



DISCIPLINARY POLICY

Document Control			
Version Number	FINAL_v2.0	Author	Trust HR Director
To Be Approved by	Trust Board	Document Status	For Approval
Meeting Date for approval	25 th May 2022	Date Approved	25 th May 2022
Effective Date	1 st June 2022.	Date of next review	September 2023 <i>(or earlier if legislation or CES template changes)</i>
THIS POLICY DOES NOT CREATE ANY CONTRACTUAL OBLIGATIONS ON OUR LADY IMMACULATE CATHOLIC ACADEMIES TRUST			

DEFINITIONS

In this Disciplinary Policy and Procedure, unless the context otherwise requires, the following expressions shall have the following meanings:

- i. 'Trust' means the schools and academies who belong to the Our Lady Immaculate Catholic Academies Trust and includes all sites upon which the Trust undertaking is, from time to time, being carried out.
- ii. Our Lady Immaculate Catholic Academies Trust is responsible for the management of the academies/schools and, for all purposes, is the employer of all staff at the academies/schools. The Trust also employs staff working in the Trust Central Team, accountable directly to the Chief Executive.
- iii. 'Trust Board' means the body carrying out the employment functions of the Trust and such includes the Trust Board of Directors.
- iv. 'Directors' means Directors appointed to the Trust Board..
- v. 'Chair' means the Chair of the Board, or the Chair of the Local Academy Committee of the Trust appointed from time to time, as appropriate.
- vi. 'SEL' means the Trust Strategic Executive Lead within whose role contains those duties of the Chief Executive Officer (CEO).
- vi. 'Companion' means a willing work colleague not involved in the substance of the employee's performance issues under review by this Disciplinary Policy and Procedure, or an accredited trade union representative or an official employed by a trade union who will be expected to make themselves available for the periods of time necessary to meet timescales under this Disciplinary Policy and Procedure.
- vii. 'Diocesan Schools Commission' means the education service provided by the diocese, which may also be known, or referred to, as the Diocesan Education Service.
- viii. 'Local Academy Committee Members' (LAC) means the Local Academy Committee members/members appointed and elected to carry out specified functions delegated by the Trust Board in relation to each of the schools/academies, from time to time.
- ix. 'Vice-Chair' means the Vice-Chair of the Trust Board elected from time to time, as appropriate.

THIS POLICY DOES NOT CREATE ANY CONTRACTUAL OBLIGATIONS ON THE TRUST

This policy is based upon a template provided by the Catholic Education Service – September 2020 version

Disciplinary Policy and Procedure – Final_v2.0

Page 2 of 25

- x. 'Misconduct' means any action or inaction which contravenes the provisions of the employee's contract of employment, Trust Code of Conduct, rules laid down by the Trust and/or any Professional Code of Conduct and Practice. In such cases the Disciplinary Policy and Procedure will apply and the Capability Policy and Procedure may also apply.
- xi. 'Working Day' means any day on which the employee would ordinarily work if the employee were a full-time employee. In other words, 'Working Day' will apply differently to teaching and non-teaching staff. However, part-time and full-time staff will not be treated differently for the purposes of implementing this Disciplinary Policy and Procedure.
- xii. 'Timely manner' is defined as a period of time that aims to balance expediency and thoroughness of the process. A 'timely manner', as defined by ACAS¹ means an investigation should be completed as quickly as possible but should always be thorough and fair therefore may take longer due to the complexity of a case (several weeks). If more time than 3 weeks (15 days) is required to complete an investigation and produce the report, this should be communicated to all parties involved and any delay be explained and written in the investigation report

1. SCOPE OF PROCEDURE

- 1.1 This Disciplinary Policy and Procedure applies to the employee if the employee is an employee or worker at the Trust (hereinafter referred to as an "employee" or "you").
- 1.2 The purpose of this policy is to provide a structure to address any issues or concerns that the Trust may have relating to an employee's conduct.
- 1.3 An employee is entitled to have access by arrangement to their personnel file and to request the deletion of time expired records in line with the provisions of the General Data Protection Regulation (GDPR) and the Data Protection Act 2018.
- 1.4 There may be some occasions where an employee's lack of capability could also be described as lack of competence. This Disciplinary Policy and Procedure and the Trust's Capability Policy and Procedure may be used concurrently whilst the Trust endeavours to ascertain if the employee's lack of capability is due to Misconduct (e.g., where the employee is capable of reaching the required standard but has taken active steps not to do so), or lack of competence.
- 1.5 There may be occasions where an employee's conduct could relate to their health. This Disciplinary Policy and Procedure may be used concurrently with the Trust's Sickness Absence Policy and Procedure. In particular, if an employee is absent from work on sick leave following this Disciplinary Policy and Procedure being invoked, the Trust may use its Sickness Absence Policy and Procedure if it is appropriate in the specific circumstances. The process of managing unsatisfactory behaviour using this Disciplinary Policy and Procedure will not necessarily cease where the employee is absent on the ground of illness.

¹ ACAS – Advisory, Conciliation and Arbitration Service

- 1.6 Subject to Paragraph 1.5 (a) and (b) of the Trust's Grievance Resolution Policy and Procedure, there may be occasions when an employee brings a grievance pursuant to the Trust's Grievance Resolution Policy and Procedure in connection with actions taken under this Disciplinary Policy and Procedure. This shall not lead to any automatic delay or pause in the conduct of any matters under this Disciplinary Policy and Procedure. In such circumstances, the employee, the Headteacher, (or in the case where the disciplinary matter relates to the Headteacher, the SEL) and the Trust HR Director (HRD) will meet to discuss whether or not the Disciplinary Policy and Procedure should be suspended whilst the grievance is dealt with. The final decision as to whether or not to suspend the Disciplinary Policy and Procedure in such circumstances will be taken by the Headteacher or the SEL (as appropriate) and their decision shall be final.
- 1.7 There may be occasions, where this procedure needs to be modified, for example to comply with the Trust's Child Protection and Safeguarding Policies, for example, by allowing the Local Authority Designated Officer (LADO) to offer advice to Directors and/or Local Academy Committee Members at appropriate stages or where an employee has a disability which means that reasonable adjustments need to be made to this procedure. Where the Trust's Child Protection and Safeguarding Policies are invoked, this Disciplinary Policy and Procedure may be suspended until such time as the Trust determines, in its sole discretion, that it is appropriate to resume it.
- 1.8 The Trust is committed to ensuring respect, objectivity, belief in the dignity of the individual, consistency of treatment and fairness in the operation of this policy. This commitment extends to promoting equality of opportunity and eliminating unlawful discrimination throughout the Trust community including all of its schools.
- 1.9 This Disciplinary policy and procedure offers opportunities to ensure justice for teachers, support staff and pupils alike and has the potential for the expression of Christian qualities such as honesty, self-knowledge, respect for others and their gifts, recognition of the needs and achievements of others, challenge of self and others, personal growth and openness.
- 1.10 The Trust's Appraisal Policies and Capability Policy and Procedure do not form part of this Disciplinary Policy and Procedure but relevant information from the appraisal and/or capability process, including appraisal reports, may be taken into account in relation to the operation of this Disciplinary Policy and Procedure.
- 1.11 The management of disciplinary issues and relevant investigations will be treated in confidence as far as possible by all parties involved at all stages of this Disciplinary Policy and Procedure.
- 1.12 The Trust will maintain records of all interviews and reviews which take place under this Disciplinary Policy and Procedure for a period of up to 12 months or longer where necessary and where there is an applicable lawful basis under the GDPR for extending the retention period. All data and evidence collected is to be shared between all the relevant parties, including the employee, where there is an applicable lawful basis under the provision of the GDPR.
- 1.13 For the purposes of fairness and independence of judgement it is critical that disciplinary panel members (including Trust Board Directors) must not have any prior knowledge of the allegations or process preceding the disciplinary meeting.
- 1.14 The Trust delegates its authority in the manner set out in this policy.

