Disciplinary Policy and Procedure

Version 11

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The Brighter Futures Learning Partnership Trust (The Trust) aims to deal with disciplinary matters quickly, fairly, consistently and discreetly, adhering to relevant employment legislation and statutory guidance. The Trust has a talented, committed, professional workforce and it is hoped that in being clear and explicit in relation to expected standards of behaviour and conduct, employees will align their conduct to the required standards.

Staff are encouraged to seek support where required, to give and receive appropriate, honest and constructive feedback and to conduct themselves in a professional manner. **Minor misconduct will be dealt with informally wherever possible and appropriate.** Cumulative misconduct can result in an escalation of levels of warning and potentially dismissal and gross misconduct can result in immediate summary dismissal.

Staff, managers, the CEO, Headteachers/ Principal, the senior leadership teams, the Trust Board and the Local Governing Bodies will work together to minimise the risk of misconduct occurring (e.g. providing staff with relevant codes of conduct, role modelling appropriate behaviours, embedding the vision and values, providing staff with learning and development opportunities and access to support and guidance).

PURPOSE

This procedure has been developed to provide a fair and consistent process for dealing with unacceptable behaviour by employees.

The procedure should be used for dealing with matters where normal day-to-day supervision is insufficient (e.g. gross misconduct or some instances of repeated misconduct).

SCOPE

The procedure applies to all employees of the Brighter Futures Learning Partnership Trust

The procedure will be applied in such a way as to comply with the Scheme of Delegation agreed by the Trust.

The procedure should not be used for issues relating to capability, or attendance problems, or failure to meet induction period standards for newly qualified teachers. (These are covered by separate provisions.) It may be applicable in the case of bullying and harassment.

ROLES AND RESPONSIBILITIES

The **Trust Board** is responsible for ensuring this policy is applied fairly and consistently across the Trust alongside holding specific responsibilities relating to the potential dismissal of employees under this policy.

The **CEO** is responsible for ensuring employees are treated fairly and consistently across the Trust. He/She will oversee the implementation, monitoring and review of this policy with support from the Central Trust HR and Trust's HR provider. The CEO also has specific responsibilities detailed within this policy regarding decision making and the issuing of sanctions.

The **Local Governing Bodies and Headteachers/Principal** are responsible for monitoring the application of this policy within their respective schools, ensuring minor misconduct is managed effectively and other related policies are shared, understood and adhered to by all employees. They are also responsible for ensuring managers, leaders and supervisors have access to appropriate training and development to enable them to apply this policy fairly, consistently and professionally.

The **Trust's HR Team** will provide advice, guidance and support in the implementation of this policy and procedure, acting as a point of contact for Headteachers/Principal and the CEO. The Trust **external** HR advisers will support the CEO in ensuring this policy is consistently applied across the Trust.

Managers must operate within this policy in a fair, consistent and reasonable way; ensuring confidentiality is protected where possible. It is a manager's responsibility to manage disciplinary issues. Managers must ensure that employees are supported throughout disciplinary processes appropriately and **they must not take any formal action without speaking to the Headteacher/Principal, who will seek advice from the Central HR Team.**

Informal discussions, support, advice and guidance do not form part of the formal disciplinary procedure and managers must ensure that employees are advised of this. Managers are encouraged to deal with allegations of misconduct promptly, professionally and discreetly, ensuring staff dignity is maintained wherever possible, whilst also ensuring that disruption to service provision is minimised. **Managers are encouraged to seek advice from the Headteacher/Principal even when dealing with matters of misconduct informally.**

Investigating Officers will receive appropriate training and must adhere to this policy and procedure which conforms with ACAS guidelines.

Employees are expected to behave in a professional manner at work in line with the values of the Trust and the Expectations and Code of Conduct. It is also expected that staff do not place the reputation of the Trust at risk outside of work. If any member of staff is unsure about the Expectations and Code of Conduct, parameters and appropriate behaviours expected inside and outside of work they should seek clarity from their manager, the Headteacher/Principal, members of the senior leadership team, leaders and/or their trade union. The Trust encourages employees to contact their **trade unions** at the earliest opportunity when involved in or facing disciplinary allegations and processes.

