Disciplinary Procedure

September 2026

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1. Introduction

1.1. The purpose of this Disciplinary Procedure is to set out the standards of conduct expected of all staff and to provide a framework within which Derby Diocesan Academy Trust ('DDAT', 'the Trust') can work with employees to maintain satisfactory standards of conduct and encourage improvement where an employee's conduct is alleged to be unsatisfactory. The standards of conduct expected of all employees are set out in the Disciplinary Rules contained in Appendix 1.

1.2. This procedure serves to ensure that any disciplinary matters are dealt with fairly and consistently without unreasonable delay, and that steps are taken to establish the facts and to give employees the opportunity to provide their version of events before taking any formal action.

1.3. The Trust will take steps to address misconduct informally before moving to formal procedures, where appropriate.

1.4. In the event a matter progresses to a formal stage, the Trust will notify the employee of the informal steps that have been taken and, if none, an explanation will be provided as to why.

1.5. This procedure has been developed in line with ACAS guidance.

1.6. This procedure is not contractual, and it may be varied by the Trust at any time through genuine and meaningful consultation. It has been implemented following consultation with all recognised trade unions.

1.7. The Trust will consider reasonable support arrangements where an employee may have a disability, communication need or language barrier that would otherwise place them at a disadvantage during the process. If an employee has difficulty at any stage of the procedure due to a disability, they should discuss the situation with their line manager / Executive Headteacher / Headteacher or Chief Executive Officer (CEO) as soon as possible.

1.8. Individuals involved in a disciplinary process will be made aware of the support available through the schools Employee Assistance Programme e.g. Schools Advisory Service or Westfield Health for Derby Cathedral School, or via Education Support. Support can also be accessed via the Mental Health First Aiders either in school or via the DDAT Central Team. Trade Union representatives can also provide support.

2. Scope

2.1. This Trust-wide procedure applies to all DDAT employees regardless of length of service. Employees within their probation period will normally be managed under the DDAT Probation Policy and Procedure, however the Trust reserves the right to apply all or part of this Disciplinary Procedure where appropriate. It does not apply to supply/agency workers, contractors, or volunteers.

2.2. This procedure is used to deal with cases of misconduct.

2.3. Minor conduct issues can often be resolved informally by discussion between the employee and their line manager. These discussions should be held in private and without undue delay whenever there is cause for concern. The discussions should clarify the areas of concern, remind the employee of the expected standards of behaviour, establish any action or support necessary to assist them to meet the required standards, and a review date at which to assess progress may be set. Notes of such informal discussions will be taken and retained on the employee's personnel file. 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(s).

2.4. Employees will not normally be dismissed for a first act of misconduct, unless the Trust decides that the conduct amounts to gross misconduct or the employee has not completed a probation period.

2.5. As recognisable figures in the local community, the behaviour and conduct of DDAT staff in and 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 of work may be treated as a disciplinary matter if it is considered that it is relevant to the employee's employment (see Disciplinary Rules in Appendix 1).

3. Powers

3.1. Where disciplinary action is being considered by the Trust, it will appoint a panel of appropriate status and seniority to hear the case, consisting of at least one director nominee or member of the Local Trust Committee (LTC). The Trust may appoint an external professional investigator or advisor to the panel.

3.2. The employee must make every effort to attend an investigation meeting or disciplinary hearing and failure to attend, without good reason, may be treated as misconduct in itself. If the employee fails to attend without good reason, or if they are persistently unable to do so (for example for health reasons), the Trust may have to take a decision based on the available evidence.

3.3. Before any disciplinary decision is held, the employee will be advised of the allegations against them. The employee will be notified, in writing, of the allegations to be answered (plus any documentary evidence) before the disciplinary hearing.

3.4. At any disciplinary hearing or appeal hearing, the employee will have the right to put forward their case. The Trust will only consider evidence presented by the employee which is relevant to the allegation(s).

3.5. The outcome/decision and the reasons shall be communicated, in writing, to the employee.

3.6. The employee will be advised of their right of appeal and how to exercise that right.

4. Confidentiality and data protection

4.1. The disciplinary procedure is strictly confidential and all aspects, including all documentation and records, shall be treated as such.

4.2. 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.

4.3. A breach of confidentiality will be taken seriously and may warrant its own investigation.

4.4. Employees and anyone accompanying them (including witnesses), must not make electronic recordings of any meetings or hearings conducted under this procedure.

4.5. 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.

4.6. 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, the Trust needs to make parents aware of any allegations, they should equally make them and others aware that there are restrictions on publishing information.

4.7. During informal action, formal investigation, and any subsequent stages of the procedure, the Trust will collect, process and store personal data in accordance with its 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 the DDAT Data Protection 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 lead to disciplinary action and be dealt with under this procedure.

5. Allegations

5.1. Allegations may be brought to the Trust's attention in a number of ways and through a variety of sources, including through the DDAT Whistleblowing Policy. 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 Executive Headteacher / Headteacher / CEO 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(s) does not want them to.

