

Discipline Procedure

Policy Responsibility:	Executive Director for Trust Development
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Effective from:	September 2024
Review Date:	This policy will be reviewed according to The Mercian Trust's Policy Schedule outlined in its Scheme of Delegation. If there are any changes in legislation or legal requirements, an earlier review will be conducted to ensure compliance and relevance.



Increasing Opportunities
Improving Outcomes



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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 The Mercian Trust (from this point referred to as 'Our Trust') can work with employees to maintain satisfactory standards of conduct and to encourage improvement where necessary.
- 1.2 It is our 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 policy be amended at any time and employees agree to adhere to this policy upon the signing of their contract of employment.
- 1.4 We may also vary application of this procedure, including any time scales for action, as appropriate.
- 1.5 This policy has been implemented following consultation with staff and the recognised trade unions and has been formally adopted by our Trust.

2. Scope and Purpose of Policy

- 2.1 The procedure applies to all employees regardless of length of service excluding those in their probationary period where separate arrangements apply. It does not apply to supply staff, contractors or volunteers. Further information can be found in the Allegations and Concerns Raised in Relation to Staff, Supply Staff, Contractors and Volunteers Policy.
- 2.2 This procedure is used to deal with misconduct. It does not apply to cases involving genuine sickness absence, proposed redundancies or performance concerns which are dealt with through the Professional Concerns and Capability Policy. In those cases, reference should be made to the appropriate policy or procedure in the Mercian Trust portal.
- 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 instruction 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).
- 2.4 Employees will not normally be dismissed for a first act of misconduct, unless our Trust 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 in our Trust 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. Therefore, conduct outside work may be treated as a disciplinary matter if it is considered that it is relevant to the employee's employment (see disciplinary rules).
- 2.6 We offer access to confidential counselling should an employee require it, which is available via Pegasus Occupational Health.

3. Confidentiality and Data Protection

- 3.1 It is the aim of our 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 Employees, and anyone accompanying them (including witnesses), must not make electronic recordings of any meetings or hearings conducted under this procedure.
- 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, our 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 our Workforce Privacy Notice, our Retention and Distribution Policy and in line with the requirements of **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 our Trust's 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 Head Teacher/Manager/ Senior Leader from within our Trust Central Team 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 Designated Officer of the Local Authority. See the Allegations of Abuse Against Staff 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

It should be noted that if required, interviews and hearings as referred to below, may be conducted remotely.

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 Head Teacher/Manager/ Senior Leader from within our Trust Central Team will seek to establish the basic facts of the situation; this may involve looking at records, speaking to witnesses, reviewing CCTV etc.
- 5.1.2 A preliminary investigation meeting may be held with the employee to establish the basic facts of the circumstance and to enable the Head Teacher/Manager/ Senior Leader from within our Trust Central Team to determine whether formal investigation is required. Such a meeting can sometimes give a reasonable explanation in response to allegations which then enables the matter to be concluded. A preliminary meeting will not be required in all cases, and it is for the Head Teacher/Manager/ Senior Leader from within our Trust Central Team to decide if this is appropriate.

5.2 Further Investigation

- 5.2.1 After a preliminary investigation where it is determined that there is a need for investigation, or if the concerns are serious enough to warrant a full investigation immediately, the Head Teacher/Manager/ Senior Leader from within our Trust Central Team will usually appoint an Investigating Officer to carry out the investigation as per Table 1. This will be an appropriate person dependent on the nature of the allegations and the role of the employee. In some circumstances it may be deemed appropriate to commission an independent 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. There may also be a need to interview and take statements from students, parents, ex-employees or external individuals.
- 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. Our Trust recognises 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 who are involved in the disciplinary process 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. Each investigation will vary in length and complexity but will be completed in as short a time frame as possible.

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 Head Teacher/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 Our 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 our 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, in particular where there are either reasonable grounds to suspect a member of staff, child or other children at Trust are at risk of harm or the case is so serious that it might be grounds for dismissal. 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 within one working day.
- 7.2 Suspension of this kind is not a disciplinary penalty 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 be provided with an appropriate named contact within Trust who will provide welfare support.
- 7.3 It is recognised that suspension may impact on an employee's mental wellbeing. The method and frequency of keeping in touch will be agreed and the employee will be kept updated on the progress of the investigation and disciplinary process. Employees will also be made aware of the support available [e.g. through the School/Academy/Trust's employee assistance programme or confidential counselling as set out in 2.6].
- 7.4 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 students 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. Our Trust should be as inventive as possible when considering alternative options to suspension. 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 result in potential harm to the organisation or others or make it difficult to investigate.
- 7.5 Where allegations are made that involve the protection of children, suspension will not be considered to be automatic. A reasoned decision will be made based on all available information 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

the Allegations and Concerns Raised in Relation to Staff, Supply Staff, Contractors and Volunteers Policy.