EQUALITY AND DIVERSITY

The Trust is committed to:

- Promoting equality and diversity in its policies, procedures and guidelines
- Delivering high quality teaching and services that meet the diverse needs of its student population and its workforce, ensuring that no individual or group is disadvantaged.

KEY PRINCIPLES

Headteacher/Principal's Responsibilities:
Dealing with minor instances of unsatisfactory conduct at an early stage.

Ensuring that employees clearly understand the standards of conduct expected of them and ensure staff have copies of the Trust's Employee's Code of Conduct

Carrying out, or making arrangements for, an investigation when any breach of discipline is alleged.

(The Headteacher/Principal should contact the Central HR Team who will seek guidance from the external HR provider for guidance prior to any investigation being commenced)

Ensuring that the person subject to investigation is kept up-to-date with progress.

Deciding, in the most serious cases (alleged gross misconduct), or where an employee's continued presence at work may hinder an investigation, whether it may be necessary to suspend the employee concerned. **Guidance will be sought from the Trust.**

THE DISCIPLINARY PROCEDURE

Confidentiality and data protection

It is the aim of the Trust to deal with disciplinary matters sensitively and with due respect for the privacy of any individuals involved. All employees must treat any information communicated to them in connection with an investigation or disciplinary matter as confidential.

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

Employees will normally be told the names of any witnesses whose evidence is relevant to the disciplinary proceedings against them unless there is good reason that a witness's identity should remain confidential.

During informal action, formal investigation and any subsequent stages of the procedure, the Trust will collect, process and store personal data in accordance with our GDPR policy. The data will be held securely and accessed by, and disclosed to, individuals only for the purpose of completing the disciplinary procedure.

Key Responsibilities of Investigating Officer
Identify the potential seriousness of the matter.

Determine any need to suspend the employee. The decision to suspend will be made by the Headteacher/Principal in consultation with **Central HR Team**. If a suspension from duty is found to be necessary, the Investigating officer will:

Investigate and gather all relevant information, which will usually include one or more investigation interviews.

All statements will be signed and dated with interviews being conducted in a timely manner not allowing colleagues or students to confer. (See Appendix 9).

Keep the employee informed of progress throughout the investigation.

Review the need for further investigation.

Determine how to proceed having completed a thorough investigation.

Ensure that the investigation information is appropriately documented. (See model template – **Appendix 10**).

Investigation Interview
This is to enable the investigating officer (**the Headteacher/Principal or another Senior Leader)** to decide whether or not there is a disciplinary case to answer and, if so, to establish the precise allegation **(see appendix 9 and 10) It is not a disciplinary hearing.**

The employee must be given reasonable written notice (except in exceptional circumstances no less than 3 working days) of the time and date of interview(s), together with details of the issues of concern. **All correspondence should be forwarded to the employee via recorded delivery, or hand delivered.** The employee must also be informed of their right to be accompanied at the meeting. If the employee's work colleague or representative is not available on the scheduled date(s), they may propose an alternative date and time which falls no later than 5 working days following the scheduled date. If the work colleague or representative remains unavailable beyond this timescale, it is reasonable to expect the employee to make alternative arrangements to be accompanied, but it is their decision whether they wish to be accompanied.

Criminal Charges
When conduct is the subject of a criminal investigation, or arrest, or 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 on the circumstances. Employees should inform their Headteacher/Principal immediately if they are involved in a criminal investigation, or arrest, or are subject to a charge or conviction. Failure to notify their line manager may result in disciplinary action.

The Trust will not usually wait for the outcome of any prosecution before deciding what action, if any, to take. Where employees are unable or have been advised not to attend an investigation meeting or disciplinary hearing, or say anything about a pending criminal matter, a decision may have to be made based on the available evidence.

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

Where a criminal investigation relates to allegations of abuse of children or young people, the Trust will co-operate and share information about the employee with other relevant agencies as appropriate, in accordance with the Trust's Dealing with Allegations and Concerns Against Staff and Safeguarding policies.