5.2. Allegations which involve issues of child protection and/or abuse of children by staff should be referred immediately to the Designated Safeguarding Lead who should refer to the DDAT Safeguarding Lead and the Local Authority Designated Officer (LADO). No further action under this procedure will usually be taken until the LADO

has been consulted.

6. Anonymous allegations

6.1. Anonymous allegations will be treated seriously. The extent of the investigation required will depend upon the seriousness and complexity of the allegation(s) raised and the information provided. Advice should be sought from the DDAT Central HR Team and consideration should be given to whether there is sufficient evidence to proceed with the investigation.

6.2. Some witnesses may be reluctant to provide evidence for the investigation. In this situation, the school/Trust should:

- explore the reason a witness is reluctant to give evidence
- provide reassurance
- try to resolve any concerns they have

6.3. Where possible, anonymous witness statements should be avoided. Witness statements should only be made anonymous in exceptional circumstances. For example, if a witness genuinely fears revenge action. This is so that the individual under investigation can fairly question any evidence against them.

6.4. Where anonymity is agreed, the school/Trust should:

- conduct an investigation meeting and take notes as usual, ensuring to remove any details that could make the witness identifiable
- explain to the witness that DDAT may have to share their name if there are legal proceedings

7. The right to be accompanied

7.1. Whilst there is no statutory right for an employee to be accompanied at an investigation meeting, this is good practice and DDAT allows employees to be accompanied. However, employees do have a statutory right to bring a companion to any disciplinary or appeal hearing. In both cases, the companion may be either a Trade Union representative or a work colleague.

7.2. The Trust may, at its absolute discretion, allow the employee to bring a companion who is not a Trade Union representative or work colleague (for example a family member) as a reasonable adjustment if the employee has a disability. This can be in addition to a Trade Union representative or work colleague.

7.3. The employee must inform the person conducting the investigation meeting or hearing of the name and status of their chosen companion, in good time before it is scheduled to take place.

7.4. Acting as a companion is voluntary and no individual is obliged to act as a companion if they do not wish to do so. If they agree to act as a companion, they will be allowed reasonable time off from their duties without loss of pay.

7.5. Should the employee choose to bring a companion to an investigation meeting or hearing, they will be responsible for making these arrangements and for providing

their companion with any relevant paperwork required for this, unless the employee has given express permission for this to be shared with their companion.

7.6. The Trust may ask for the employee to choose a different companion where:

- the employee's companion, in the Trust's opinion, may have a conflict of interest or may prejudice the investigation meeting or hearing; or
- the companion is unavailable at the time an investigation meeting or hearing is scheduled and will not be available for more than five working days afterwards.

7.7. A companion may make representations to the Trust, 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 an investigation meeting or hearing.

9. Trade Union Officials

9.1. Although normal disciplinary standards will apply to their conduct and performance as employees, no disciplinary action or suspension will be taken until the circumstances of the case have been discussed with an appropriate full-time official. In the case of suspension, this may not be practical and should not prevent the Trust taking action.

10. Suspension

10.1. In certain circumstances, such as, for example, where the allegations relate to serious misconduct, safeguarding issues, or where the employee's continued presence may result in potential harm to the school/Trust or others, or may prejudice an investigation and make it difficult to investigate, consideration may be given to suspending an employee from their place of work at the outset of the investigation or at any stage during the course of the investigation. When considering suspension, advice will be sought from the DDAT Central HR Team.

10.2. Where allegations are made that involve the protection of children, suspension will not be considered to be automatic. All options to avoid suspension should be considered prior to taking that step and a reasoned decision will be made based on all available information in consultation with the Local Authority Designated Officer (LADO), as well as the police and local authority children's social care where they have been involved.

10.3. The decision to suspend may only be taken by those with delegated powers from the Trust Board. Suspension should be undertaken by a director of the Trust or a suitably appointed person by a director. The CEO or Chair of Trustees have the power to make the decision to suspend an Executive Headteacher/Headteacher and must notify the full Trust Board or Chair of Trustees. Where the CEO is suspended, the Chair of Trustees only has the power to do so and must notify the full Trust Board. In other cases, the Trust Board should be informed through the CEO/Chair of Trustees.

10.4. Wherever possible, the decision to suspend an employee should be communicated to them at the School/Trust premises in-person.

10.5. The following alternatives to suspension will be explored and considered before a decision to suspend an employee is made:

- redeployment within the school so that the individual does not have direct contact with the pupil(s) concerned
- providing an assistant to be present when the individual has contact with pupils
- redeploying to alternative work in the school so that the individual does not have unsupervised access to children
- moving the pupil(s) to a different class where they will not come into contact with the employee. This decision should only be made if it is in the best interests of the pupil(s) concerned and takes account of their views. It should be made clear that this is not a punishment and parents have been consulted, or
- temporarily redeploying the member of staff to another role in a different location, for example to an alternative school or where available, work for the local authority or academy trust.

If, after considering all alternatives, suspension is necessary, the rationale and justification for such a course of action should be documented, including what alternatives to suspension have been considered and why they were rejected. A Suspension Risk Assessment Template should be completed, and this can be found under Appendix 4. This form can be used as evidence should the matter be challenged. A Suspension Risk Assessment may be completed any number of times in an investigation as new information comes to light that impacts the risk assessment.

