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# Disciplinary Procedure

Schools serving their communities through excellence, exploration and encouragement within the love of God.

The diocese of Lincoln is called to faithful worship, confident discipleship and joyful service and our church schools bear witness to our belief that every child is made in the image of God and loved by Him. They were founded for the good of their local communities so that children can be educated through the values and stories of Christianity.

Policy Owner: LAAT CEO

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## **1 Policy Statement**

- 1.1 The aims of this Disciplinary Procedure are to set out the standards of conduct expected of all staff and to provide a framework within which LAAT can work with employees to maintain satisfactory standards of conduct and to encourage improvement where necessary.
- 1.2 It is LAAT's policy to ensure that any disciplinary matter is dealt with fairly and that steps are taken to establish the facts and to give employees the opportunity to respond before taking any formal action.
- 1.3 This procedure does not form part of an employee's contract of employment and it may be amended following consultation with recognised trade unions. Timescales set out in this policy may be varied with agreement of all parties.
- 1.4 This policy has been implemented following consultation with the recognised trade unions. It has been formally adopted by the Trust from April, 2017.

## **2 Who is covered by the procedure?**

- 2.1 The procedure applies to all employees regardless of length of service, except those during their probationary period where other arrangements apply. It does not apply to agency workers or self-employed contractors.

## **3 What is covered by the procedure?**

- 3.1 This procedure is used to deal with misconduct. It does not apply to cases involving genuine sickness absence, proposed redundancies or poor performance. In those cases reference should be made to the appropriate LAAT policy.
- 3.2 Minor conduct issues can often be resolved informally between employees and their line manager. These discussions should be held in private and without undue delay whenever there is cause for concern. Where appropriate, a note of any such informal discussions will be made and retained on the employee's personnel file to provide clear direction for future conduct for 12 months and then removed. A copy will be given to the employee. In some cases an informal instruction may be given, outside of the formal disciplinary process. Formal steps will be taken under this procedure if the matter is not resolved informally, or if informal discussion is not appropriate (for example, because of the seriousness of the allegation). Any matter dealt with informally may be referred to as part of any disciplinary proceedings.

- 3.3 Employees will not normally be dismissed for a first act of misconduct, except in the following circumstances: i) Following an investigation LAAT or the academy determines that the conduct amounts to gross misconduct or ii) Following a probationary review.
- 3.4 The behaviour and conduct of LAAT staff outside of work can impact on their employment. Therefore, conduct outside work may be treated as such conduct may fundamentally undermine trust and confidence in the employee or bring the Trust/Academy into disrepute.

## **4 Confidentiality**

- 4.1 It is the aim of LAAT 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 as confidential in connection with an investigation or disciplinary matter, save for disclosure to their representative.
- 4.2 Employees, and anyone accompanying them (including witnesses), must not make electronic recordings of any meetings or hearings conducted under this procedure.
- 4.3 Employees will normally be told the names of any witnesses whose evidence is relevant to disciplinary proceedings against them, unless there is an exceptional reason that a witness's identity should remain confidential. In such a situation this will be explained to the employee.

## **5 Roles, responsibilities and disciplinary rules**

### **5.1 The Board**

- To set the strategic direction of LAAT and to approve policies and strategic actions for improvement including conduct and standards of behaviour
- To provide overall policy direction and guidance to the leadership team in relation to the management of disciplinary matters and to delegate responsibility for day to day management of issues to the line manager
- To participate in disciplinary hearings and/or appeals as appropriate
- To manage the Disciplinary Procedure when allegations are made against senior members of staff.

### **5.2 Senior Leaders and Headteachers**

- To take day to day leadership of employee conduct and behaviour

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- To implement the disciplinary procedures as agreed by the Board
- To be responsible for managing employees' conduct and behaviour, setting clear standards and expectations in these areas and for taking action accordingly, proportionately and fairly where standards are not maintained.

### 5.3 Other line managers

- To treat matters fairly, proportionately, sensitively and confidentially
- To be responsible for identifying problems and taking action where conduct has become unacceptable
- To emphasise to employees the importance of standards of behaviour and conduct
- To make decisions and where appropriate implement the disciplinary procedure with advice from a HR representative / more senior manager.

### 5.4 Employees

- To maintain the highest standard of conduct and behaviour
- To inform their line manager of any unacceptable behaviour of colleagues
- Where required, to participate fully in any disciplinary investigation and to cooperate with the investigating officer
- If subject to this procedure to provide any relevant information to their companion if they choose to have one.