Precautionary Suspension
Where appropriate an employee will be suspended whilst investigations are conducted (e.g. where the matter is thought to be gross misconduct, or where suspension is necessary to ensure the welfare of others or to facilitate an investigation). Although not a disciplinary sanction, suspension should always be a carefully considered decision rather than an automatic response. (Please refer to Appendix 5 – Decision to suspend checklist). The CEO, Chair of Trustees and Governors will be notified of the suspension immediately. **Any reinstatements must be discussed with Central HR.**

HOW TO PROCEED AFTER THE INVESTIGATION

When the evidence has been gathered the investigating officer needs to consider how to proceed. This might be:

- that a disciplinary hearing is not warranted and there is no case to answer. In this situation the manager should write to the employee to confirm the outcome; **advice must be sought from the Central HR Team.**
- that a disciplinary hearing is not warranted but there are some issues to address (in which case the employee should be notified without delay, and any constructive guidance and instruction about the employee's behaviour, to avoid similar situations arising in future, should be provided by the investigating officer and recorded in the same way as under normal supervision); or
- that a disciplinary hearing is warranted.

ARRANGING A DISCIPLINARY HEARING

The employee is entitled to receive written notification of the arrangements for the hearing **no later than 10 working days before the hearing**, together with copies of documents to be referred to at the hearing. All correspondence should be forwarded to the employee **via recorded delivery, or hand delivered**. Within 3 working days of the hearing, the employee should submit to the investigating officer any other documents to which they intend to refer.

THE DECISION

The employee will be informed verbally of the decision at the hearing, and this will then be confirmed in writing no later than 5 working days after the decision is made. This letter should be sent by recorded delivery, or hand delivered.

Outcomes available are as follows:

No Further Action Appropriate in cases where it is concluded that misconduct has not occurred or is not of sufficient concern to warrant a caution being issued.
Written Warning Appropriate in cases where misconduct has occurred, but which falls short of gross misconduct. The warning will have effect for 12 months from being issued. Once it has expired it will be disregarded for disciplinary purposes.
Final Written Warning Appropriate where either**:** • the misconduct is so serious that it justifies a warning that dismissal would result from further misconduct (even though no previous warnings had been issued), or • further misconduct which would normally warrant a written warning has occurred within the life of a previous written warning. The warning will have effect for 18 months from the date of the hearing, but once it has expired it will be disregarded for disciplinary purposes.
Dismissal Appropriate for**:** • gross misconduct, or • misconduct which occurs during the lifespan of a previous final written warning and which would itself warrant at least a written warning ("cumulative misconduct"). Dismissal for gross misconduct will be from the date of the decision and will be without notice. Dismissal for cumulative misconduct will be with due notice. The employee will be provided with written reasons for dismissal, the date on which employment will or did terminate and details of how to exercise their right of appeal. This letter should also state if there is to be a referral to a regulatory professional body.
NOTE: Where appropriate, the circumstances will be reported to regulatory professional bodies

LIMITS OF AUTHORITY TO TAKE DISCIPLINARY ACTION

Action	Duration	Authority	Appeal
Written Warning	12 months	CEO / DCEO / Headteacher / Principal or Trust panel agreed by Central HR Trustees if disciplinary action taken against the CEO	An independent panel from either Trustees, Members, Governors or Senior Trust Leaders if not involved in the investigation
Final Written Warning	18 months	CEO / DCEO / Headteacher / Principal or Trust Panel agreed by Central HR Trustees if disciplinary action taken against the CEO	An independent panel from either Trustees, Members, Governors or Senior Trust Leaders if not involved in the investigation
Dismissal	Not Applicable	CEO / DCEO / Headteacher / Principal and a member of the Central HR team or operations	An independent panel from either Trustees, Members, Governors and the CEO if not involved in the investigation

APPEALS

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 within 5 working days of receipt
of the letter. The letter will be sent to Central HR with the Headteacher/Principal copied in (see appendix 6).

If the employee is appealing against dismissal, the date on which dismissal takes effect will not be delayed pending the outcome of the appeal. However, if the appeal is successful, the employee will be reinstated with no loss of continuity or pay.