The Trust should be as inventive as possible when considering alternative options to suspension. The nature and severity of the allegation(s) will need to be considered as well as the employee's role, wellbeing, and potential impact on their mental health.

10.6. While the employee is suspended, they will be required to abstain from their normal duties and they should not, without the express permission of the Trust or the Executive Headteacher / Headteacher / CEO, visit any DDAT premises or contact any of its pupils, parents, LTC members, Chair of Trustees, contractors, directors, members or colleagues, unless the employee has been authorised to do so by the Executive Headteacher / Headteacher or CEO. At the point of suspension, the employee will be provided with details of a contact officer during the period of suspension, with whom to correspond.

10.7. Suspension of this kind is a neutral act and is not a disciplinary penalty and does not imply that any decision has already been made about the allegation(s).

10.8. The employee will continue to receive their normal salary and benefits during the period of suspension.

10.9. The suspension will be for no longer than is necessary and every effort will be made to avoid lengthy periods of suspension. The decision to suspend and the reason(s), and the specific arrangements and conditions of suspension will be confirmed by the Trust, in writing, to the employee within one working day. The suspension will be reviewed periodically by the Trust, and the employee will be updated as and when necessary. As information is gathered, it may become appropriate to lift the suspension during the course of the investigation or prior to any disciplinary hearing.

10.10. The School/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.

10.11. It is recognised that suspension may impact on an employee's mental wellbeing. Employees will be provided with an appropriate named contact within the School/Trust who will provide welfare support during the period of suspension. The method and frequency of keeping in touch will be agreed with the employee, and the employee will be kept updated on the progress of the investigation and disciplinary process they are subject to. Employees will also be made aware of the support available (see clause 1.8 for more details).

11. Criminal Charges

11.1. Where the employee's conduct is the subject of a criminal investigation, arrest, charge or conviction, the Trust will investigate the facts before deciding whether to take formal disciplinary action. Disciplinary action will not be automatic and will depend upon the circumstances. Employees should inform their Executive Headteacher/Headteacher/CEO 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.

11.2. The Trust will not usually wait for the outcome of any prosecution before deciding what action, if any, to take. Where the employee is unable or has been advised not to attend a disciplinary hearing, or say anything about a pending criminal matter, the Trust may have to take a decision based on the available evidence.

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

11.4. Where a criminal investigation relates to allegations of abuse of children or young people, the School/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).

12. Investigations

12.1. **Preliminary investigation - Informal fact-find**

Upon receiving any allegations against employees, an initial informal fact-finding exercise should be undertaken by the Executive Headteacher / Headteacher / CEO / Line Manager to establish the basic facts of the situation and what the next course of action should be, unless the matter is considered so serious or there is already significant evidence available in which case an informal fact-find may not be required and the Trust may progress straight to a formal investigation. A fact-find may involve speaking to the employee(s) who is/are subject to the allegation(s) and any relevant witnesses, and/or reviewing any relevant documents, records or systems, CCTV, or other information. A Fact-find Recording Form template should be used for a written record, and this can be found under Appendix 2.

As this is an informal part of the process, there is no right of accompaniment and no prior notice requirement for a fact-finding meeting.

The purpose of an informal fact-find is for the Trust to establish a fair and balanced view of the facts relating to any allegations made against an employee, and to enable the fact-finder to determine whether further investigation is required. An informal fact-find can sometimes give a reasonable explanation in response to allegations, which may then enable the matter to be concluded. However, where further investigation is considered necessary, the matter must be discussed with the DDAT Central HR Team who will advise whether it is appropriate to proceed to a formal disciplinary investigation.

Following an informal fact-finding exercise, it may be determined that informal management intervention may be the appropriate action. In this situation, advice should be sought from the DDAT Central HR Team on whether this outcome is appropriate in the circumstances and, if so, they will provide the fact-finder with an informal management intervention letter that they will need to complete and issue to the employee.

Such action is not considered to be formal action within the terms of this Disciplinary Procedure; however, the letter will be kept on the employee's personnel file and progress will be reviewed. This may be referred to as part of any future disciplinary proceedings, where appropriate. Any employees aggrieved by this process will have the right to implement the DDAT Grievance Procedure.

12.2. **Further investigation - Formal Disciplinary Investigation**

After a preliminary investigation (informal fact-find) where it is determined that there is a need for formal disciplinary investigation, the Trust will appoint an independent Investigating Officer, who has no prior knowledge and involvement in the matter, to carry out the investigation. The Investigating Officer will be an appropriate person to the nature of the allegations and the role of the employee.

The Investigating Officer's role will be to conduct a thorough and reasonable investigation and consider and recommend if there is a potential case to answer at a disciplinary hearing.

Following a formal disciplinary investigation, it may be determined that informal management intervention may be the appropriate action. In this situation, advice must be sought from the DDAT Central HR Team on whether this outcome is appropriate in the circumstances and, if so, they will provide the Investigating Officer with an informal management intervention letter that they will need to complete and issue to the employee.