### 5.5 HR representative/service

- To advise and support managers, attending any meetings as deemed appropriate.
- Act as an advisor at all formal stages of the procedure.

5.6 The disciplinary rules set out the types of conduct which is considered unacceptable for academy-based employees. All employees are expected to know and follow the rules as an employee of LAAT. The disciplinary rules and examples are set out in Appendix 3.

## 6 Allegations

6.1 Allegations may be brought to the academy or LAAT's attention in a number of ways and through a variety of sources. When such information is brought to our attention it must be given careful consideration.

- 6.2 As with disclosures made by children and young people, adults need to be aware that in making an allegation it is not always possible to keep the matter confidential. The manager will need to decide upon the most appropriate course of action and may choose to proceed with an investigation even if the person making the allegation does not want them to.
- 6.3 Allegations which involve issues of child protection and / or abuse of children by staff should be considered by the designated academy CPO and then referred immediately to the Local Authority Designated Officer (LADO). See Appendix 1 for further guidance on the management of this type of allegation. No further action under this procedure should be taken until the LADO has been consulted.
- 6.4 Staff should be aware that where the circumstances of a case meet a threshold for referral, then a referral to the relevant body will be made in line with their reporting requirements

## **7 Investigations**

- 7.1 Upon receiving any allegations against employees it is likely that further information will be required to establish what the next course of action should be. The manager should seek to establish the basic facts of the situation; this may involve looking at records, speaking to witnesses, reviewing CCTV etc.
- 7.2 Preliminary Investigation meeting
- A preliminary investigation meeting may be held with the employee to establish the basic facts of the circumstance and to enable the manager to determine whether further investigation under this procedure is required. A preliminary meeting can often give reasonable explanation in response to allegations which then enables the matter to be concluded. The allegations will need to be clearly stated including as much information as possible, for example time, date, place etc, to enable the employee to make a reasonable response. If the manager is satisfied with the employee's response at this stage there may be no need for further investigation. The meeting should be arranged as soon as possible. The employee is not entitled to but LAAT will allow a trade union representative or colleague to accompany them if they are available. The employee must answer any questions themselves and a record of the meeting will be kept and the employee will be asked to sign this to agree the contents of the record. A preliminary meeting will not be required in all cases and it is for the manager to decide if this is appropriate.
- 7.3 Further investigation
- The purpose of an investigation is to establish a fair and balanced view of the facts relating to any disciplinary allegations made against an employee, before deciding whether to proceed with a disciplinary hearing. The amount of investigation required will

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depend on the nature of the allegations and will vary from case to case. It may involve interviewing and taking statements from the employee and any witnesses, and/or reviewing relevant documents and other information. At any such meeting the employee may be accompanied by a work colleague or a trade union representative if they wish.

#### 7.4 Investigating Officer

Should the preliminary investigation determine further need for investigation, or if the concerns are serious enough to warrant a full investigation immediately, the manager will usually appoint an Investigating Officer to carry out the investigation. This will be a person appropriate to the nature of the allegations and the role of the employee. The manager may choose to assume this role themselves. In the case of allegations made against a Headteacher or LAAT Manager then the relevant Chair of Governors or LAAT Board Member will be responsible for the management of the procedure and determining an appropriate investigating officer, either internally or externally.

#### 7.5 Interviewing witnesses

It will often be necessary to interview witnesses who may have information that is relevant to the allegations. These interviews will be arranged as quickly as possible before memories and recollections fade. It will be explained to the witness why they are being spoken to and what the information that they provide will be used for. A record of the meeting will be made and the witness will have the opportunity to review the record, make amendments for clarification purposes and sign and date the record. The LAAT recognises that some employees may find this difficult or worrying, however all employees are expected to fully participate in any such investigation.

#### 7.6 Interviewing the employee

Investigation meetings are solely for the purpose of fact-finding and no decision on disciplinary action will be taken until after a disciplinary hearing has been held. The investigation meeting will enable the employee to provide their account of what has happened and allow the Investigating Officer to ask the employee about the information that has been obtained during the course of the investigation so far. Employees do not normally have the right to bring a companion to an investigation meeting. However, employees are allowed to bring a trade union representative or work colleague to the investigation meeting. No rearrangements will be made to the time and date of the investigation meeting to enable a companion to attend. A record of the meeting will be made and the employee will have the opportunity to review the record, make amendments for clarification purposes and sign and date the record.

#### 7.7 Employees must co-operate fully and promptly in any investigation. This will include providing the names of any relevant witnesses, disclosing any relevant documents or information and attending investigative interviews if required.