Where possible the appeal hearing will be conducted by a senior leader or panel of Trustees/Governors who have not previously been involved with the case. The appeal hearing will review the fairness of the original decision in the light of the procedure that was followed and any new information that may have emerged.

For all potential dismissals, please refer to page 33 of the Trust's Scheme of Delegation to ensure that the correct delegation model is applied. Any hearing will be chaired by the CEO/Headteacher or Principal.

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Appendix 1 - MANAGING BEHAVIOUR

Line managers have the right to set reasonable standards of performance and behaviour for their teams. By ensuring that an employee knows what is required of them, both in terms of the duties and the standard to which those duties must be performed, the manager will be going a long way towards preventing poor performance/behaviour.

In addition, any difficulties the employee is experiencing in meeting the required standards can be addressed at an early stage before the matter escalates to the need to consider following the disciplinary procedure.

Standards of Conduct

- Employees should be aware of the conduct expected of them.
- Managers should ensure employees are aware of policies, procedures, rules, protocols and values.

Communication

Standards will be clearly and effectively communicated to all employees. This will be achieved by –

- providing a clear explanation, at the recruitment stage and through subsequent supervision, of the standards expected in relation to job performance and general conduct.
- ensuring an effective use of induction and probationary periods by providing new employees with a copy of the disciplinary rules, code of conduct, terms and conditions of their employment and details of their duties and responsibilities.
- holding regular supervisory meetings (see below) where standards of conduct can be reviewed and monitored. This can provide the ideal opportunity for any issues to be discussed and resolved before they become major difficulties.

Effective Supervision

- Minor breaches of discipline are best dealt with through routine supervision between an immediate line manager and the employee. In these circumstances it is advisable for the line manager to –
    - arrange a meeting to discuss the issue/s with the employee o prepare for the meeting by having the facts and any documents available
    - encourage the employee to talk about the situation by asking open-ended questions
    - listen to what the employee has to say and ensure that they stick to the facts relating to the situation
    - consider if the person requires support or more training in their role
    - explore whether the employee has any personal difficulties which may be affecting their work
    - ensure that the job description is clear and reasonable, i.e. not out of date and/or inappropriate for the role
    - establish whether or not the person is capable of carrying out the duties (refer to capability procedure if this is appropriate)
    - consider if this is a deliberate case of misconduct or wilfully negligent performance of duties, without good cause, and if this is clearly not the case agree with the employee and, together, sign an improvement plan, which should include a clear explanation of the consequences should

behaviour not improve monitor and review progress, recognising improvements where they have been made or taking further action when necessary

NB Such meetings are integral to the line manager/employee supervisory relationship and unless there is good reason to the contrary need only be on a one-to-one basis.

Appendix 2 - EXAMPLES OF MISCONDUCT

It is the Brighter Futures Learning Partnership Trust policy to help and encourage all employees to adhere to standards of conduct. To achieve this a procedure has been developed to be followed when dealing with misconduct that cannot be addressed through normal supervision. The procedure aims to ensure that all employees receive consistent, fair and equal treatment, when the following examples of misconduct are being dealt with.

Managers are advised to discuss with the Central HR Team, how any of the following rules apply in any given situation.

The examples are divided into two types: “gross misconduct”, a single breach of which might lead to an employee’s dismissal; and “other misconduct”, a single breach of which might result in disciplinary action, but not normally dismissal. (If misconduct is repeated, however, this may ultimately lead to dismissal.)

Gross Misconduct

Unacceptable Working Practices

- Refusal to carry out a reasonable management instruction despite being advised that to continue to do so might lead to disciplinary action.
- Failure to provide acceptable standards of care and security of pupils through gross negligence.
- Deliberately sleeping on duty at inappropriate or unauthorised times.
- Misuse of confidential information, unauthorised disclosure, destruction, alteration, addition to or erasure of official documents/records.
- Driving a vehicle in the course of employment without an appropriate driving licence, adequate insurance or appropriate authorisation.
- Misuse of the Internet, as defined in the Internet Usage Policy.
- • Failure to follow and uphold the safeguarding policies and practices in the Academy.