THIS POLICY DOES NOT CREATE ANY CONTRACTUAL OBLIGATIONS ON THE TRUST

This policy is based upon a template provided by the Catholic Education Service – September 2020 version

Disciplinary Policy and Procedure – Final_v2.0

Page 4 of 25

1.15 In all cases, advice from the Trust HR Director must always be sought.

2. ROLES and RESPONSIBILITIES

2.1 Chair of the Trust Board of Directors

- 2.1.1 Protect the integrity of the process the Chair of the Board will not be directly involved either in any investigation or disciplinary panel but will have a general oversight of any disciplinary process.
- 2.1.2 Has specific oversight of disciplinary matters relating specifically to either a Headteacher or a member of Trust Central Senior Leadership Team, liaising with the SEL and HRD, to seek legal guidance on procedure and, the merits and risks of proceeding with cases involving either a Headteacher or Trust SLT; in such cases, the Chair will inform the other Trust Directors with a very brief outline of the case to protect the integrity of the process.
- 2.1.3 Provide morale support both to the SEL and HRD in any serious and/or complex disciplinary cases recognising that such matters can be stressful and demanding.
- 2.1.4 Approve any settlement agreements recommended by the SEL following negotiations completed either by the SEL or HRD

2.2 Trust Board of Directors

- 2.2.1 Responsible for approving key HR policies including the Trust Disciplinary Policy and ensuring all HR disciplinary procedures are implemented and delegated appropriately to the Strategic Executive Lead (SEL) and Headteachers.
- 2.2.2 Delegate authority to the SEL and Headteachers for ensuring disciplinary issues and misconduct are managed effectively, consistently and without delay ensuring they seek advice from Trust HR in all cases.
- 2.2.3 Participate in any disciplinary hearing/appeals as appropriate as defined in Section 6.
- 2.2.4 There may be occasions that an employee or their representative requests, on a without prejudice basis, a 'protected conversation' leading to negotiations regarding a Settlement Agreement. To protect the confidentiality of such discussions neither Disciplinary panel members nor Trust Board Directors will be either informed or involved in these discussions; only the SEL and/or HRD will negotiate on behalf of the Trust seeking Chair's approval of any final agreement.

2.3 Strategic Executive Lead (SEL)

- 2.3.1 Ensure all Headteachers and staff are informed of the Trust Disciplinary Policy and Procedures to monitor conduct and behaviour of all staff across the Trust.
- 2.3.2 Ensure Headteachers and all line managers in the Trust's academies/schools are trained and competent in applying this Policy and Procedures.
- 2.3.3 Inform the Chair of the Board of disciplinary matters that involve either Headteachers and/or members of Trust SLT having due regard to retaining confidentiality and protecting integrity of the process.
- 2.3.4 Seek approval from the Chair of the Board for negotiated Settlement Agreements ensuring compliance to financial regulations and having due regard to justifying such spend of public funds.

THIS POLICY DOES NOT CREATE ANY CONTRACTUAL OBLIGATIONS ON THE TRUST

This policy is based upon a template provided by the Catholic Education Service – September 2020 version

Disciplinary Policy and Procedure – Final_v2.0

Page 5 of 25

2.4 **Headteachers**

- 2.4.1 Responsible for day-to-day leadership and management of all employee conduct and behaviour ensuring all leaders within the academies/schools manage and monitor accordingly.
- 2.4.2 Set standards of behaviour within the academies/schools ensuring adherence to the Trust Code of Conduct and Professional Standards.
- 2.4.3 Address misconduct and unacceptable behaviour without delay acting where appropriate.

2.5 **Trust HR Director (HRD)**

- 2.5.1 Support the Strategic Executive Lead to ensure all staff are informed of the Trust Disciplinary Policy and Procedures and Headteachers are monitoring behaviour and conduct accordingly.
- 2.5.2 Support the Strategic Executive Lead to ensure Headteachers and all line managers in the Trust's academies/schools are trained and competent in applying this Policy and Procedures.
- 2.5.3 Act as the Trust's HR professional expert advising on all aspects of this Policy and Procedure and its application, seeking legal advice where necessary

2.6 **Chair of Local Academy Committee (LAC)**

- 2.6.1 The LAC Chair is only involved as an advisory member of any Disciplinary Panel where there maybe a risk of dismissal.
- 2.6.2 The LAC Chair must maintain an objective distance
- 2.6.3 If the allegation concerns either the Headteacher and/or other members of the academy/school SLT, the LAC Chair will not be involved in any part of the Disciplinary Process to maintain objectivity.

2.7 **Employees**

- 2.7.1 All staff must adhere to the Trust Code of Conduct and Professional Standards as required by their Contract of Employment, Professional Bodies and Trust Policies and Procedures.
- 2.7.2 Inform academy/school senior leaders of any unacceptable behaviour or conduct of colleagues they witness or are subjected to.
- 2.7.3 participate fully in any disciplinary investigation cooperating with the Investigating Manager as necessary ensuring complete confidentiality during the process.

2.8 **Trade Unions**

- 2.8.1 Advise and support any employee who is a member of a Trade Union that is subjected to this Policy
- 2.8.2 Act as a companion if requested by an employee subjected to this Policy, in accordance with the Disciplinary Procedure.
- 2.8.3 Any disciplinary action being considered against an employee that is a Trade Union representative is entitled to be supported and advised by an official of the Trade Union.

THIS POLICY DOES NOT CREATE ANY CONTRACTUAL OBLIGATIONS ON THE TRUST

This policy is based upon a template provided by the Catholic Education Service – September 2020 version

Disciplinary Policy and Procedure – Final_v2.0

Page 6 of 25

3. INFORMAL ADVICE AND GUIDANCE

- 3.1 Sometimes potential disciplinary issues can be resolved informally in the workplace. This involves drawing the employee's attention to the perceived unsatisfactory conduct, discussing the situation, and agreeing an appropriate way forward including any improvement required.
- 3.2 The line manager may give an employee informal advice and guidance at any time about any conduct falling short of the standard expected and, in many cases, the right word at the right time and in the right way may be all that is needed. Where appropriate, support will be provided by the line manager.
- 3.3 Informal advice and guidance may be provided verbally or in writing but will always be noted on an employee's personnel record. Where informal advice and guidance is provided verbally and noted on an employee's personnel record, they will be provided with a copy of the note. The provision of informal advice and guidance may be referred to at a later stage to evidence that an informal approach was attempted and to demonstrate the success or failure of such an approach. Except in exceptional circumstances, records of the provision of informal advice and guidance will not normally be kept on record for longer than 12 months. The provision of informal advice and guidance is not a disciplinary sanction. Employees have the right to have their response to any informal advice and guidance provided, recorded in writing on their personnel records
- 3.4 Failure to comply with informal advice and guidance provided will not, on its own, be used as justification for issuing a higher form of sanction than would otherwise have been imposed under the formal process.
- 3.5 Consideration will be given to any difficulties which an employee may be facing, and the Trust will provide reasonable support and assistance to help the employee to overcome them. Such support and assistance may include, where appropriate, the Trust seeking appropriate medical or other advice regarding the effective management of any disciplinary issues

4. SUSPENSION

- 4.1 In cases where it is appropriate, the Headteacher (or in the case of a decision regarding the suspension of the Headteacher, the Chair of the Trust) may take the decision to suspend an employee for a period of up to ten working days.