- 7.8 As each investigation will vary in length and complexity it will be completed in as short a time frame as possible. Where possible, any investigation would normally be carried out within one month. Every effort will be made to conclude the investigation in that time but it may be necessary to extend the period of investigation if it is not completed within that timescale due to complexity of the case or holiday periods. The same timescales will be applied for the duration of suspensions.

## **8 Criminal charges**

- 8.1 Where conduct is the subject of a criminal investigation, charge or conviction the facts will be investigated before deciding whether to take formal disciplinary action. Disciplinary action will not be automatic and will depend upon the circumstances.
- 8.2 Employees should inform their manager immediately if they are involved in a criminal investigation, or are subject to a charge or conviction.
- 8.3 The LAAT will not usually wait for the outcome of any prosecution before deciding what action, if any, to take. Where employees are unable or have been advised not to attend an investigation meeting or disciplinary hearing or say anything about a pending criminal matter, a decision may have to be made based on the available evidence.
- 8.4 A criminal investigation, charge or conviction relating to conduct outside work may be treated as a disciplinary matter if it is relevant to the employee's employment.
- 8.5 Where a criminal investigation relates to allegations of abuse of children or young people the LAAT will co-operate and share information about the employee with other relevant agencies as appropriate.

## **9 Suspension**

- 9.1 In some circumstances it may be necessary to suspend the employee from work. The suspension will be for no longer than is necessary to investigate the allegations and conclude the disciplinary process. The arrangements will be confirmed to the employee in writing within one working day of the decision to suspend. While suspended employees should not visit the Trust's premises or contact any parents, pupils, governors or staff, regarding the allegations or their suspension, unless authorised to do so by their manager. This will not usually prevent social contact with friends. A contact person within the Trust will be nominated and their contact details provided to the suspended employee. The contact person will keep the employee informed of any relevant information. The employee should contact the nominated person if they need to make contact with the LAAT.
- 9.2 Suspension of this kind is not a disciplinary penalty and does not imply that any decision has already been made about the allegations. Employees will continue to receive full salary and benefits during the period of suspension.

- 9.3 Suspension may only be carried out by the Headteacher, Senior Manager or LAAT's HR Service. The Chair of Governors and the LAAT's HR Service must be notified if a member of staff is suspended.
- 9.4 Alternatives to suspension, for example re-organisation of duties, work location; temporary redeployment to another role etc will be explored where relevant before a decision to suspend is made. The nature and severity of the allegations will need to be considered as will the employee's role within the LAAT.
- 9.5 Where allegations are made that involve the protection of children suspension will not be considered to be automatic. A reasoned decision will be made based on all available information. Additional information on the management of these allegations is available in Appendix 1.
- 9.6 The suspension will be kept under review as the investigation progresses. As information is gathered it may become appropriate to lift the suspension during the course of the investigation or prior to any disciplinary hearing.
- 9.7 All suspensions will be regularly reviewed and not be unduly long. Where possible suspensions should last no longer than one month however it may be necessary to extend this timeframe in which case the period of suspension will be kept under further review.

## **10 Disciplinary Hearing**

- 10.1 Following any investigation, if there are grounds for disciplinary action, the employee will be required to attend a disciplinary hearing. The employee will be informed in writing of the allegations against them, the basis for those allegations, and what the likely range of consequences will be if it is decided at the hearing that the allegations are true. The following will also be included where appropriate:
- (a) a summary of relevant information gathered during the investigation;
  - (b) a copy of any relevant documents which will be used at the disciplinary hearing; and
  - (c) a copy of any relevant witness statements, except where a witness's identity is to be kept confidential, in which case as much information as possible will be provided while maintaining confidentiality.
- 10.2 Five working days written notice of the date, time and place of the disciplinary hearing will be given to provide the employee with a reasonable amount of time to prepare their case based on the information that they have been provided with. If this does not allow sufficient time to prepare or to obtain representation, then the employee can make an application to the hearing officer/chair of panel to seek an extension. The hearing officer/chair will then consider if the extension is reasonable under the circumstances.
- 10.3 The manager will be responsible for ensuring that all of the arrangements for the hearing are made and that the employee receives the appropriate paperwork and notice of the hearing.