Corrupt or Improper Practice

- Unauthorised acceptance of or requests for gifts, entertainment, hospitality or benefits of any kind, in contravention of the Brighter Futures Learning Partnership Trust declaration of gifts and hospitality.
- Misuse of official position with the Brighter Futures Learning Partnership Trust for personal gain, or the gain of some other party.
- Unauthorised involvement in clients’ financial affairs.
- Failure to declare a personal interest in contravention of the Brighter Futures Learning Partnership Trust Declaration Procedure.
- Engaging in activities, in or outside of work, which is seriously prejudicial or in conflict with the employee’s own function.

Dishonesty

- Providing false information or conspiring to conceal information which leads to dishonest or fraudulent behaviour (e.g. deliberate falsification of expense claims, timesheets, information on application forms, aids, adaptations or other services provided or paid for by the Brighter Futures Learning Partnership Trust).
- Reporting sick (verbally or in writing) or remaining on sick leave when fit to undertake duties and responsibilities at work.
- Undertaking paid employment elsewhere whilst certified unfit to perform substantive duties.

Alcohol, Drugs and Substance Abuse

- Being on premises licensed for the sale/consumption of alcohol during working hours, or drinking alcohol at work during working hours
- Incapability at work due to the effects of alcohol, or prohibited drugs, or due to the misuse of non-prohibited drugs or other substances.

Criminal Activities

- Committing a criminal offence, whether during or outside of working hours, which renders the employee unsuitable to be employed in the Brighter Futures Learning Partnership schools and UTC.

Discrimination, Harassment and Bullying

- Discrimination, harassment or bullying when it is of a serious or unlawful nature.
- Use of Brighter Futures Learning Partnership equipment or premises to access, use, store or distribute explicit, offensive or discriminatory material.

Sexual Misconduct

- Involvement in sexual activities on the Brighter Futures Learning Partnership Schools and UTC premises during or outside working hours.
- Use of The Brighter Futures Learning Partnership equipment or premises to knowingly access, use, store or distribute explicit sexual material.

Property

- Loss or damage to the Brighter Futures Learning Partnership property or equipment through gross negligence or deliberate behaviour, whether during or outside of the working day.

Health and Safety

- Any act or omission which is grossly negligent, and which seriously endangers the health and safety of self or others.

Assault and Aggressive Behaviour

- Fighting or physical assault at work.
- Serious verbal abuse, threatening or intimidating behaviour in or outside of the workplace

Theft and Misappropriation

- Stealing from the Brighter Futures Learning Partnership or its employees or pupils, or the unauthorised removal of monies or property belonging to them.

Other Misconduct

The following list indicates the type of offence normally regarded as misconduct:

Attendance and Timekeeping

- Unauthorised absence from duty.

Unjustified and repeated lateness

- Unjustified failure to comply with absence reporting procedures.
- Failure to comply with prescribed working hours (e.g. lunch breaks).
- Undertaking activities detrimental to recovery whilst on sick leave.

Behaviour

- Insubordination.
- Smoking in a prohibited area.
- Knowingly being an accessory to a disciplinary offence.
- Failure to maintain appropriate standards of dress in line with the Academies dress code

Health and Safety

- Failure to make use of protective equipment and clothing.
- Wilful disregard of safety practices, procedures and rules.

Operational Working Procedures

- Failure to comply with and observe operational policies and procedures, which the employee would reasonably be expected to be aware of.
- Frivolous or vexatious use of procedures.

Appendix 3 - DISCIPLINARY INVESTIGATION PROCESS

The investigation will be conducted by an investigating officer. In the Brighter Futures Learning Partnership this will be an appropriate senior leader or Headteacher/Principal, or their nominee.

The investigating officer will, at appropriate stages during the investigation convene one or more investigation interviews with the employee. This is the employee's opportunity to explain their actions and for the investigating officer to put questions to him/her regarding the allegations. It is important that any investigation is carried out as thoroughly and promptly as possible.

Why hold an investigation?