Should the Investigating Officer conclude that there is potentially a case to answer, the Investigating Officer will be required to attend the disciplinary hearing to present their findings and answer any questions. They may also be called as a witness at an appeal hearing. For the avoidance of doubt, an Investigating Officer will not recommend a sanction or have no decision-making role in the disciplinary hearing process and will not be appointed to a disciplinary or appeal panel relating to the allegations.

Any employee required to attend an investigation meeting will be given at least five working days' written notice of the date, time and location this is scheduled to take place.

The employee must co-operate fully and promptly in any investigation. This will

include informing the Investigating Officer of the names of any relevant witnesses, disclosing any relevant documents to the Investigating Officer and attending investigation meetings if required. Failure to comply may lead to disciplinary action.

It is incumbent on the employee, during the investigation stage, to raise details of additional witnesses whom the Investigating Officer should interview during the investigation.

Minutes should be taken of all investigation meetings, and these should be shared with all attending parties following the meeting for them to review, sign and date.

13. Agreed outcome

13.1. An agreed outcome makes provision for the Trust to issue a sanction up to and including a first written warning (please see clause 15) prior to or after completing an investigation if the employee acknowledges and accepts the allegation regarding their conduct or breach of policy/procedure. If the employee agrees with this sanction, which for the avoidance of doubt includes any associated recommendations which may have been identified, then there is no requirement to proceed to a formal investigation or disciplinary hearing, and the appropriate sanction will be issued.

13.2. If the employee does not accept an agreed outcome, the case will be referred to a formal investigation and/or a formal disciplinary hearing.

13.3. Employees are recommended to contact their Trade Union for advice and support.

14. Disciplinary Hearing

14.1. Following any investigation, if the Investigating Officer considers there are grounds for disciplinary action, the employee will be required to attend a disciplinary hearing hosted by an independent disciplinary panel of at least two, however the Trust will aim to hold panels of three. The panel will be made up of individuals of appropriate status and seniority who have had no prior knowledge and involvement in the matter.

14.2. The Trust will inform the employee of the allegations against them, the basis for those allegations and what the likely consequences will be if it is decided after a disciplinary hearing that the allegations are upheld. The Trust will also include the following where appropriate:

- An investigation report, including a summary of relevant information gathered during the investigation;
- A copy of any relevant documents which will be used at the disciplinary hearing;
- Confirmation of whether any witnesses will attend 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 the Trust will provide as much information as possible whilst maintaining confidentiality.

14.3. The disciplinary hearing will be held as soon as reasonably practicable, and the Trust will give the employee at least five working days' written notice of the date, time and place of the disciplinary hearing.

14.4. If the employee and/or their companion cannot attend the hearing, the employee

should inform the Trust immediately and it will arrange an alternative time. If the companion is not able to attend the scheduled hearing and will not be available for more than five working days afterwards, the Trust may ask the employee to choose someone else. The employee must make every effort to attend the hearing and failure to attend without good reason may be treated as misconduct in itself. If the employee fails to attend without good reason or is persistently unable to do so (for example, for health reasons), the Trust may have to take a decision based on the available evidence.

14.5. 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.

14.6. Minutes should be taken of the disciplinary hearing, and should the employee wish to receive a copy of the meeting notes, then they will need to email the DDAT Central HR Team to request these (hr@ddat.org.uk).

14.7. At the beginning of the hearing, the disciplinary panel will introduce those present and the purpose of the meeting. The Investigating Officer will also normally attend to present the investigation. A member of the DDAT Central HR Team, and where possible has not previously been involved in the case, will also be present to provide HR support only, and not as a panel member. The employee will be reminded of their right to be accompanied, if the employee has not chosen to be accompanied by a Trade Union representative or a work colleague.

14.8. The Investigating Officer will read aloud the investigation report in full. Alternatively, as all meeting attendees will have received a copy of the report prior to the hearing, the panel may agree for the Investigating Officer to only talk through the allegation(s) against the employee and their conclusion and recommendations. Where the latter applies, all meeting attendees will be asked whether there are any other parts of the report they wish for the Investigating Officer to read out specifically. The format for a disciplinary hearing can be found at Appendix 3 and this must be followed.

14.9. 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 and state the rationale for why they are requesting the witness to attend. If it is not deemed appropriate for the witness to attend as they would not have anything new to add to the information already provided, the Chair of the panel may decline the request. The employee will be given the opportunity to respond to any information provided by a witness and ask questions about the evidence they give. However, the employee will not normally be permitted to cross-examine witnesses unless, in exceptional circumstances, the Chair of the panel decides that a fair hearing could not be held otherwise.

14.10. The Chair may adjourn the disciplinary hearing if there is a need to carry out any further investigations such as re-interviewing witnesses in 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.

14.11. The employee will be given a full opportunity to ask questions and put forward any mitigating factors which they believe are relevant to the allegations.

14.12. The employee and their companion may confer privately at any time during the

hearing.

14.13. Once the employee has been afforded an opportunity to explain their position, the Investigating Officer and employee/their companion will then be asked to withdraw from the disciplinary hearing whilst the hearing panel considers all available evidence and makes a decision. No decision on disciplinary action will be taken until after the disciplinary hearing has been held.