## **11 Role of Companion at Meetings and Hearings**

- 11.1 An employee may bring a companion to all meetings under this policy. The companion may be either a trade union representative or a work colleague. The employee should inform the manager conducting the meeting who their chosen companion is, in good time before the hearing. In exceptional cases where the outcome of the hearing could lead to the individual no longer being able to work in their chosen profession they may be accompanied by a legal representative. The right to legal representation will be advised in such cases.
- 11.2 Should the employee choose to bring a companion to the hearing they will be responsible for making these arrangements.
- 11.3 Acting as a companion is voluntary and the LAAT employees are under no obligation to do so. If they agree to do so they will be allowed reasonable time off from duties without loss of pay to act as a companion.
- 11.4 If the choice of companion is unreasonable the employee can be asked to choose someone else, for example:
- (a) if they have a conflict of interest or may prejudice the meeting; or
  - (b) if the companion works at another site and someone reasonably suitable is available at the site at which the employee works; or
  - (c) if the companion is not available at the time a meeting is scheduled and will not be available for more than five working days afterwards.
- Such a request will not normally be made unless the LAAT considers the companion unacceptable.
- 11.5 A companion may make representations, ask questions, and sum up the employee's position, but will not be allowed to answer questions on the employee's behalf. The employee may confer privately with their companion at any time during a meeting

## **12 Procedure at Disciplinary Hearings**

- 12.1 If the employee and / or their companion cannot attend the hearing they should inform the manager immediately and offer a reasonable alternative time within five days of the original date if their chosen companion cannot attend. The hearing may also be rearranged if the employee is unable to attend due to illness. Employees must make every effort to attend the hearing, and failure to attend without good reason may be treated as misconduct in itself. Failure to attend without good reason, or persistent inability to do so (for example for health reasons), may lead to a decision being taken in the employee's absence based on the available evidence.

- 12.2 If the employee chooses not to attend the hearing, or is unable to do so (for example for health reasons) they may choose to send a written statement for consideration at the hearing.
- 12.3 The hearing will be conducted by the appropriate officer / Board Member or a panel set up to consider the case (see section 13.5). An HR representative nominated by the Trust's HR Service will also be in attendance. The investigating officer will also be present. The employee may bring a companion with them to the disciplinary hearing (see paragraph 11).
- 12.4 At the disciplinary hearing the Investigating Officer will go through the allegations against the employee and the evidence that has been gathered. The employee will be able to respond and present any evidence of their own. The companion may make representations to the hearing officer/panel and ask questions, but should not answer questions on the employee's behalf. The employee may confer privately with the companion at any time during the hearing.
- 12.5 Relevant witnesses may be asked by the Investigating Officer or the employee to appear at the hearing. The employee must give sufficient advance notice if they wish to call witnesses to ensure that there is time to arrange their attendance. The employee will be given the opportunity to respond to any information given by a witness and be given the opportunity to ask questions of the investigating officer and/or the witnesses.
- 12.6 The hearing officer/Chair may adjourn the disciplinary hearing if there is a need to carry out any further investigations such as re-interviewing witnesses in the light of any new points that have been raised at the hearing. The employee will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.
- 12.7 The employee will be informed in writing of the decision and the reasons for it, usually within 5 working days of the disciplinary hearing. Where possible this information will also be explained to the employee in person. They will also be advised of their right of appeal (if appropriate).

### **13 Disciplinary penalties**

- 13.1 The hearing officer may find that there is no case to answer and disregard the allegations. Or they refer the case back to be dealt with through a different process such as through performance management. Alternatively they may choose to give the employee a disciplinary warning or dismiss them.
- 13.2 The usual penalties for misconduct are set out below. No penalty should be imposed without a hearing. LAAT 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.

- 13.3 First written warning. A first written warning may be authorised by the hearing officer/ Panel. It will usually be appropriate for a first act of misconduct where there are no other active written warnings on the employee's disciplinary record.
- 13.4 Final written warning. A final written warning may be authorised by the hearing officer/ Panel. It will usually be appropriate for:
- (a) misconduct where there is already an active written warning on the employee's record; or
  - (b) misconduct that is considered sufficiently serious to warrant a final written warning even though there are no other active warnings on the record.
- 13.5 Dismissal. Dismissal may be authorised by a LAAT Senior Officer or a Headteacher or Board Member. It will usually only be appropriate for:
- (a) further misconduct where there is an active final written warning on the record; or
  - (b) any gross misconduct regardless of whether there are active warnings on the record. Gross misconduct will usually result in immediate dismissal without notice or payment in lieu of notice (summary dismissal). Examples of gross misconduct are set out in the Disciplinary Rules which are contained in the staff handbook.
- 13.6 Alternatives to dismissal. In some cases the hearing officer may, at its discretion consider alternatives to dismissal. These may be authorised by the hearing officer and will usually be accompanied by a final written warning. Examples include:
- (a) Demotion.
  - (b) Transfer to another department or job.
  - (c) Loss of seniority.
  - (d) Reduction in pay.
  - (e) Loss of future pay increment or bonus.
  - (f) Loss of overtime.