- 7.6 The suspension will be kept under review as the investigation progresses as per recommendation of Keeping Children Safe in Education (KCSIE) relevant at the time. As information is gathered it may become appropriate to lift the suspension during the course of the investigation or prior to any disciplinary hearing. If the suspension is lifted, arrangements will be made to phase the employee back into work, in line with KCSIE, providing that the employee does not discuss the matter at work and keeps the agreed confidentiality arrangements.
- 7.7 Our 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, following advice from the LADO.
- 7.8 The decision to suspend an employee can be made by the Head Teacher of our Trust. Prior to a Headteacher making the decision to suspend an employee, advice must be sought from the Executive Director for Education or the Executive Director for Trust Development, in conjunction with the Director of HR.
- 7.9 Our Trust has no authority or power to suspend a member of agency staff where an allegation is made against them. Instead, our 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 the Allegations and Concerns Raised in Relation to Staff, Supply Staff, Contractors and Volunteers Policy.

8. Disciplinary Hearing

It should be noted that if required, interviews and hearings as referred to below, may be conducted remotely.

- 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:
 - 8.1.1 a summary of relevant information gathered and relied upon during the investigation.
 - 8.1.2 a copy of any relevant documents which will be used and relied upon at the disciplinary hearing; and
 - 8.1.3 a copy of any relevant witness statements which will be relied upon, 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 Head Teacher/Manager/ Senior Leader from within our Trust Central Team 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. Day one is counted as the first full day after the delivery of the written notice by hand, post or electronically and 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 Head Teacher/Manager/ Senior Leader from within our Trust Central Team immediately and consideration may be given to arranging an alternative date/time. Employees must make every effort to attend the hearing. Failure to attend without good reason, or persistent inability to do so (for example for health reasons), may lead to the hearing being held in their absence and a decision being taken based on the available evidence.
- 8.5 If the employee chooses not to attend the hearing, they may submit a written statement for consideration. Alternatively, their trade union representative or a work companion, may attend the hearing on their behalf.

9. Role of a 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 employee must inform the Head Teacher/ Manager/Senior Leader from within our Trust Central Team conducting the meetings, who their chosen companion is, in good time before the hearing. In addition, whilst employees do not normally have the right to bring a companion to an investigation meeting, employees are permitted to bring an official trade union representative or work colleague to the investigation meeting if one is available. Our Trust will allow one rearrangement to the time and date of the investigation meeting to enable a companion to attend.
- 9.2 Should the employee choose to bring a companion to the hearing, they will be responsible for making these arrangements and for providing their companion with any relevant evidence, documentation and/or paperwork that they require for the hearing.
- 9.3 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.
- 9.4 If the choice of companion is not available at the time a hearing or appeal is scheduled, the employee may propose an alternative date/time for the hearing or appeal to take place and so long as the alternative date/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 an alternative companion.
- 9.5 A companion may make representations, ask questions, and sum up the employee's position, but will not be allowed to answer questions on the employee's behalf. The employee may confer privately with their companion at any time during a meeting.
- 9.6 At our discretion, we may allow the employee to bring a companion who is not a colleague or union representative (such as a family member) as a reasonable adjustment. This may be permitted if the employee has a disability or if there are significant concerns regarding their wellbeing.

10. Procedure at Disciplinary Hearings

- 10.1 The hearing will be chaired by the relevant person as detailed in Table 1. The Investigating Officer will also normally attend to present the investigation. A member of the Human Resources department will also be present to provide HR support to the panel chair.
- 10.2 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.
- 10.3 Relevant witnesses may be asked by the Investigating Officer or the employee to appear at the hearing. The employee must give sufficient advance notice if they wish to call witnesses, to ensure that there is sufficient time to arrange their attendance.
- 10.4 The employee will be given the opportunity to respond to any information given by a witness and to ask questions about any evidence provided. However, the employee will not normally be permitted to cross-examine witnesses unless, in exceptional circumstances, the Chair decides that a fair hearing could not be held otherwise.
- 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 5 working days of the disciplinary hearing. Where possible this information will also be explained to the employee in person.

11. Disciplinary Penalties

- 11.1 The Head Teacher/Manager/Panel Members may find that there is no case to answer and may refer the case back to an informal process. Alternatively, the Head Teacher/Manager/Panel Members may give the employee a disciplinary warning or dismiss them.
- 11.2 The usual penalties for misconduct are set out below. No penalty should be imposed without a hearing. Our Trust aims to treat all employees fairly and consistently, and a penalty 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/dismissal may be authorised chair of hearing/decision maker or a panel of local governors/the Trust Board, as per the scheme of delegation.

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 usually remain active for six months.

