through serious negligence;
- Serious or repeated breach of health and safety rules or serious misuse of safety equipment;
- Unauthorised access, use or disclosure of confidential information or failure to ensure that confidential information in your possession is kept secure;
- Acceptance of bribes or other secret payments;
- Conviction or caution for a criminal offence that in the opinion of the Trust may affect our reputation or our relationships with our staff, pupils, parents or the public, or otherwise affects your suitability to continue to work for us;
- Possession, use, supply or attempted supply of illegal drugs;
- Serious neglect of duties, or a serious or deliberate breach of your contract or operating procedures;
- Unauthorised use, processing or disclosure of personal data contrary to our Data Protection Policy;
- Harassment of, or discrimination against, employees, pupils, parents or members of the public, related to any of the protected characteristics contrary to our Equal Opportunities Policy or our Anti-harassment and Bullying Policy;
- Refusal or omission to disclose any of the information required by your employment or any other information that may have a bearing on the performance of your duties;
- Giving false information as to qualifications or entitlement to work (including immigration status);
- Making a disclosure of false or misleading information under our Whistleblowing Policy maliciously, for personal gain, or otherwise in bad faith;
- Making untrue allegations in bad faith;

- Victimising a colleague who has raised concerns, made a complaint or given evidence information under the [Whistleblowing policy, Anti-harassment and Bullying policy, Grievance Procedure, Disciplinary Procedure or otherwise;
- Serious misuse of our information technology systems (including misuse of developed or licensed software, use of unauthorised software and misuse of email and the internet) contrary to our ICT user policy;
- Undertaking unauthorised paid or unpaid employment during your working hours;
- Unauthorised entry into an area of the premises to which access is prohibited.
- Making covert recordings of colleagues or managers

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

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

Appendix 2 Format for disciplinary hearing (reversed in the case of an appeal)

1. Welcome by chair of panel/hearing officer:
 - ask everyone present to introduce themselves and explain their role
 - explain purpose of hearing
2. Presentation of management case by investigating officer including evidence from management witnesses
3. Questions from employee/representative to investigating officer/witnesses
4. Questions from the hearing officer/panel to the investigating officer/witnesses
5. Presentation of employee's case by employee/representative including evidence from employee's witnesses
6. Questions to employee/witnesses from investigating officer
7. Questions to employee/witnesses from the hearing officer/panel
8. Summing up by investigating officer (no new evidence)
9. Summing up by employee/representative (no new evidence)
10. Hearing adjourned and all parties asked to leave whilst hearing officer/panel consider evidence, and make a decision on level of sanction (if appropriate)
11. All parties return and employee advised of hearing officer/panel's decision, (sanction and right of appeal)
12. Notes from the meeting are used to confirm outcome in writing and sent to employee within the timescale set out in the policy