## **14 The effect of a warning**

- 14.1 Written warnings will set out the nature of the misconduct, the change in behaviour required, any training or assistance that will be provided, the period for which the warning will remain active, and the likely consequences of further misconduct in that active period.
- 14.2 A first written warning will usually remain active for six months and a final written warning will usually remain active for 12 months. In exceptional cases verging on gross misconduct OR details of academy/trust specific misconduct which may warrant indefinite warnings such as dangerous breaches of health and safety, a final written

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warning may state that it will remain active indefinitely. The conduct will be reviewed at the end of a warning's active period and if it has not improved sufficiently the active period may be extended.

## **15 Appeals against disciplinary action**

- 15.1 The employee has the right to appeal against the disciplinary action taken against them. This must be in writing, stating the full grounds of appeal and sent to the LAAT's HR Manager within 5 working days of the date on which the employee was informed of the decision. However the 5 working days' time frame can be extended on request of the employee where further evidence or testimony is required which cannot be made available within this time.
- 15.2 If the employee is appealing against dismissal, the date on which dismissal takes effect will not be delayed pending the outcome of the appeal. However, if the appeal is successful they will be reinstated with no loss of continuity of service or pay or any other detriment.
- 15.3 If any new matters are raised in the appeal hearing further investigation may need to be carried out. If any new information comes to light this will be provided to the employee with a summary including, where appropriate, copies of additional relevant documents and witness statements. The employee will have a reasonable opportunity to consider this information before the hearing and the panel may decide to adjourn the hearing until a later date.
- 15.4 The employee must be given written notice of the date, time and place of the appeal hearing. This notice will be given normally within 5 working days after receipt of the appeal.
- 15.5 Appeals will be heard as soon as practicably possible allowing sufficient time for the employee to prepare. The appeal hearing may be a complete re-hearing of the matter or it may be a review of the fairness of the original decision in the light of the procedure that was followed and any new information that may have come to light. This will be at the Chair of Panel's discretion depending on the circumstances of the case. In any event the appeal will be dealt with as impartially as possible.
- 15.6 Where possible, the appeal hearing will be conducted impartially by a senior member of The Trust or a different panel of governors who has not been previously involved in the case. The employee may bring a companion to the appeal hearing (see paragraph 11).
- 15.7 The Chair may adjourn the appeal hearing if there is a need to carry out any further investigations such as re-interviewing witnesses in the light of any new points that have been raised at the hearing. The employee will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.
- 15.8 Following the appeal hearing the Panel may:

- (a) confirm the original decision;
  - (b) revoke the original decision; or
  - (c) substitute a different penalty, provided that a penalty will not be increased on appeal.
- 15.9 The employee will be informed in writing of the decision and the reasons for it, usually within 5 working days of the appeal hearing. Where possible this information will also be explained to the employee in person. There is no further right to appeal.

## **16 Referrals to external bodies**

- 16.1 In cases where employees are dismissed or resign during a disciplinary process a referral to the Disclosure and Barring Service and the Teaching Agency on behalf of Secretary of State will be made where the thresholds for referral are met.

## **Appendix 1 - Managing allegations of abuse against teachers and other staff**

In dealing with allegations of abuse against employees and agency staff (referred to here as staff), there is guidance that needs to be followed to ensure that children and young people are not at risk of harm as well as supporting employees through the relevant processes.

### **1. Scope**

This guidance will be used alongside the Disciplinary Procedure where allegations have been made that might indicate a person would pose a risk of harm if they continue to work in regular or close contact with children in their present position, or in any capacity.

It will be used in respect of all cases in which it is alleged that the member of staff has:

- behaved in a way that has harmed a child, or may have harmed a child; • possibly committed a criminal offence against or related to a child; or • behaved towards a child or children in a way that indicates that they would pose a risk of harm if they work regularly or closely with children.

As with other conduct issues the behaviour of members of staff outside of work may impact on their role within the LAAT. Therefore if concerns are brought to LAAT's attention about an member of staff's behaviour in regard to their own children or any other child/ children outside of LAAT's, consideration will be given to any implications for children with whom the employee has contact with at work.

### **2. Initial Considerations**

Where the manager determines that the allegations meet the criteria above they will immediately contact the Local Authority Designated Officer (LADO) and provide them with all relevant information.

The LADO and the manager will consider the nature, content and context of the allegation and agree a course of action. The LADO may ask for further relevant information to be provided or obtained such as previous history, whether the child or their family have made similar allegations, and the individual's current contact with children.