4.2 Headteacher suspension

In the very unusual event that there is a requirement to suspend a Headteacher, only the Chair of the Board of Trustees (or delegated to Vice Chair), in the presence of the Trust HRD, can suspend a Headteacher.

If the incident to warrant a suspension is immediate and there is no reason to doubt the suspension due to either the severity of the incident or there is a serious safeguarding risk the SEL will discuss and recommend a suspension to the Chair of the Board. The Chair and Trust HRD will meet with the employee, explain the reason for the immediate suspension and the terms confirming the outcome of the suspension in writing after the suspension meeting.

THIS POLICY DOES NOT CREATE ANY CONTRACTUAL OBLIGATIONS ON THE TRUST

This policy is based upon a template provided by the Catholic Education Service – September 2020 version

Disciplinary Policy and Procedure – Final_v2.0

Page 7 of 25

If there is doubt whether to suspend because the initial investigation is still considering the severity of allegation, then the decision will be discussed between the Chair of Trust Board (or Vice Chair if delegated) SEL and Trust HRD.

4.3 **Suspension for staff other than Headteacher**

Where there is a requirement to suspend a member of staff employed in a school the Headteacher, in the presence of the HRD (where possible) can suspend for a period of up to ten working days.

If the incident to warrant a suspension is immediate and there is no reason to doubt the suspension due to either the severity of the incident or there is a serious safeguarding risk the Head will discuss and recommend a suspension to the SEL and HRD. The Headteacher and Trust HRD will meet with the employee, explain the reason for the immediate suspension and the terms confirming the outcome of the suspension in writing after the suspension meeting.

If there is doubt whether to suspend because the initial investigation is still considering the severity of allegation, then the decision will be discussed with the SEL and Trust HRD.

- 4.4 If the incident warrants an immediate suspension either due to the severity of the incident or there is a serious safeguarding risk the suspension will be issued immediately during the meeting.
- 4.5 In all other cases, the employee will be given the opportunity to attend a suspension meeting to respond to the recommendation to suspend before a decision is taken to suspend. This response is not a response to the disciplinary allegation (s) but a response as to whether suspension is appropriate in the circumstances. The employee may be accompanied by a Companion during the suspension meeting, where practicable.
- 4.6 A record should be kept of the determined purpose for the suspension for a period of up to 12 months and of any alternatives to suspension that were considered.
- 4.7 This period of suspension referred to in Paragraph 4.1 may be extended, subject to review by the SEL (or Chair of the Trust Board in the case of a Headteacher) every 10 working days. The reason(s) for extending the suspension along with the length of the extension will be confirmed in writing as soon as reasonably practicable following the decision to extend being made. Advice must be sought from the Trust HRD who will manage the arrangements for the suspension.
- 4.8 Only the Trust Chair of the Board or SEL may end the suspension.
- 4.9 Notification of suspension should ideally be undertaken in person but may, where circumstances dictate (e.g., Individual detained by the Police) be notified to the employee in writing. If notification of suspension is undertaken in person, it will be confirmed in writing.
- 4.10 ACAS² suggests that suspension may, whilst investigations are carried out, be appropriate where:

² ACAS – *Advisory, Conciliation and Arbitration Service*

- a) Relationships have broken down
- b) Gross Misconduct is alleged
- c) There are reasonable concerns that evidence or witnesses could be prejudiced by the employee's presence during the investigation
- d) There are responsibilities to other parties
- e) It is necessary for the protection of pupils, staff or property and/or
- f) The presence at work of the employee under investigation may be an obstacle to a proper investigation.

4.11 Suspension does not constitute a disciplinary sanction. It is a neutral act intended to ensure an effective investigation can take place. The employee will receive full pay and benefits during a period of suspension (unless the employee is otherwise absent from work due to sickness or other leave and have exhausted the pay entitlements connected to such absence). Periods of suspension will be as brief as possible and will be kept under review. For periods of suspension lasting 20 Working Days or longer, they will be reviewed at least every 20 Working Days

4.12 During a period of suspension, the Trust may require that the employee does **not**:

- (a) attend the school/academy at any time (except with the prior agreement of the Headteacher or SEL);
- (b) communicate in any way with parents, pupils, staff, Directors or any other third party connected to the Trust and/or school/academy except:
 - i. with the prior written agreement of the Headteacher/SEL/Chair of the Trust; or
 - ii. where following the investigation the employee is called to a formal Disciplinary meeting, the employee may then approach parents, pupils, staff, Directors or any third party connected to the school/academy/Trust as potential witnesses, however, this must only be arranged via the Trust HRD to avoid any data breach or breach of confidentiality.
- (c) discuss the fact of the employee's suspension or the fact, or nature, of the allegations against the employee with any member of staff except:
 - i. with the prior written agreement of the Headteacher/SEL/Chair of the Trust;
 - ii. for communication with the employee's Companion where the employee's Companion is a Trade Union representative;
 - iii. where the employee is called to an interview with the Investigating Manager or a Disciplinary Meeting, or a suspension meeting, when the employee may approach a Companion who is a colleague; or
 - iv. where the employee is called to a formal Disciplinary Meeting the employee may approach work colleagues as potential witnesses in support of the employee's case, but this must be arranged via the Trust HRD to avoid any data breach or breach of confidentiality.

THIS POLICY DOES NOT CREATE ANY CONTRACTUAL OBLIGATIONS ON THE TRUST

This policy is based upon a template provided by the Catholic Education Service – September 2020 version

Disciplinary Policy and Procedure – Final_v2.0

Page 9 of 25

- 4.13 During periods of suspension, the Trust will normally suspend the employee's access to the employee's email account and to all Trust networks including any Managed Learning Environments (MLE)/Virtual Learning Environments (VLE).
- 4.14 During periods of suspension, the Trust may take such steps as necessary to cover the employee's workload.
- 4.15 During any period of suspension, the employee's contractual duties to the school/academy and to the Trust (whether express or implied) remain in force and enforceable.
- 4.16 During periods of suspension, the Headteacher, (or where it is a Headteacher who has been suspended, the Chair of the Board) will appoint an appropriate member of staff, (or in the case of the suspension of the Headteacher, the SEL or another Headteacher) to act as a point of contact for the employee. This individual will not be able to discuss the disciplinary issue with the employee but will be responsible for keeping them informed of any relevant workplace developments and maintaining their relationship with the school/academy.