14.14. The employee will be informed, in writing, of the decision and the reasons for it, usually within five working days of the disciplinary hearing. Where possible, and is agreed, this information will also be explained to the employee in person.

15. Levels of Disciplinary Action

15.1. There are four stages, each of which is designed to cover the varying seriousness of the cases. The stages give a proper sequence for persistent cases. Where the case is of sufficient importance or seriousness to use the procedure, disciplinary action will be taken at whatever stage appears appropriate to the circumstances.

15.2. The Trust aims to treat all employees fairly and consistently and a penalty imposed on another employee for similar misconduct will usually be taken into account but should not be treated as a precedent. Each case will be assessed on its own merits. No penalty should be imposed without a hearing.

15.3. No employee will be dismissed for a first breach of discipline except in the case of gross misconduct when the penalty may be dismissal without notice and without pay in lieu of notice.

15.4. Written warnings will set out the nature of the misconduct, the change in behaviour required, the period for which the warning will remain active, the likely consequences of further misconduct during that active period, and the right to appeal.

15.5. The following decisions will be confirmed in writing and usually within five working days of the disciplinary hearing:

- **No action.**
  This may be decided where the panel finds that there is no case to answer, therefore exonerates the employee from the allegations.

- **Informal Management Intervention.**

- **Sanction 1 - A first written warning.**
  This will usually be appropriate for a first act of misconduct where there are no other active written warnings on the employee's disciplinary record. A first written warning will usually remain active on the employee's personnel file for 12 months.

- **Sanction 2 - A final written warning.** This will usually be appropriate for:
  - Misconduct where there is already an active written warning on the employee's disciplinary record that is either related and insufficient improvement has been made, or where further misconduct has occurred;
  - Misconduct that is considered sufficiently serious to warrant a final written warning even though there are no other active warnings on

the employee's disciplinary record; or
- Gross misconduct which may not warrant dismissal, for example due to mitigating circumstances.

A final written warning will usually remain active on the employee's personnel file for 12 months and, in very serious cases at the discretion of the Trust, longer than 12 months but no more than 24 months.

- **Sanction 3 - Dismissal.** This will usually only be appropriate for:
  - Any misconduct during the employee's probation period;
  - Further misconduct where there is already an active final written warning on the employee's disciplinary record; or
  - Where the case is so serious as to constitute gross misconduct, or where there is some other substantial reason, regardless of whether there are any active warnings on the employee's disciplinary record.

For cases of misconduct, dismissal will be with notice in accordance with the terms of the employee's contract of employment. Where appropriate, the employee may be offered pay in lieu of notice or may not be required to attend work during their notice period.

For cases of gross misconduct, the dismissal may be immediate (summary dismissal) and there will be no entitlement to notice, or payment in lieu of notice.

16. Alternatives to dismissal

In some cases, the Trust may, at its discretion, consider alternatives to dismissal. These will usually be accompanied by a final written warning. Examples include:

- demotion;
- transfer to another school, department or role;
- loss of seniority;
- reduction in pay;
- loss of future pay increment.

These sanctions can only be applied with the employee's agreement and, if offered and refused, the dismissal will stand.

17. The Outcome Letter

17.1. Following the disciplinary hearing, a letter detailing the decision and, if appropriate, the level of sanction issued will be given to the employee as soon as possible after the disciplinary hearing has concluded (usually within five working days of the disciplinary hearing) and a copy will be placed on their personnel file.

17.2. The outcome letter will state:

- The decision (i.e. that there is no case to answer, or the findings and the appropriate level of disciplinary action).
- The reason(s) for the decision.
- The course of action to be followed by the employee.
- The timescale in which improvement is required, if applicable.

- Where assistance is required, the type of assistance which will be made available to the employee (such as training and guidance).
- The length of time the warning remains active.
- That further disciplinary action will be considered if there is further misconduct or insufficient improvement during the period in which the warning remains active, such as an extension to the current active warning period.
- The right of appeal against the decision and how to exercise that right.
- **If a final written warning is issued,** it will also state that if the employee's conduct continues to be unsatisfactory, or if there is further misconduct, then it may lead to dismissal.

18. Time Limit for Warnings

18.1. All formal written warnings will usually remain active for a period of 12 months. However, the disciplinary hearing panel members may consider that a warning remains active for a longer period than as specified under clause 15.5, depending on the seriousness of the misconduct and the wider circumstances of the case, or that an active warning period is reduced at the discretion of the Trust.

18.2. The employee's conduct will be reviewed at the end of the active warning period and, if the school/Trust considers that it has not improved sufficiently, the active period may be extended.

18.3. After the active period, details of spent warnings will remain permanently on the employee's personnel file but will be disregarded in deciding the outcome of future disciplinary proceedings, except in exceptional circumstances, such as where an employee demonstrates patterns of behaviour which give rise for concern.