Outcomes of initial considerations;

The initial sharing of information and evaluation may lead to a decision that no further action by external agencies or LAAT is to be taken in regard to the individual facing the allegation. The decision and reasons for this will be recorded. The manager will agree with the LADO what information should be put in writing to the employee and what if any action is appropriate to take in respect of the person making the allegation. After consulting the LADO the manager will inform the employee about the allegation and provide them with as much information as possible at the time.

OR

The initial sharing of information and evaluation may lead to a decision that no further action by external agencies, but the manager determines further action is required and will refer to the Disciplinary Procedure.

OR

The initial sharing of information leads the LADO to determine that a strategy discussion is needed, or police or local authority's social care services need to be involved. The LADO will coordinate the appropriate arrangements and will inform the manager. The manager will agree with the LADO, police or local authority's social care services what information should be put in writing to the employee, bearing in mind the employees subject access rights under the Data Protection Act. Information may be withheld from the employee only if disclosure is likely to prejudice a criminal investigation. The strategy discussion will determine what action will be taken and by whom. The point at which LAAT can continue with its own disciplinary procedures will be determined. No further investigation should be carried out until agreed through this process.

### **3. Suspension**

Suspension will not be an automatic response when an allegation is reported and alternative arrangements will be considered. The risks of the member of staff remaining within LAAT during any process of investigation will be carefully evaluated. In cases where there is cause to suspect children at LAAT are at risk of significant harm, or the allegation warrants investigation by the police, or is so serious that it might be grounds for dismissal the employee will usually be suspended.

Suspension will be managed as per the Disciplinary Procedure.

The manager will consider the advice of the local authority children's social care services or the police with regard to suspension, but will make their own informed decision with regard to the suspension of any member of staff.

### **4. Support for staff**

Where an employee is the subject of an allegation of abuse LAAT recognises that in most circumstances this will be a time of stress and anxiety. Employees are advised to seek support from an appropriate colleague or their trade union representative. If the employee feels it is beneficial a referral to the Trust's occupational health provider will be arranged. In addition access to the LAAT's counselling service can be offered.

The employee will be kept informed of the likely course of action as the case progresses unless there is an objection by the local authority social care services or the police.

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## **5. Confidentiality**

The provisions in the Disciplinary Procedure regarding confidentiality apply to cases where allegations of abuse are made. LAAT will make every effort to maintain confidentiality and guard against unwanted publicity. During the process of managing these types of allegation LAAT will only release information to the wider community for the purposes of reducing speculation, and within the reporting restrictions contained within the Education Act 2011.

## **6. Investigations**

Investigations under the Disciplinary Procedure will not commence until agreement from the LADO and any other external agencies involved in dealing with the allegations have agreed that LAAT can proceed. The provisions in the Disciplinary Procedure regarding investigations apply where allegations of abuse are made. Those undertaking investigations into allegations of abuse should be alert to any sign or pattern which suggests that the abuse is more widespread or organised than it appears at first sight, or that it involves other perpetrators or institutions. It is important not to assume that initial signs will necessarily be related directly to abuse, and to consider occasions where boundaries have been blurred, inappropriate behaviour has taken place, and matters such as fraud, deception or pornography have been involved.

*Interviewing pupils* - The Investigating Officer will avoid interviewing pupils unnecessarily. Information will be gathered from the local authority social services and the police where available and accessible.

*Photographing pupils* - The Investigating Officer or any other person at LAAT will not take photographs of pupils to support allegations of abuse. In cases where the manager determines it appropriate to record injuries to a pupil they will use the appropriate procedure, eg body mapping, or refer to the LADO, the local authority social services or the police for advice. Photographs and other information provided by external agencies may be used as a part of the investigation process if appropriate and authorised by the relevant agency.

## **7. Malicious allegations**

LAAT considers the making of malicious allegations to be unacceptable. Any allegations found to not have been made in good faith by a pupil; parent, other employee or any other person may result in action being taken. Any allegation that is found to be malicious will be removed from the file of the employee that has been accused.

## **8. Records and references**

A record of the allegations, any investigation and the outcome will be kept on the employee's file. The employee will be provided with copies of any records held. These records will remain

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on file until normal retirement age or for a period of 10 years from the date of the allegation if that is longer. Details of allegations that are proven to be unsubstantiated, unfounded, false or malicious will be removed from the employee's record and not be referred to in any reference that LAAT provides for the employee concerned.