5. SUPPORT FOR ALL PARTIES DURING THE PROCESS

- 5.1 The Trust recognises where an employee is subject to an allegation, this can be extremely stressful and anxiety provoking. However, it can also be very stressful for, those that have either witnessed or brought the allegation to the Trust's attention, the Investigating Manager, the Head and/or line manager leading the process and those participating in the Disciplinary Panel process.
- 5.2 Below is a table detailing where all parties involved can seek advice and/or support depending on their role in the process. Advice means technical advice in relation to the process and best practice; support is provided from a source that is totally independent from the process and can offer pastoral and moral support.

Role	Advice From	Support From
Employee who is subject to an allegation	Own Trade Union Representative	Named colleague not involved in the process
Strategic Executive Lead (leading the process)	Trust HR Director	Chair of the Board of Directors
Headteacher (or line manager) leading the process	Trust HR Director	Strategic Executive Lead and/or Headteacher
Trust HR Director	Employment Solicitor	Strategic Executive Lead
Investigating Manager	Trust HR Director	Strategic Executive Lead or other named Director of the Board
Employee who has raised the concern e.g., whistle-blower	Own Trade Union Representative	Named colleague (<i>agreed with employee</i>) not involved in the process

THIS POLICY DOES NOT CREATE ANY CONTRACTUAL OBLIGATIONS ON THE TRUST

This policy is based upon a template provided by the Catholic Education Service – September 2020 version

Disciplinary Policy and Procedure – Final_v2.0

Page 10 of 25

6. INVESTIGATING, DISCIPLINARY AND APPEAL MANAGERS

6.1 The table below sets out the persons to be appointed throughout the stages of the disciplinary procedure depending on the person who is the subject of the disciplinary proceedings. In all cases, advice from the Trust HR Director must always be sought. It is the responsibility of the Chair of the Trust Board and Trust HR Director to coordinate any Trust Board Panels including Appeals.

Employee Level	Investigating Manager	Disciplinary Panel	Appeal Panel (Re Written Warnings)	Appeal Panel (Re Dismissal)
Strategic Executive Lead	Chair of the Board to appoint either external investigator or a Trust Board Director	<p>Directors' Disciplinary Panel</p> <p>No more than 2 Directors (<i>appointed by the Vice-Chair of Trust Board</i>)</p> <p>(Trust HR Director to be in attendance)</p>	<p>Trust Board Appeal Panel</p> <p>No more than 3 different Board Directors (<i>appointed by Vice Chair of the Trust Board</i>)</p> <p>(Trust HRD to be in attendance)</p>	<p>Trust Board Appeal Panel</p> <p>No more than 3 different Board Directors (<i>appointed by Chair of the Trust Board</i>) including Chair of the Trust Board (Trust HRD to be in attendance)</p>
Headteachers or a Senior member of Trust Leadership Team (SLT) (e.g., FD, Company Secretary, School Improvement)	Member of Trust SLT nominated by SEL or external investigator	<p>Directors' Disciplinary Panel</p> <p>SEL and no more than 2 Directors (<i>appointed by the Vice Chair of Trust Board</i>)</p> <p>(Trust HRD to be in attendance)</p>	<p>Trust Board Appeal Panel</p> <p>No more than 3 different Board Directors (<i>appointed by Vice Chair of the Trust Board</i>)</p> <p>(SEL and Trust HRD to be in attendance)</p>	<p>Trust Board Appeal Panel</p> <p>No more than 3 different Board Directors (<i>appointed by Chair of the Trust Board</i>) including Chair of the Trust Board</p> <p>(SEL & Trust HRD to be in attendance)</p>
Other Trust wide appointments (not member of Trust SLT)	Member of Trust SLT nominated by SEL (or immediate line manager)	<p>SEL, another member of Trust SLT and Trust HRD</p>	<p>Trust Board Appeal Panel</p> <p>No more than 2 Directors (<i>appointed by Vice Chair of the Trust Board</i>)</p> <p>(SEL and Trust HRD to be in attendance)</p>	<p>Trust Board Appeal Panel</p> <p>No more than 3 Board Directors (<i>appointed by Chair of the Trust Board</i>) including Chair of the Trust Board</p> <p>(SEL & Trust HRD to be in attendance)</p>

THIS POLICY DOES NOT CREATE ANY CONTRACTUAL OBLIGATIONS ON THE TRUST

This policy is based upon a template provided by the Catholic Education Service – September 2020 version

Disciplinary Policy and Procedure – Final_v2.0

Page 11 of 25

Employee Level	Investigating Manager	Disciplinary Panel	Appeal Panel (Re Written Warnings)	Appeal Panel (Re Dismissal)
Other Leadership Post holders within school/academy	Member of school/academy SLT (<i>other than Headteacher</i>) nominated by the Headteacher, or exceptionally another person nominated by the Headteacher *	Head teacher * and Trust HR Director (In cases where there is a risk of dismissal, panel will include Chair of LAC in an advisory capacity)	SEL and 1 Director of the Trust Board (<i>appointed by Vice Chair of the Trust Board</i>) (Head and Trust HRD to be in attendance)	Trust Board Appeal Panel No more than 2 Directors (<i>appointed by Vice Chair of the Trust Board</i>) (SEL, Head and Trust HRD to be in attendance)
Other Teaching Staff	Member of school/academy SLT (<i>other than Headteacher</i>) nominated by the Headteacher, or exceptionally another person nominated by the Headteacher *	Head teacher * and Trust HR Director (In cases where there is a risk of dismissal, panel will include Chair of LAC in an advisory capacity)	SEL and 1 Director of the Trust Board (<i>appointed by Vice Chair of the Trust Board</i>) (Head and Trust HRD to be in attendance)	Trust Board Appeal Panel No more than 2 Directors (<i>appointed by Vice Chair of the Trust Board</i>) (SEL, Head and Trust HRD to be in attendance)
Other Support Staff	Member of school/academy SLT (<i>other than Headteacher</i>) nominated by the Headteacher, or exceptionally another person nominated by the Headteacher *	Head teacher * and Trust HR Director (In cases where there is a risk of dismissal, panel will include Chair of LAC in an advisory capacity)	SEL and 1 Director of the Trust Board (<i>appointed by Vice Chair of the Trust Board</i>) (Head and Trust HRD to be in attendance)	Trust Board Appeal Panel No more than 2 Directors (<i>appointed by Vice Chair of the Trust Board</i>) (SEL, Head and Trust HRD to be in attendance)

*

Where a Headteacher is involved as a witness an alternative Headteacher from within the Trust can be appointed to be either the Investigating Manager or to chair the Disciplinary Panel.