- To enquire into the circumstances of the alleged misconduct.
- To give the employee a chance to offer an explanation.
- To obtain a balanced view of the information that emerges.
- To enable the investigating officer to decide whether the matter should continue to be dealt with under the disciplinary procedure.
- To accurately record all relevant information arising from the investigation.

Who should conduct the investigation?

- The Headteacher/Principal/Senior Leader or Senior Executive with support from a line manager if appropriate.

The role of the investigating officer

- To gather the evidence that establishes the facts.
- To consider at the outset, and throughout the investigation, whether the matter under investigation is potentially gross misconduct or otherwise, and to make that clear to the employee.
- To decide whether or not the matter should go to a disciplinary hearing.
- To notify the appropriate senior manager of the need to convene a disciplinary hearing.
- To prepare a report on the findings of the investigation including any appropriate recommendations for consideration.
- To submit the report to the hearing officer and employee, together with any supporting documents, prior to a hearing.
- To present the case together with the appropriate evidence at the disciplinary hearing.
- To keep the employee regularly informed of the progress of the investigation.

The Investigation Interview

- The investigation officer should carry out the investigation interview(s) and may have a Central HR Team member present to assist the process. The following provides a quick checklist with regard to the interview(s):
- Leaders should write to the employee, giving at least 3 working days' notice of the intention to hold an investigation interview, at a date and time which is reasonably and mutually convenient. All documents to be discussed at the meeting should be enclosed.
- The employee is entitled to representation at the interview (see Appendix 5: Fact Sheet on "Employee Representation").

- At the interview the investigation officer should explain that this is not a disciplinary hearing, but an investigation interview.
- If representation has been agreed prior to the meeting, the role of the representative must be made clear.
- The investigating officer and the HR Advisor can ask any relevant questions, giving the employee the opportunity to respond at the end of each question.
- The investigating officer must inform the employee whether they need to make any further enquiries and how often they will keep in touch during the process of the investigation.
- It is important, and in the interests of both the employer and employee, to keep written records during the disciplinary process. It is the investigating officer's responsibility to arrange for notes to be taken at the investigation interview(s).
- Notes taken at any interview, during the investigation process, should be agreed, where possible, and signed as a true reflection of the meeting by the employee. However, it should be noted that if the employee refuses to sign the notes they might still be used as part of the evidence in a disciplinary hearing.

  Employees and anyone accompanying them must not make any electronic recordings of any meeting or hearings conducted under the procedure.

Appendix 4 - SUSPENSION FROM DUTY

Where there appears to be serious misconduct, or risk to property or other people, a period of suspension with pay should be considered while the case is being investigated. Where possible the period of suspension should be kept as short as possible.

What is suspension?

- Suspension is a neutral act, not a disciplinary penalty.
- It involves removal of an employee from the workplace.
- It is a precautionary measure, and full pay will continue to be paid during the suspension period.

When is it appropriate to suspend?

* (Please refer to Appendix 5 – Decision to suspend checklist)

- In cases of potential gross misconduct. (See Fact Sheet on "Examples of Misconduct".)
- When it is necessary to safeguard the personal welfare of employees, children.
- In advance of a suspension employees must be given the opportunity to respond to the allegations made against them, their response must be taken into consideration as to whether they can remain in work.
- In order to allow an investigation to take place.
- It may be necessary to report allegations to the LADO and await the outcome of a strategy meeting before a suspension takes place.

Who can suspend?

- CEO/Headteachers/Principal/Trust Board
- The person conducting the suspension should consult with the Central HR Team before any suspension is carried out.

How to carry out a suspension

- Arrange to meet with the employee to inform them of the nature of the allegations.
- The employee may have a trade union representative or work colleague with them during the meeting at which they are suspended. (If a representative is not available, suspension should not be delayed.)