Final Written Warning

- 11.6 A final written warning will usually be appropriate for:

- 11.6.1 Misconduct where there is already an active written warning on the employee's record; or
- 11.6.2 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 however, in very serious matters a final written warning may be given a period longer than 12 months but no more than 24 months.

The Duration and Effect of a Warning

- 11.8 Written warnings will set out the nature of the misconduct, the change in behaviour required, the period for which the warning will remain active, and the likely consequences of further misconduct in that active period.
- 11.9 Warnings may be live for a longer period than specified above depending on the reason for the warning, seriousness of the misconduct and the wider circumstances of the case. The 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.
- 11.10 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.
- 11.11 Our reference policy outlines the ways in which disciplinary or safeguarding matters will be disclosed in references requested for our employees. A copy of this policy can be requested from HR and should be referred to by Headteachers when writing references for employees.
- 11.12 It may be appropriate to consider alternatives to dismissal such as whether there is an appropriate vacant post within another school in our Trust. If there is a vacant post which is agreed is suitable, this would be a permanent change in role and if the alternative post is at a lower salary level, the substantive lower salary would apply.

Dismissal

- 11.13 Dismissal will usually only be appropriate for:
 - 11.13.1 any misconduct during the probationary period.
 - 11.13.2 further misconduct where there is an active final written warning on the record; or
 - 11.13.3 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).

12. Appeals Against Disciplinary Action

- 12.1 The employee has the right to appeal against the disciplinary action taken against them. This must be in writing, stating the full grounds of appeal and sent to the Hearing Chair and the HR department hrmatters@merciantrust.org.uk within 10 working days of the date on which the employee/former employee was informed of the decision.
- 12.2 If the employee/former 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/former 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 ten working days following receipt of the appeal request from the employee/former employee. The employee/former employee may bring a companion to the appeal hearing (see paragraph 9).
- 12.5 The appeal hearing will be conducted by a panel who have not been previously involved in the case and will be conducted as impartially as possible. The hearing may include a review of the fairness of the original decision considering the procedure followed and any new information that may have emerged. The format will be reversed, with the appellant presenting their appeal first. This decision will be at the discretion of the Hearing Chair, in consultation with HR Managers, based on the circumstances of the case. In exceptional cases, the appeal hearing may be a complete re-hearing (following the format outlined in Appendix 3).
- 12.6 The appeal hearing may be conducted virtually.
- 12.7 Following the appeal hearing, the chair of the appeals panel may:
- 12.7.1 Confirm/uphold the original decision.
 - 12.7.2 Revoke/overturn the original decision; or
 - 12.7.3 substitute a different penalty. Ordinarily a penalty will not be increased on appeal unless there is new information or evidence being available that requires further investigation
- 12.8 The employee/former 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/former employee in person. There is no further right to appeal under this policy.

13. Referrals to External Bodies

In cases where employees in regulated activity are dismissed, or removed due to safeguarding concerns or would have done 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 by the employer when the criteria is met, is a criminal offence.

14. Review of Policy

This policy is reviewed and amended in line with the agreed policy review schedule by our Trust or if/ when there are changes in legislation. We will monitor the application and outcomes of this policy to ensure it is working effectively.

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 Teachers, Managers, Senior Leaders 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 While working for our Trust you should at all times maintain professional and responsible standards of conduct. In particular you should:
 - 2.1.1 observe the terms and conditions of your contract, particularly with regard to:
 - (a) hours of work;
 - (b) confidentiality;
 - 2.1.2 ensure that you understand and follow our Staff/Employee Code of Conduct;
 - 2.1.3 observe all of our Trust's policies, procedures and regulations which are available on our Trust internal intranet or notified to you from time to time by means of notice boards, email, the intranet or otherwise;
 - 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 Teachers, Senior Leaders and managers;
 - 2.1.6 act at all times in good faith and in the best interests of our 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:
 - 3.1.1 Refusal to follow instructions and expectations in line with our policies.
 - 3.1.2 Inappropriate or other offensive behaviour, including using obscene language;
 - 3.1.3 Negligence in the performance of duties;