18.4. Whilst live, any formal sanction would be referred to in any employment reference.

18.5. A spent disciplinary warning shall not be referred to on any reference provided by the Trust to a prospective employer. If enquiries are made about any spent warnings by a prospective employer, the Trust shall decline to provide such information.

19. Right of Appeal

19.1. All employees have the right of appeal.

19.2. Employees should submit any appeals, in writing, to the DDAT Central HR Team at hr@ddat.org.uk within five working days of the date of the outcome letter confirming the decision, stating their full grounds of appeal.

19.3. 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, the employee will be reinstated with no loss of continuity of pay or service.

19.4. The School/Trust will arrange an appeal hearing without unreasonable delay, giving employees at least five working days' written notice of the date, time and location this is scheduled to take place. If an employee requests for this meeting to take place sooner, the notice can be waived and, in this situation, it is good practice to confirm this in writing. For example, in an email.

19.5. The employee may be accompanied at the appeal hearing by either a work colleague or Trade Union representative.

19.6. The appeal hearing may be a complete re-hearing of the matter (which would follow the format for hearings at Appendix 3), or it may be a review of the fairness of the original decision in 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). This will be at the Trust's discretion depending on the circumstances of the case. In any event, the appeal will be handled impartially.

19.7. The appeal hearing will be conducted impartially and, where possible, the panel shall be chaired by a more senior person who has not been previously involved in the case.

19.8. If the employee raises any new matters in their appeal, or during the appeal hearing, the appeal panel may adjourn the appeal hearing to carry out any further investigations that may be needed, such as reinterviewing witnesses in light of any new points that have been raised. If new information is obtained, the Chair of the appeal panel will provide the employee with a summary including, where appropriate, copies of additional relevant documents and witness statements. The employee will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened and a decision is given.

19.9. The appeal panel may:

- confirm the original decision;
- revoke the original decision; or
- substitute a different sanction. Ordinarily, a different sanction would not be a more severe sanction than was originally applied, unless there is new information or evidence available that requires further investigation.

19.10. The Chair of the appeal panel will inform the employee, in writing, of the final decision and the reasons for it as soon as possible after the appeal hearing has concluded and usually within five working days of the appeal hearing. Written confirmation of the decision will be stored on the employee's SAMPeople record.

19.11. The decision of the appeal panel is final and there will be no further right of appeal.

19.12. A written record of the appeal hearing should be kept, and the employee will be advised that, should they wish to receive a copy of the meeting notes, then they will need to email the DDAT Central HR Team to request these (hr@ddat.org.uk).

20. Referrals to external bodies

20.1. 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.

Appendix 1 - Disciplinary Rules

Policy Statement

These Disciplinary Rules should be read in conjunction with DDAT's Disciplinary Procedure and the DDAT Code of Conduct for Staff. 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 line managers can work with staff to maintain those standards and encourage improvement where necessary.

It is our policy to ensure that any disciplinary matter is dealt with fairly and in accordance with the DDAT Disciplinary Procedure.

If an 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 the Trust Board.

These rules have been agreed following consultation with all recognised trade unions.

We may amend our Disciplinary Rules at any time following consultation with all recognised trade unions.

1. Rules of conduct

While working for the Trust, you should maintain professional and responsible standards of conduct at all times. In particular, you should:

- observe the terms and conditions of your contract of employment, particularly with regard to:
    - hours of work;
    - safeguarding;
    - teachers' standards;
    - confidentiality;

- ensure that you understand and follow the DDAT Code of Conduct for Staff which is available on the Trust website;

- observe all of the school's/Trust's policies, procedures and regulations which are included in the Staff Handbook or notified to you from time to time by means of notice boards, email, the intranet or otherwise;

- take reasonable care in respect of the health and safety of colleagues, pupils, and third parties, and comply with the DDAT Health and Safety Policy;

- comply with all reasonable instructions given by managers; and

- act at all times in good faith and in the best interests of the school/Trust, pupils, parents/carers, staff and others visiting the site.

Failure to maintain satisfactory standards of conduct may result in action being taken under DDAT's Disciplinary Procedure.

2. Misconduct

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

- Minor breaches of DDAT policies including the Sickness Absence Procedure, IT Security and Acceptable Use Policy, and Health and Safety Policy;
- Minor breaches of your contract of employment;
- Damage to, or unauthorised use of, the school's/Trust's property;
- Poor timekeeping;
- Time wasting;
- Unauthorised absence from work;
- Refusal to follow instructions;
- Excessive use of the school's/Trust's telephones, email, or internet usage for personal reasons;
- Obscene language or other offensive behaviour;
- Negligence in the administration of exams or statutory tests;
- Failure to act in a professional manner with colleagues, pupils, parents, LTC members, members of the public or other third parties;
- Negligence in the performance of your duties; or
- 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.