THIS POLICY DOES NOT CREATE ANY CONTRACTUAL OBLIGATIONS ON THE TRUST

This policy is based upon a template provided by the Catholic Education Service – September 2020 version

Disciplinary Policy and Procedure – Final_v2.0

Page 12 of 25

- 6.2 In all cases, if deemed appropriate, another Headteacher, member of the Trust SLT or member of another school's SLT can be nominated to be involved either as an Investigating Manager or to chair a Disciplinary Panel.
- 6.3 In cases relating to any alleged Gross Misconduct that would bring the Trust into disrepute, particularly in relation to its religious character, the SEL may appoint a member of the Trust SLT as Investigating Manager regardless of the level of the employee involved and may also seek guidance from the Diocese.
- 6.4 In the case of disciplinary action involving Other Teaching Staff and Other Support Staff, the Headteacher should lead the Disciplinary Panel. However, if there is a real risk of dismissal of a member of Other Teaching Staff or Other Support Staff, the Chair of the Local Academy Committee (or another LAC member appointed by the LAC Chair) must, where possible, also be in attendance in an advisory capacity. Advice must be sought from both the SEL and Trust HRD in such circumstances.
- 6.5 In all cases, there is the option if necessary to commission an external investigator or request assistance from OLICAT's sister MAT in the Northampton Diocese, St Thomas Catholic Academies Trust, to participate either as Investigating Manager or on the Disciplinary Panel.
- 6.6 For Trust Board Disciplinary Panels and Trust Board Appeal Panels including other individuals not Trust Board Directors, the number of OLICAT Directors must be in the majority.
- 6.7 In law, only the Trust, as the employer of staff, has the power to terminate employment therefore the Trust Board delegates its authority in the manner set out in this policy. In all dismissal cases, advice must be sought from the Trust HR Director.

7. FORMAL PROCESS

7.1 Step 1 - Investigation

7.1.1 The Investigating Manager will investigate the alleged Misconduct in a timely manner;

A 'timely manner', as defined by ACAS³ means an investigation should be completed as quickly as possible but should always be thorough and fair therefore may take longer due to the complexity of a case (several weeks). If more time than 3 weeks (15 days) is required to complete an investigation and produce the report, this should be communicated to all parties involved and any delay be explained and written in the investigation report.

7.1.2 The investigating Manager should not have had any previous involvement in the matter.

7.1.3 The Headteacher (or SEL in the case of a Headteacher) may decide to appoint another person from within the school/academy, and/or the Trust or, an external third party to be the Investigating Manager to undertake the investigation. In such cases, advice must be sought from the Trust HR Director.

7.1.4 The Trust HRD will notify the employee in writing, on behalf of the Investigating Manager, details of the allegations made, and any facts identified so far, identity of the

³ ACAS – Advisory, Conciliation and Arbitration Service

Investigating Manager, the terms of reference for the investigation and provide them with a copy of this Disciplinary Policy and Procedure and the Trust Code of Conduct. The investigation will include a face-to-face interview with the employee apart from in exceptional circumstances. In the event of a face-to-face meeting, the employee will be normally notified at least 5 working days beforehand. The employee may, if they wish, also provide a written statement or response to the Investigating Manager.

7.1.5 The employee is required to co-operate fully with the Investigating Manager to ensure that the investigation can be completed as swiftly and thoroughly as possible and, in any event, within a reasonable timeframe (see paragraph 7.1.1).

7.1.6 At the conclusion of the investigation, the Investigating Manager will produce an Investigation Report setting out, in detail, the allegations made in respect of the employee's conduct, the evidence considered and a recommendation that either:

- (a) A Disciplinary Panel be appointed, and a Disciplinary Meeting be convened in accordance with Step 2 below; or
- (b) A Disciplinary Meeting is required although there is only some evidence to support the allegations of Misconduct, but an outcome of the Disciplinary Meeting may be that informal advice and guidance is issued to the employee in accordance with the provisions of Paragraph 3 of this Disciplinary Policy and Procedure.
- (c) There is no case to answer as there is **NO** evidence to support the allegations of Misconduct to proceed in accordance with Step 2 below and no further action will be taken under this Disciplinary Policy and Procedure.

7.1.7 In all circumstances, the employee will be sent a copy of the Investigation Report as soon as is reasonably practicable following the end of the investigation. As a guide, from the time the Investigating Manager begins their investigation, the Investigation Report will normally be produced within 15 Working Days where the matter is straightforward. For allegations of Gross Misconduct and/or more complex cases, the Investigation Report should aim to be produced within 20 Working Days. In very complex or exceptional circumstances, a reasonable timescale will be determined by the Investigating Manager following advice from Trust HR and will be notified to the employee in writing.

7.2 **Step 2 – Disciplinary Meeting**

7.2.1 If the Investigation Report contains a recommendation that the employee must attend a formal disciplinary meeting (“the Disciplinary Meeting”) with the Disciplinary Panel, the Trust HR Director will write a letter to the employee inviting them to the Disciplinary Meeting. Such letter will normally be sent within 5 Working Days of the employee having received the Investigation Report, but they may be sent together. If dismissal is a possible outcome this will be stated in the letter requesting the employee's attendance at a Disciplinary Meeting. The letter shall also state that any documentation the employee wishes to rely on must be submitted at least 2 Working Days in advance of the Disciplinary Meeting to the Trust HR Director.

7.2.2 The Disciplinary Meeting shall take place at least 5 Working days after the letter is sent to the employee requiring their attendance to the Disciplinary Meeting in accordance

THIS POLICY DOES NOT CREATE ANY CONTRACTUAL OBLIGATIONS ON THE TRUST

This policy is based upon a template provided by the Catholic Education Service – September 2020 version

Disciplinary Policy and Procedure – Final_v2.0

Page 14 of 25

with Paragraph 7.2.1 above. [Appendix A](#) sets out the details of the process to be followed in any Disciplinary Meeting.

7.2.3 In advance of, and at the Disciplinary Meeting, the Disciplinary Panel shall consider:

- (a) Evidence presented in support of the allegations of Misconduct (or Gross Misconduct) against the employee;
- (b) Evidence presented in defence of the allegations of Misconduct (or Gross Misconduct) against the employee; and
- (c) Where Misconduct is admitted, whether in whole or in part, any evidence the employee has in mitigation.

7.2.4 The Disciplinary Panel may adjourn the Disciplinary Meeting (for a period of up to 15 Working Days) to allow for further investigations in the light of the employee's evidence or any other matter that may arise during the meeting and will reconvene the Disciplinary Meeting to give the employee an opportunity to comment on any further evidence produced by further investigations. The employee will be provided with at least 5 Working Days written notice of any reconvened Disciplinary Meeting.

7.2.5 Written or oral evidence can be presented at a Disciplinary Meeting. If written evidence is to be relied upon, the employee will be provided with it prior to the Disciplinary Meeting and the employee will be given an opportunity to comment on it during the Disciplinary Meeting if they attend the meeting. If they do not attend the meeting, they will be given an opportunity to provide written responses to any written evidence presented.

7.2.6 If oral evidence is heard at the Disciplinary Meeting, the employee will be given an opportunity to comment on it either by (a) attending the Disciplinary Meeting or (b) reviewing the notes of that oral evidence after the Disciplinary Meeting (if they were not present at the Disciplinary Meeting when such oral evidence was given). In the event of (b) the employee must provide any response to the notes of the oral evidence within 5 Working Days of being provided with the same.

7.2.7 Once all the evidence has been considered, the Disciplinary Panel will confirm the outcome of the Disciplinary Meeting in writing to the employee within 5 Working Days of the date of the Disciplinary Meeting or any adjourned Meeting, or receipt of their responses to the notes of the oral evidence provided to them in accordance with Paragraph 7.2.6 above (as appropriate) ("the Disciplinary Outcome Letter"). The potential outcomes of a Disciplinary Meeting are as follows:

- (a) the imposition of a formal disciplinary sanction in accordance with Paragraph 8; or
- (b) that, on balance, there is insufficient evidence to substantiate the allegations made against the employee and so the disciplinary proceedings will be terminated, and no further action will be taken under this Disciplinary Policy and Procedure; or
- (c) a formal disciplinary sanction is not required despite some evidence to support the allegations of Misconduct, but informal advice and guidance should be issued to the employee in accordance with the provisions of Paragraph 3 of this Disciplinary Policy and Procedure; or
- (d) there is no case to answer.