- 3.1.4 Refusal to engage with our Trust's approach to professional growth as set out in our Professional Growth policy'.
 - 3.1.5 Minor breaches of our Trust's policies, including but not limited to the Sickness Absence Policy, E-Safety Policy, Information and Communications Policy and Health and Safety Policy.
 - 3.1.5 Minor breaches of an employee's contract of employment.
 - 3.1.6 Repeated failure to comply with dress code
 - 3.1.7 Damage to, or unauthorised use of, our Trust's property;
 - 3.1.8 Poor timekeeping or time wasting;
 - 3.1.9 Unauthorised absence from work;
 - 3.1.10 Excessive use of our Trust's telephones, email or internet usage for personal reasons;
 - 3.1.11 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.
- 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 our Trust, is likely to prejudice its business or reputation or irreparably damage the working relationship and trust between our Trust 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:
- 4.2.1 Theft, or unauthorised removal of property or the property of a colleague, contractor, pupil or member of the public;
 - 4.2.2 Fraud, forgery or other dishonesty, including fabrication of expense claims and time sheets, pupil's work, examinations or assessments;
 - 4.2.3 Actual or threatened violence, or behaviour which provokes violence;
 - 4.2.4 Deliberate damage to the buildings, fittings, property or equipment of our Trust, or the property of a colleague, contractor, pupil or member of the public;
 - 4.2.5 Inappropriate conduct with children or young people, including failing to maintain appropriate professional boundaries;
 - 4.2.6 Serious failure to follow our Trust's child protection procedures;
 - 4.2.7 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;

- 4.2.8 Serious misuse of our Trust's property or name;
- 4.2.9 Deliberately accessing internet sites at work or at home, using School equipment, which contain pornographic, offensive or obscene material;
- 4.2.10 Repeated or serious failure to obey instructions, or any other serious act of insubordination;
- 4.2.11 Bringing our Trust into serious disrepute;
- 4.2.12 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;
- 4.2.13 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.
- 4.2.14 Causing loss, damage or injury through serious negligence;
- 4.2.15 Serious or repeated breach of health and safety rules or serious misuse of safety equipment;
- 4.2.16 Unauthorised access, use or disclosure of confidential information or failure to ensure that confidential information in your possession is kept secure;
- 4.2.17 Acceptance of bribes or other secret payments;
- 4.2.18 Conviction or caution for a criminal offence that in the opinion of our 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;
- 4.2.19 Possession, use, supply or attempted supply of illegal drugs;
- 4.2.20 Serious neglect of duties, or a serious or deliberate breach of your contract or operating procedures;
- 4.2.21 Unauthorised use, processing or disclosure of personal data contrary to our Data Protection Policy;
- 4.2.22 Harassment or bullying 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;
- 4.2.23 Acts of sexual harassment;
- 4.2.24 Refusal to disclose any of the information required by your employment or any other information that may have a bearing on the performance of your duties;
- 4.2.25 Giving false information as to qualifications or entitlement to work (including immigration status);
- 4.2.26 Making a disclosure of false or misleading information under our Whistleblowing Policy

maliciously, for personal gain, or otherwise in bad faith;

4.2.27 Making untrue allegations in bad faith;

4.2.28 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;

4.2.29 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.

4.2.30 Undertaking unauthorised paid or unpaid employment during your working hours;

4.2.31 Unauthorised entry into an area of the premises to which access is prohibited.

4.2.32 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.

Format for Disciplinary Hearing

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, 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).
NB: Where waiting to return is not possible/practicable ie a late in the day hearing, the Chair will make verbal/telephone contact with the employee to explain the outcome and next steps.
12. Notes from the meeting are used to confirm the outcome in writing and sent to the employee within the timescale set out in the policy.

Table 1**Preliminary Investigations**

Preliminary investigation meetings may be held to determine if a formal investigation is required. These will usually be conducted by a senior member of staff in school or within our Trust Central team with the support of a HR advisor if required.

Formal Investigations

Employee	Investigating Officer	Hearing Chair	Advisor(s) to the Manager	Appeal Panel	Advisor(s) to the Appeal Panel
Teacher	Senior leader from own school or another school in our Trust, or an Independent IO	Headteacher or Senior Leader from the Central Team	Trust-appointed HR Advisor.	2x LGB 1x Trust representative.	Trust-appointed HR Advisor.
Leadership Spine	Senior leader from own school or another school in our Trust, or an Independent IO	Headteacher or Senior Leader from the Central Team	Trust-appointed HR Advisor.	2x LGB 1x Trust representative.	Trust-appointed HR Advisor.
Deputy Head (or second most senior member of staff who deputises for the HT)	Senior Leader from within our Trust Central Team or Headteacher from another school in our Trust, or an Independent IO	Headteacher or Senior Leader from the Central Team	Trust-appointed HR Advisor.	2x LGB 1x Trust representative.	Trust-appointed HR Advisor.
Associate Staff	Senior leader from own school or from within our Trust central team, or an Independent IO	Headteacher or Senior Leader from the Central Team	Trust-appointed HR Advisor.	2x LGB 1x Trust representative. Or 2x non-executive governors/trustees 1x Trust representative.	Trust-appointed HR Advisor.
Headteacher or Trust Executive Leader	Independent IO appointed by the CEO	CEO	Trust-appointed HR Advisor.	3x Trustees	Trust-appointed HR Advisor.
CEO	Independent IO appointed by the Chair of our Trust	3x Trustees	Trust-appointed HR Advisor.	3x Different Trustees	Trust-appointed HR Advisor.