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

3. Gross misconduct

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

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

- Theft, or unauthorised possession or removal of the school's/Trust's property or the property of a colleague, contractor, pupil, parent, LTC member, or member of the public;
- Fraud, forgery or other dishonesty, including fabrication of records, expense

claims and time sheets; pupil's work, examinations or assessments;

- Actual or threatened violence, or behaviour which provokes violence;
- Bullying;
- Deliberate damage to the school's/Trust's buildings, fittings, property, or equipment of the school/Trust, or the property of a colleague, contractor, pupil, parent, LTC member, or member of the public;
- Inappropriate conduct with children or young people, including failing to maintain appropriate professional boundaries;
- Serious failure to follow the school's/Trust's child protection procedures;
- 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;
- 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's/Trust's property or name;
- Deliberately accessing internet sites at work or at home, using school/Trust equipment, containing pornographic, offensive or obscene material;
- Repeated or serious failure to obey instructions, or any other serious act of insubordination;
- Unlawful discrimination or harassment;
- Bringing the school/Trust into serious disrepute;
- 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, damage to, or misappropriation of safety equipment;
- Unauthorised access, use, or disclosure of confidential information or failure to ensure that confidential information in your possession is kept secure;
- Accepting or offering a bribe or other secret payment;
- Accepting a gift above the value of £50.00 from a parent, supplier, contractor or other third party in connection with your employment without prior consent from your line manager;
- Conviction or caution for a criminal offence that, in the opinion of the school/Trust, may affect its reputation or relationships with staff, pupils, LTC members, parents or members of the public, or otherwise affects your suitability to continue to work

for the school/Trust;

- 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;
- Knowing breach of statutory rules affecting your work;
- Unauthorised use, processing or disclosure of personal data contrary to the DDAT Data Protection Policy;
- Harassment or bullying of, or discrimination against, employees, contractors, pupils, parents, LTC members or members of the public, related to any of the protected characteristics (gender, sexual orientation, marital or civil partner status, gender reassignment, race, colour, nationality, ethnic or national origin, disability, religion or belief or age);
- Acts of sexual harassment.
- Intentionally failing to escalate a concern regarding an incident of sexual harassment at work.
- 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;
- Giving false information as to qualifications or entitlement to work (including immigration status) in order to gain employment or other benefits;
- Knowingly taking parental, paternity or adoption leave when not eligible to do so or for a purpose other than supporting a child;
- Abuse of a service user;
- Making a disclosure of false or misleading information under the DDAT Whistleblowing Policy maliciously, for personal gain, or otherwise in bad faith;
- Making untrue or malicious allegations in bad faith against a colleague;
- Victimising a colleague who has raised concerns, made a complaint or given evidence or information under DDAT's Whistleblowing Policy, Gifts and Hospitality Policy, Anti-Harassment and Bullying Policy, Preventing Sexual Harassment at Work Policy, Grievance Procedure, Disciplinary Procedure or otherwise;
- Serious misuse of the school's/Trust's information technology systems (including misuse of developed or licensed software, use of unauthorised software and misuse of email and the internet) contrary to DDAT's IT Security and Acceptable Use Policy;
- Undertaking unauthorised paid or unpaid employment during your working hours;
- Making covert recordings of colleagues or managers.
- In respect of employees whose posts are subject to Criminal Records Checks or other clearances, failure to notify line management of any activity likely to result in subsequent criminal investigation, conviction or police caution being served;
- Failure to meet the registration requirements of a statutory body;

- Serious maladministration of exams or statutory tests;
- Abuse of your position to obtain a personal advantage or benefit, or an advantage or benefit for someone else;
- Unauthorised entry into an area of the premises to which access is prohibited;
- Failure to meet safeguarding responsibilities.

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

In some instances, acts 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 - Fact-find Recording Form

Fact-find Recording Form

A fact-finding exercise should be completed promptly upon receipt of a complaint/allegation against an employee, in order to establish the facts of the matter. This is not a formal investigation, rather an informal process that can be used to help determine what next steps need to be taken.

This form is to be completed by an appropriate senior colleague who has had no prior involvement.

Please submit completed forms to the DDAT Central HR Team via hr@ddat.org.uk, and upload a copy to the employee's SAMPeople record.

The allegation(s):

List the specific allegation(s) raised and who these are against

Establish the facts of the incident, including:

1. What happened?
2. When did it happen? (date(s)/time(s))

3. Where did it happen?
4. Who was involved?
5. Were there any witnesses, if yes, who?

Witness Statement summary:

A brief description of accounts from witnesses. A witness fact-find statement template is at the end of this document (Appendix A); this should be completed for each witness and kept with this recording form.

Do the statements confirm the allegation(s) or not?

Sources of evidence used during the fact-find:

A brief description of the physical evidence used to establish the facts, and what this shows. This could include (but is not limited to) emails, logs (e.g. MyConcern, CPOMS), paperwork, computer/phone records, registers, CCTV recordings, systems.

Policies, procedures and/or professional standards of conduct:

List the policies, procedures, and/or professional standards of conduct that may have been breached.

Decision (please tick as appropriate):

No action ☐

If it is established there is insufficient evidence to justify progressing to a formal investigation, or there are no grounds for any discussion or action to be taken.

Reason:

If an outcome of the fact-find is 'no action', a copy of this form will be held on the employee's SAMPeople record. This should not be referred to for any future issues, unless there are safeguarding concerns raised.