THIS POLICY DOES NOT CREATE ANY CONTRACTUAL OBLIGATIONS ON THE TRUST

This policy is based upon a template provided by the Catholic Education Service – September 2020 version

Disciplinary Policy and Procedure – Final_v2.0

Page 15 of 25

7.3 **Step 3 – Appeal**

- 7.3.1 In the event that the employee is dissatisfied with the decision of the Disciplinary Panel as set out in the Disciplinary Outcome Letter, they can appeal against the decision by writing to the Trust HR Director within 10 Working Days of the Disciplinary Outcome Letter.
- 7.3.2 The employee's appeal letter must clearly set out the grounds of their appeal. The employee's appeal may either be a review of any formal disciplinary sanction imposed or a re-hearing of the case; the Appeal Panel will determine whether the employee's appeal is a review, or a re-hearing based on the content of their appeal letter. The decision of the Appeal Panel in this regard will be final. When the employee is preparing their appeal letter, the grounds of appeal to consider are:
- (a) that the action taken was unfair;
 - (b) that this disciplinary policy and procedure was applied defectively or unfairly;
 - (c) that new evidence has come to light which was not available when the relevant decision was made by the Investigating Manager or Disciplinary Panel;
 - (d) that the sanction was overly harsh in all the circumstances.
- 7.3.3 The Appeal Meeting will normally be held within 20 working days of the appeal letter being received by the Trust HR Director. The employee will be given at least 5 Working Days' notice of the Appeal Meeting. [Appendix B](#) sets out the details of the process to be followed in any Appeal Meeting.
- 7.3.4 The Appeal Panel may consider any new evidence produced by the employee which was not available to the Disciplinary Panel.
- 7.3.5 The Appeal Panel may only consider new evidence produced by the Disciplinary Panel if it touches upon the employee's reliability in relation to evidence they have already given or if it rebuts any new evidence produced, or any assertions made, by the employee in their grounds of appeal.
- 7.3.6 Written or oral evidence can be presented at an Appeal Meeting. If written evidence is to be relied upon, the employee will be provided with it prior to the Appeal Meeting, and they will be given a reasonable opportunity to comment on it during the Appeal Meeting if they attend the meeting. If they do not attend the Appeal Meeting, they will be given an opportunity to provide written responses to any written evidence presented
- 7.3.7 If oral evidence is heard, the employee will be given an opportunity to comment on it either by (a) attending the Appeal Meeting or (b) reviewing the notes of that oral evidence after the Appeal Meeting (if they were not present at the Appeal Meeting where such oral evidence was given). In the event of (b) the employee must provide any response to the notes of the oral evidence within 5 Working Days of being provided with the same. The Appeal Panel will consider all of the evidence provided in order to determine whether the relevant decision was fair and reasonable.
- 7.3.8 The Appeal Panel will confirm the outcome of the Appeal Meeting in writing to the employee within 5 Working Days of the date of the Appeal Meeting, or receipt of their responses to the notes of the oral evidence provided to them in accordance with Paragraph 7.3.7 above (as appropriate). The decision of the Appeal Panel is final and

THIS POLICY DOES NOT CREATE ANY CONTRACTUAL OBLIGATIONS ON THE TRUST

This policy is based upon a template provided by the Catholic Education Service – September 2020 version

Disciplinary Policy and Procedure – Final_v2.0

Page 16 of 25

there will be no further right of appeal. The potential outcomes of the Appeal Meeting are:

- (a) the Appeal Panel may uphold the decision of the Disciplinary Panel and any formal disciplinary sanction imposed by the Disciplinary Panel will be upheld; or
- (b) the Appeal Panel may uphold the appeal and overturn the decision of the Disciplinary Panel and any formal sanction imposed by the Disciplinary Panel will be overturned and/or.
- (c) the Appeal Panel may impose a lesser formal disciplinary sanction to that imposed by the Disciplinary Panel.

7.3.9 Should an appeal against dismissal be successful, the employee will be reinstated with no break in their continuous service

8. FORMAL SANCTIONS

The Disciplinary Panel (and Appeal Panel where appropriate) may impose the following sanctions:

8.1 A First Written Warning

8.1.1 A First Written Warning will remain live for **12** months from the date that the Disciplinary Panel's written decision was sent to the employee.

8.1.2 For a first disciplinary offence (ignoring any informal action), a First Written Warning would be the normal response unless the Misconduct is serious as set out in Paragraph 8.2.3 below.

8.1.3 A First Written Warning will set out the nature of the Misconduct and the change in behaviour expected.

8.2 A Final Written Warning

8.2.1 A Final Written Warning will remain live for **24** months from the date that the Disciplinary Panel's written decision was sent to the employee.

8.2.2 A Final Written Warning would normally be given for a second disciplinary offence committed or discovered during the currency of a live First Written Warning (even if that First Written Warning related to a different type of Misconduct, if appropriate in the circumstances).

8.2.3 A Final Written Warning can be given for serious Misconduct regardless of previous disciplinary history if the conduct is sufficiently serious.

8.2.4 A Final Written Warning will set out the nature of the Misconduct and the change in behaviour required (within a reasonable timescale). A Final Written Warning will also confirm the consequences of any further Misconduct.

THIS POLICY DOES NOT CREATE ANY CONTRACTUAL OBLIGATIONS ON THE TRUST

This policy is based upon a template provided by the Catholic Education Service – September 2020 version

Disciplinary Policy and Procedure – Final_v2.0

Page 17 of 25

8.3 **Dismissal on notice**

8.3.1 Dismissal on contractual notice would be given for a disciplinary offence (other than an act of Gross Misconduct) committed or discovered during the currency of a live Final Written Warning (even if the Final Written Warning related to a different type of Misconduct, if appropriate in the circumstances).

8.3.2 For the avoidance of doubt the notice period commences immediately and does not await the outcome of any appeal.

8.3.3 In the event that the employment is terminated in accordance with this Paragraph 8.3:

- (a) If the contract of employment contains a garden leave clause the Trust may exercise that clause so that the employee is not required to attend the school/academy during the notice period but remain employed and so bound by the terms of their contract of employment until the expiry of the notice period; or
- (b) If their contract of employment contains a Payment In Lieu Of Notice clause the Trust may exercise that clause to bring their contract to an end with immediate effect.

8.4 **Dismissal without notice or termination payment**

8.4.1 Dismissal without notice or termination payment (also known as Summary Dismissal) will only occur if the employee has committed an act of Gross Misconduct or otherwise destroyed the trust and confidence required between an employee and their employer, in this case between the employee and the Trust. For the avoidance of doubt, where appropriate, dismissal without notice or termination payment may occur regardless of previous disciplinary history.

8.4.2 For the avoidance of doubt the dismissal would take effect immediately and does not await the outcome of any appeal.