## Appendix 2 - Procedure for Disciplinary / Appeal Hearing

During any disciplinary hearing conducted by LAAT and its academies, the following will take place:

### 1. Introductions

The Chair or hearing officer will introduce the hearing, and explain its purpose and how it will be conducted. The purpose of the hearing will normally be to establish the facts and determine, on conclusion of the hearing, whether LAAT and its academies have proper grounds to take disciplinary action against the employee and, if so, the level of such disciplinary action.

The parties present at the hearing will introduce themselves and confirm their respective roles in the hearing. The employee will be entitled to be accompanied, if they wish, by a fellow worker or trade union representative of their choice.

### 2. Purpose of the hearing & confirmation of witnesses

The chair will state that the hearing is being conducted as part of LAAT's Disciplinary Procedure, and confirm that a written record of the hearing will be made.

The chair will state whether any witnesses have been asked to give evidence at the hearing, and if so, who they are.

### 3. LAAT and its academies presentation of case

The Investigating Officer/ Head Teacher or Manager will explain fully the case, i.e. the employee's alleged or suspected misconduct or other circumstance leading to the possibility of disciplinary action being taken against the employee. All the relevant facts will be put to the employee, with specific examples of relevant incidents.

Any witnesses whom the Investigating Officer / Headteacher or Manager has decided to call will be called into the hearing and asked to state their evidence in front of the parties. The employee and their representative may ask questions of the witnesses. The panel may also ask questions. The witness will leave the hearing and will wait in the designated area until released by the chair. Any witnesses may not discuss the case with each other.

### 4. Questions of the Trust's and its academies case by the employee

The employee or their representative will be allowed a full opportunity to question the Investigating Officer / Headteacher or Manager on the case, and to raise points about any information provided by witnesses.

5. Questions of the Trust's and its academies case by the panel

The panel will be allowed the opportunity to question the Investigating Officer / Headteacher or Manager on the case, and to raise points about any information provided by witnesses.

6. Employee's presentation of case

The employee will be allowed a full and fair opportunity to state their view of events, explain their conduct and state any mitigating factors. They may do this personally, or the employee's representative (if they have elected to be represented) may do this on their behalf.

Any witnesses whom the employee has arranged to call will be called into the hearing and asked to state their evidence in front of the parties. The Investigating Officer / Headteacher or Manager may ask questions of the witnesses. The panel may also ask questions. The witness will leave the hearing and will wait in the designated area until released by the chair. Any witnesses may not discuss the case with each other.

7. Questions of the employee's case by the Investigating Officer/ Headteacher or Manager

The Investigating Officer will be allowed a full opportunity to question the employee on their case, and to raise points about any information provided by witnesses.

8. Questions of the employee's case by the panel

The panel will question the employee on their evidence and raise points about any information provided by witnesses. Although the employee may confer with their representative at any time during the hearing on request, the chair has the right to ask the employee personally to answer any questions put to them.

9. Investigating Officer/ Headteacher or Manager sums up their key points.

10. Employee and/or their representative sums up their key points.

11. The Investigating Officer/ Headteacher or Manager, employee and representative leave the hearing.

12. Panel make their decision.

### 13. Decision is delivered

The chair will reconvene the hearing and inform the employee of the outcome. The chair may choose to convey the decision in an alternative way to the employee and if this is the case should inform the employee of this prior to adjourning the hearing to make the decision.

### 14. Right of appeal

The chair will inform the employee that they will have the right to appeal against any disciplinary penalty imposed on them. The chair will describe timescales for lodging an appeal and the appeal being heard.

### 15. The Chair will close the meeting.

At any point during the hearing, the chair may adjourn the proceedings if it appears necessary or desirable to do so (including for the purpose of gathering further information).

Appeal hearings will follow the same procedure with the exception of point 14.

## Appendix 3 – Disciplinary rules

### 1. Policy statement

These Disciplinary Rules form part of the Disciplinary Procedure. They set out the standards of conduct expected of all staff and to provide a framework within which the Headteacher and line managers can work with staff to maintain those standards and encourage improvement where necessary.

It is the academy's / trust's policy to ensure that any disciplinary matter is dealt with fairly and in accordance with the Disciplinary Procedure.

If any employee is in any doubt as to their responsibilities or the standards of conduct expected they should speak to their line manager or a member of Human Resources.