Informal action ☐

The matter has been upheld but can be dealt with through informal action such as informal management intervention or providing additional training and support.

Reason and action taken:

Recommendation(s) (please tick as appropriate):

Policy or process change ☐

Lessons learned process ☐

Specify the recommendation(s):

Formal action:

Recommendation to proceed to a formal investigation ☐

Reason:

Name:	
Job title:	
Signature:	
Date:	

APPENDIX A

Witness fact-find statement

Record the questions asked and responses below.

Use open questions to ascertain what occurred, such as ‘what’, ‘when’, ‘where’, ‘who’. Avoid ‘why’ as it is blaming and be careful of ‘how’. Avoid closed-style questions that require a simple ‘yes’ or ‘no’ answer and avoid asking leading or multiple questions at the same time.

For example, ‘Can you talk me through your account of what happened on…’, ‘Who else witnessed the incident on…’ ‘Explain to me…’, ‘Describe to me…’, ‘Tell me more about…’ are all good types of questioning.

Name of witness	
Witness signature	
Date and time of informal fact-find meeting	
Name of fact-finder	
1. **Question:**	
Answer:	
2. **Question:**	
Answer:	
3. **Question:**	
Answer:	
4. **Question:**	

Answer:
5. Question:
Answer:

Please add additional rows where necessary.

Appendix 3 - Format for a disciplinary hearing

1 Welcome and introductions by Chair of the Hearing Panel:

- Ask everyone present to introduce themselves and explain their role.
- Explain the purpose of the hearing.

2 The Investigating Officer will read aloud the investigation report in full or, alternatively, as all meeting attendees will have received a copy of the report prior to the hearing, the panel may agree for the Investigating Officer to only talk through the allegation(s) against the employee and their conclusion and recommendations. Where the latter applies, all meeting attendees will be asked whether there are any other parts of the report they wish for the Investigating Officer to read out specifically.

3 The employee/their companion will be able to ask questions of the Investigating Officer/any witnesses.

4 The panel will be able to ask questions of the Investigating Officer/any witnesses.

5 The employee/their companion will be able to present their case, including evidence from witnesses and any mitigating factors they feel are relevant.

6 The Investigating Officer will be able to ask questions of the employee.

7 The panel will be able to ask questions of the employee/any witnesses.

It is suggested an adjournment is considered at this point to allow reflection time for the employee/their companion and the Investigating Officer before they are given the opportunity to sum up.

8 The Investigating Officer will be able to sum up at this point, if they wish, before the hearing is adjourned to consider the outcome.

9 The employee/their companion will be able to sum up at this point, if they wish, before the hearing is adjourned to consider the outcome.

10 If the Investigating Officer and employee/their companion have no further questions or comments, or anything else they wish to share before the hearing is concluded then the hearing will be adjourned and the Investigating Officer and employee/their companion will be asked to withdraw from the meeting whilst the hearing panel considers all available evidence and makes a decision.

11 The employee/their companion will be given the option to either wait to receive the outcome in-person or be contacted by phone later on to confirm the decision verbally. This will only be the case where a decision can be made the same day, there may be times where longer consideration is required. The outcome agreed by the panel must be confirmed to the employee by the Chair of the Hearing Panel, at which point the employee must be advised of their right of appeal if disciplinary action/a sanction has been issued.

12 The outcome must also be confirmed, in writing, to the employee by the Chair of the Hearing Panel (template letter provided by DDAT Central HR Team), within the timescale set out in this policy. The letter will advise the employee that, should they wish to receive a copy of the meeting notes, then they will need to email the DDAT Central HR Team to request these (hr@ddat.org.uk).

Appendix 4 - Suspension Risk Assessment Template

Name of employee	
School	

Job Role			
Allegation(s) (give brief description)			
Date of assessment			
Question	**Detail**	**Answer**	**Rationale for decision**
Do you have reasonable grounds to suspend the employee?	6. The employee poses a potential risk of harm to service users/customers (including safeguarding concerns), or a threat to the organisation or employees (including relationship breakdown) or property	Yes/No	
	7. The employee's continued presence at work may make it difficult for the employer to investigate the allegation(s) (for example is there a risk that the employee may destroy evidence or attempt to influence witnesses)	Yes/No	
Are there any reasonable alternatives to suspension?	1. The employee can't be temporarily re-located to another office/location/work from home due to their work or there are no alternative facilities	Yes/No	
	2. The employee cannot be given different duties	Yes/No	
	3. The employee cannot be redeployed within the site (for example so they do not have contact with vulnerable people)	Yes/No	

	4. The employee refuses to agree to such changes and there is no contractual authority to impose the change	Yes/No	

If you have spoken to the employee regarding the allegation(s), are you satisfied that suspension is the only reasonable course of action?	Yes/No	

Where you have answered **YES** to all the above questions, it may be appropriate to suspend based on the circumstances. It may also be appropriate if only some of the answers are **YES** depending on the circumstances. Please send this completed risk assessment to the DDAT Central HR Team at hr@ddat.org.uk

Decision made by:	**Name**		
	Position		
Signature:			
Advised by:	**Name**		
	Position		
Review date:			