8.4.3 The following is a **non-exhaustive** list of matters which the Trust considers may amount to Gross Misconduct:

- (a) Conduct incompatible with, or prejudicial to, the religious character of the Trust or the precepts or tenets of the Catholic Church
- (b) Conduct that is likely to bring the Trust, school/academy or the Church into disrepute
- (c) Conduct giving rise to any Child Protection issue including, but not limited to, a change in the employee's DBS status during the course of the employee's employment
- (d) Failure to disclose a DBS status/submit to a DBS check where requested to do so by the Headteacher and/or the Trust
- (e) A serious breach of the Trust Code of Conduct or school/academy code of conduct.
- (f) A serious breach of any relevant code of conduct or Professional Standards
- (g) Theft of any property
- (h) Malicious or wilful damage to any property
- (i) Knowingly or recklessly falsifying, or knowingly or recklessly causing falsification of, any documents whether for personal gain or not

THIS POLICY DOES NOT CREATE ANY CONTRACTUAL OBLIGATIONS ON THE TRUST

This policy is based upon a template provided by the Catholic Education Service – September 2020 version

Disciplinary Policy and Procedure – Final_v2.0

Page 18 of 25

- (j) Ordering any goods or services on behalf of the Trust from a supplier in which the employee or a relative have a personal interest (whether financial or not) without declaring that interest and without the permission of the Trust's Board of Directors.
- (k) Dishonesty
- (l) Violence to any person
- (m) Unlawfully restraining a pupil
- (n) Abusive, threatening or offensive language or behaviour to any person
- (o) Discrimination or harassment
- (p) Bullying
- (q) Deliberate refusal to carry out a lawful and safe instruction
- (r) Deliberate refusal to carry out a reasonable management instruction
- (s) Unauthorised absence from work without a reasonable explanation
- (t) Disclosing the contents of any live examination paper or assessment in advance to any pupil or parent
- (u) Concealing any actual or attempted cheating by any pupil or colleague, including participating in or concealing any actual or attempted exam misconduct.
- (v) Attending work or undertaking duties whilst under the influence of alcohol or unlawful drugs
- (w) Misuse of the Trust's ICT (including internet and email access and any social networking policy) to view or distribute obscene, pornographic, defamatory or otherwise unacceptable material
- (x) Supplying personal contact details to a pupil without express authorisation from the Headteacher
- (y) Interacting with a pupil online out of school hours other than through the Managed Learning Environment or similar platforms.
- (z) Making any sexual or romantic contact with any pupil whatever the age of the pupil
- (aa) Breaching the confidentiality or data protection obligations surrounding the Trust, a parent, pupil, colleague or Director/Academy committee Member
- (bb) Covert recording of any meetings without the knowledge or consent of all person's present
- (cc) Serious breach of health and safety procedures
- (dd) Serious negligence (whether or not leading to any actual loss)
- (ee) Criminal activity during the course of employment
- (ff) Making a false malicious or vexatious allegation against the Trust, a parent, pupil, colleague or Director/Academy committee Member
- (gg) Repeated acts of less serious Misconduct which collectively may amount to Gross Misconduct.

8.5 In all cases where the formal sanction involves dismissal, the Disciplinary Panel will recommend to the Trust that the employment is terminated in accordance with the employee's contract of employment (where appropriate) and the Trust will take steps to terminate their employment.

8.6 Voluntary demotion as an alternative to higher formal sanction but only if it meets the needs of the Trust and a suitable vacancy exists.

8.6.1 There may be a situation where the Disciplinary Panel considers that a recent promotion or job change has been a contributory factor in their Misconduct.

THIS POLICY DOES NOT CREATE ANY CONTRACTUAL OBLIGATIONS ON THE TRUST

This policy is based upon a template provided by the Catholic Education Service – September 2020 version

Disciplinary Policy and Procedure – Final_v2.0

Page 19 of 25

8.6.2 Where paragraph 8.6.1 applies, the Disciplinary Panel may discuss with the employee's Headteacher and agree to offer the employee the option of taking a voluntary demotion as an alternative to a higher formal sanction but only if it meets the needs of the Trust and a suitable vacancy exists. Any such offer shall be made in writing. Should the option of voluntary demotion or job change be accepted this will not need to be a post with equivalent terms and conditions and protection of salary will not apply. For the avoidance of doubt, whether such an offer is made will be at the sole discretion of the Disciplinary Panel in discussion with the employee's Headteacher. There may be circumstances where it is not appropriate to make such an offer, for example, where there has been a safeguarding issue or where an allegation of bullying has been proven.

9. ALLEGATIONS OF MISCONDUCT AGAINST A HEADTEACHER OR MEMBER OF A SCHOOL'S SENIOR LEADERSHIP TEAM OR SENIOR CENTRALTRUST STAFF

- 9.1 In cases involving allegations against either a Headteacher, member of a school's Senior Leadership Team or member of the Trust's Senior Leadership Team, the Chair of the Trust Board must be immediately informed.
- 9.2 Paragraph 4.2 explains in detail the process to follow in the event that there is a requirement to suspend a Headteacher, only the Chair of the Board of Trustees (or delegated to Vice Chair), in the presence of the Trust HRD, can suspend.
- 9.3 If the allegation is sufficiently serious to warrant consideration for suspension, then the Chair of the Board will appoint either the SEL or another Headteacher to act as a point of contact as support for the employee.
- 9.4 In such cases there is the option to commission an external investigator to maintain involvement from peers, integrity of the process and to minimise time taken away from a senior member of the Trust and/or Headteacher to conduct such an investigation. In all such cases, the Trust HRD will be the Trust lead and coordinator of such an investigation liaising with the external investigator.

10. TRUST BOARD DIRECTORS PANELS

- 10.1 Trust Board Directors' Disciplinary and Appeal Panels shall normally comprise of two or three Trust Board Directors not previously involved in the matter and shall not comprise of the Chair or Vice-Chair unless there are insufficient numbers of other Board Directors not previously involved in the matter, in which case the Chair and/or Vice-Chair may be appointed to a Trust Board Directors' Panel.
- 10.2 In the exceptional event that there are insufficient numbers of Trust Board Directors available to participate in a Trust Board Directors' Disciplinary or Appeal Panel, the Trust may appoint associate members solely to participate in the appropriate Panel on the recommendation of the Diocesan Schools Commission (this may include representatives from OLICAT's sister MAT in the Northampton Diocese, St Thomas Catholic Academies Trust). To retain integrity of the governance process and in recognition that the Trust is the employer, the majority of any Panel members must be Directors of the Trust.

THIS POLICY DOES NOT CREATE ANY CONTRACTUAL OBLIGATIONS ON THE TRUST

This policy is based upon a template provided by the Catholic Education Service – September 2020 version

Disciplinary Policy and Procedure – Final_v2.0

Page 20 of 25

10.3 In all cases, advice from the Trust HR Director must always be sought and it is the responsibility of the Chair of the Trust Board and Trust HR Director to coordinate arrangements for any Trust Board Panels including Appeals.

11. COMPANION

11.1 If an employee is the subject of disciplinary allegations which leads them to being required to attend an interview or meeting pursuant to this Disciplinary Policy and Procedure they may be accompanied at such interview or meeting by a Companion.

11.2 The employee must inform the Trust HR Director details of their Companion at least one Working Day before the relevant interview or meeting.

11.3 If the employee has any reasonable need, for example, because they have a disability, they can also be accompanied by a suitable helper.