### 2. Rules of conduct

While working for LAAT/Academy you should at all times maintain professional and responsible standards of conduct. In particular you should:

- (a) observe the terms and conditions of your contract, particularly with regard to:
  - (i) hours of work; (ii) confidentiality; (iii) any other important contractual terms.
- (b) ensure that you understand and follow our Code of Conduct which is set out in the Staff Handbook or on the intranet
- (c) observe all of the academy's / trust's policies, procedures and regulations which are included in the staff handbook notified to you from time to time by means of notice boards, e-mail, the intranet or otherwise
- (d) take reasonable care in respect of the health and safety of colleagues, pupils and third parties and comply with our Health and Safety Policy
- (e) comply with all reasonable instructions given by the Headteacher and managers
- (f) act at all times in good faith and in the best interests of the academy / trust and those of our pupils and staff.

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

### **3. Misconduct**

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

- (a) Minor breaches of the academy's / trust's policies, including the sickness absence policy, electronic information and communications systems policy and health and safety policy
  - (b) Minor breaches of an employee's contract of employment
  - (c) Damage to, or unauthorised use of, the academy's / trust's property
  - (d) Poor timekeeping or time wasting
  - (e) Unauthorised absence from work
  - (f) Refusal to follow reasonable instructions
  - (g) Excessive use of the academy's / trust's telephones for personal calls
  - (h) Excessive personal e-mail or internet usage
  - (i) Obscene language or other offensive behaviour
  - (j) Negligence in the performance of duties
  - (k) Smoking in no-smoking areas
- or
- (l) Poor attendance.

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

### **4. Gross misconduct**

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

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

- (a) Theft, or unauthorised removal of property or the property of a colleague, contractor, pupil or member of the public
- (b) Fraud, forgery or other dishonesty, including fabrication of expense claims and time sheets, pupil's work, examinations or assessments

- (c) Actual or threatened violence, or behaviour which provokes violence
- (d) Deliberate damage to the buildings, fittings, property or equipment of the academy / trust, or the property of a colleague, contractor, pupil or member of the public
- (e) Inappropriate conduct with children or young people, including failing to maintain appropriate professional boundaries
- (f) Serious failure to follow the academy's child protection procedures
- (g) Serious misuse of the academy's / trust's property or name
- (h) Deliberately accessing internet sites containing pornographic, offensive or obscene material using academy equipment whether on academy premises or offsite
- (i) Repeated or serious failure to obey instructions, or any other serious act of insubordination
- (j) Bringing the organisation into serious disrepute
- (k) 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
- (l) Causing loss, damage or injury through serious negligence
- (m) Serious or repeated breach of health and safety rules or serious misuse of safety equipment
- (n) Unauthorised use or disclosure of confidential information or failure to ensure that confidential information in your possession is kept secure
- (o) Acceptance of bribes or other secret payments
- (p) Accepting a gift from a customer, supplier, contractor or other third party in connection with your employment without prior consent from your line manager
- (q) Conviction for a criminal offence that in the opinion of the academy / trust may affect our reputation or our relationships with our staff, pupils, parents or the public, or otherwise affects your suitability to continue to work for us
- (r) Possession, use, supply or attempted supply of illegal drugs
- (s) Serious neglect of duties, or a serious or deliberate breach of your contract or operating procedures
- (t) Knowing breach of statutory rules affecting your work
- (u) Unauthorised use, processing or disclosure of personal data contrary to our Data Protection Policy
- (v) Harassment of, or discrimination against, employees, pupils, parents or members of the public, related to the protected characteristics within the Equalities Act 2010 eg: gender, marital or civil partner status, gender reassignment, race,

colour, nationality, ethnic or national origin, disability, religion or belief, sexual orientation, age or pregnancy and maternity contrary to our Equal Opportunities Policy

- (w) 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
- (x) Giving false information as to qualifications or entitlement to work (including immigration status)
- (y) Knowingly taking parental, paternity or adoption leave when not eligible to do so or for a purpose other than supporting a child
- (z) Making a disclosure of false or misleading information under our Whistleblowing Policy maliciously, for personal gain, or otherwise in bad faith
- (aa) Victimising a colleague who has raised concerns, made a complaint or given evidence information under the Whistleblowing Policy, Grievance Procedure, Disciplinary Procedure or otherwise
- (bb) Serious misuse of our information technology systems (including misuse of developed or licensed software, use of unauthorised software and misuse of e-mail and the internet) contrary to our Electronic Information and Communication Systems Policy
- (cc) Undertaking unauthorised paid or unpaid employment during your working hours
- (dd) Unauthorised entry into an area of the premises to which access is prohibited
- (ee) Off duty misconduct which in the context of employment, fundamentally undermines the confidence or trust LAAT and the Local Governing Body has in the employee and/or could bring the academy into disrepute.

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

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