11.4 The employee's Companion can address the relevant interview or meeting to:

- (a) put their case;
- (b) sum up their case;
- (c) respond on their behalf to any view expressed at the relevant interview or meeting; and
- (d) Ask questions on their behalf.

11.5 The employee's Companion can also confer with them during the relevant interview or meeting.

11.6 The employee's Companion has no right to:

- (a) answer questions on their behalf;
- (b) address the relevant interview or meeting if the employee does not wish it;
or
- (c) prevent the employee from explaining their case.

11.7 Where the employee has identified their Companion and they have confirmed in writing to the Trust HR Director that they cannot attend the date or time set for the relevant interview or meeting, the relevant interview or meeting will be postponed for a period not in excess of five Working Days from the date set by the Trust to a date or time agreed with the employee's Companion. Should the employee's Companion subsequently be unable to attend the rearranged date, the meeting may be held in their absence or written representations will be accepted

12. TIMING OF INTERVIEW MEETINGS

12.1 The aim is that Interviews and meetings under this Disciplinary Policy and Procedure will be held at mutually convenient times but depending on the circumstances, interviews and meetings may:

- (a) need to be held when the employee is timetabled to teach (if that is appropriate to their role);
- (b) exceptionally be held during planning, preparation and administration time if this does not impact on lesson preparation (if that is appropriate to their role);
- (c) be held after the end of the school day;
- (d) Not be held on days on which the employee would not ordinarily work (unless all parties agree to meet on the employee's non-working day);
- (e) Be extended by agreement between the parties if the time limits cannot be met for any justifiable reason.

12.2 Where an employee is persistently unable or willing to attend an interview or meeting without good cause the relevant Manager/Panel will make a decision based on the evidence available.

13. VENUE FOR INTERVIEWS OR MEETINGS

If the allegations are sensitive the relevant Manager/Panel may hold the interview or meeting off the school/academy site to minimise any distress to the employee.

14. ASSISTANCE FROM THE DIOCESE

14.1 In any case concerning the religious character of the Trust, the Diocesan Schools Commission must be notified immediately the Trust becomes aware of the allegations and it may be represented at any relevant interview or meeting to advise the Investigating Manager, Disciplinary Panel or Appeal Panel.

14.2 In all cases involving any disciplinary sanction in relation to the Headteacher or to a person on the leadership spine, or to potential or actual dismissal of any other member of staff, the Diocesan Schools Commission may send a representative to advise the Disciplinary Panel or Appeal Panel.

15. TRADE UNION OFFICERS

The Trust notes and adopts the ACAS Code of Practice's statement "Where disciplinary action is being considered against an employee who is a trade union representative the normal disciplinary procedure should be followed. Depending on the circumstances, however, it is advisable to discuss the matter at an early stage with an official employed by the union, after obtaining the employee's agreement."

16. REFERRALS

16.1 Where a teacher is dismissed for serious Misconduct (or may have been dismissed for serious Misconduct if the teacher had not resigned) the Trust must consider whether to refer the circumstances to the Teaching Regulation Agency (Department of Education) in accordance with the Teachers Disciplinary (England) Regulations 2012⁴.

16.2 Where a person working within the Trust (whether a teacher or not) is dismissed or would have been dismissed if they had not resigned because that person committed conduct:

- (a) which endangered a child or was likely to endanger a child

⁴ Teaching Regulation Agency (TRA) – Teacher Misconduct: disciplinary procedures for the teaching profession – April 2018

- (b) which, if repeated against or in relation to a child, would endanger that child or would be likely to endanger him
- (c) involving sexual material relating to children (including possession of such material)
- (d) involving sexually explicit images depicting violence against human beings (including possession of such images)
- (e) of a sexual nature involving a child

the Trust must refer that person to the Disclosure & Barring Service (“DBS”) in accordance with the legal requirement stipulated by the Safeguarding Vulnerable Groups Act 2006.

REVIEW OF THIS PROCEDURE

This procedure has been developed utilising a template policy and procedure produced by the Catholic Education Service (CES) for use in Catholic Voluntary Academies in England, was amended in September 2013 and updated in September 2020 following consultation with the national trade unions. It may be adapted, as appropriate, for use in joint Church academies subject to the approval of the CES on referral by the relevant Catholic diocese. This procedure will be reviewed by the CES in readiness for academic year 2022/23.

END OF DOCUMENT



DISCIPLINARY MEETING – GUIDE TO MEETING

The Trust Disciplinary Policy (Paragraph 7.2) stipulates that the Disciplinary Meeting considers all evidence presented including any mitigation provided by the employee who has allegations made against them.

If the Disciplinary Manager wishes to hear the evidence orally, this guide provides a template agenda for the meeting:

1. INTRODUCTIONS

Disciplinary Manager introduces the Panel and invites the employee and their representative (if present) to introduce themselves.

Disciplinary Manager explains purpose of the meeting and the agenda format of the meeting

2. EXPLAIN THE ALLEGATIONS AGAINST THE EMPLOYEE

Disciplinary Manager reads out the allegations (normally in the letter regarding requirement to attend disciplinary meeting)

3. SUMMARY OF INVESTIGATION REPORT

Disciplinary Manager can state there is an assumption that all in attendance have read the investigation report and summarises the outcome.

4. EMPLOYEE PRESENTS THEIR RESPONSE

The employee provides their response to the Disciplinary panel, Panel can ask questions for clarity.

5. EMPLOYEE CAN ASK QUESTIONS

The employee can ask questions and discuss any documentary evidence; the employee's representative can make statements on behalf of the employee but not answer questions for them

6. END OF MEETING

Disciplinary Manager asks employee if there is anything else they want to say

Disciplinary Manager explains the panel will consider all the evidence and the outcome will be confirmed in writing within 5 working days.

Employee and representative leaves the meeting.

Panel discusses and considers all evidence



APPEAL MEETING – GUIDE TO MEETING

The Trust Disciplinary Policy (Paragraph 7.3) stipulates that the Appeal Meeting is held to consider any new evidence presented by the employee (appellant) who has appealed that they believe was not available to the Disciplinary panel.

If the Appeal Manager wishes to hear the evidence orally, this guide provides a template agenda for the meeting:

7. INTRODUCTIONS

Appeal Manager introduces the Panel and invites the employee and their representative (if present) to introduce themselves.

Appeal Manager explains the purpose of the meeting is to hear any new evidence that they (the appellant) believe was not available or raised at the original disciplinary meeting. The Appeal Manager are also able to consider any new evidence produced by the Disciplinary panel if it touches upon the appellant's credibility in relation to evidence already produced by the employee or if it rebuts any new evidence produced, or any assertions made by the appellant (employee) in the grounds of appeal.

8. APPELLANT (EMPLOYEE) PRESENTS THEIR APPEAL

The employee presents their evidence to the Appeal panel. Panel can ask questions for clarity.

9. APPEAL PANEL CAN ASK QUESTIONS

Panel can ask questions for clarity.

The employee can be offered a final opportunity to sum up their appeal.

10. END OF MEETING

Appeal panel asks appellant (employee) if there is anything else they want to say

Appeal Manager explains the panel will confirm the outcome of the appeal in writing within 5 working days. The decision of the panel is final and there is no further right of appeal.

Employee and representative leaves the meeting.

Panel discusses and considers the additional evidence