During the suspension meeting the employee should be advised:

- not to comment on the allegations made against them
- that an investigation interview will be arranged as soon as possible
- they will have an opportunity to comment on the allegations during the investigation interview
- it may be necessary to contact them during the course of the investigation and they must therefore be reasonably available during normal working hours
- not to enter the workplace or discuss the matter with colleagues without permission during the period of suspension

- to hand in any school/UTC possessions/equipment, e.g. keys, fobs, blackberry, laptop, etc. o that their remote access to e-mail will be suspended
- to contact their trade union
- to consider seeking support from Occupational Health (employees can self-refer for counselling)
- who to contact and how to contact them for information on the progress of the investigation
- If the employee is not in work (e.g. due to annual leave or sickness) management may carry out the suspension when the employee returns to work. However, where the return to work date is not known management should contact the employee as soon as possible and attempt to undertake the suspension in person. (It would not normally be considered reasonable to do this by telephone or letter. Only in exceptional circumstances, where it is unavoidable, should this be considered.)

Next Steps

- All suspensions will be confirmed in writing as soon as practically possible. In schools, the Chair of Governors and Central Trust will be notified.
- The matter should be investigated without delay.
- At regular intervals the need for suspension to continue will be reviewed.

Lifting the Suspension

- If the suspension is lifted, sensitive and supportive arrangements will be put in place to manage the return to work.
- In any decision to lift a suspension leaders must consult with the Central HR Team.

Appendix 5 – DECISION TO SUSPEND CHECKLIST

This document should be used to make a decision whether to suspend an employee as part of a disciplinary investigation. Suspension from work should not be automatic; all options should be considered prior to making the decision to suspend. Completing this form will record the decision and can be used to evidence should the matter be challenged.

Name of employee			
Job Role			
Allergation (give brief description)			
Date of assessment			
Question	**Detail**	**Answer**	**Rational for decision**
Do you have reasonable grounds to suspend the employee?	1. The employee poses a potential risk of harm to pupils (including safeguarding concerns), or a threat to the organisation or employees (including relationship breakdown or property)	Yes/No	
	2. The employee's continued presence at work may make if difficult for the employer to investigate the allegation (for example is there a risk that the employee may destroy evidence or attempt to influence witnesses)	Yes/No	
	3. The allegation (s) amount to gross misconduct which could potentially lead to summary dismissal *(answering yes to this point alone should not automatically lead to a decision to suspend)*	Yes/No	
Are there any reasonable alternatives to suspension?	1. The employee can't be temporarily re-located to another office/location due to their work or there are no alternative facilities	Yes/No	
	2. The employee cannot be given different duties	Yes/No	
	3. The employee cannot be redeployed within the school (for example so they do not have contact with children)	Yes/No	

	4. There the employee is a teacher; the teacher can't be given different classes to teacher	Yes/No	
	5. The employee refuses to agree to the changes and there is no contractual authority to impose the change	Yes/No	
Where you have spoken to the employee regarding the allegations, are you satisfied that suspension is the only reasonable course of action?		Yes/No	
Where you have answered YES to all the above questions, it may be appropriate to suspend based on the circumstances, it may also be appropriate if only some of the answers are YES depending on the circumstances.			

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

Appendix 6 - EMPLOYEE REPRESENTATION

Employee Representation

Employees have a statutory right to be accompanied by a work colleague or trades union official at disciplinary or grievance hearings. Representation at other meetings relating to employment issues is encouraged where it is seen as a positive way of moving things forward and negotiating a mutually satisfactory outcome.

Role of a companion at meetings and hearings

An employee may bring a companion to any hearing or appeal at which a formal warning may be issued, or dismissal is a potential outcome. The companion may be either a trade union representative or a work colleague. The employee must inform the Headteacher/ Principal or any other senior leader conducting the meetings who their chosen companion is in good time before the hearing. No rearrangements will be made to the time and date of the investigation meeting to enable a companion to attend.

Should the employee choose to bring a companion to the hearing, he or she will be responsible for making these arrangements and for providing his or her companion with any paperwork required for the hearing.

Acting as a companion is voluntary, and employees' colleagues are under no obligation to do so. If they agree to do so, they will be allowed reasonable time off from their duties without loss of pay to act as a companion.

If the companion chosen is not available at the time when a hearing or appeal is scheduled, the employee may propose an alternative time for the hearing or appeal to take place and, as long as the alternative time is reasonable and within five working days after the originally scheduled date, the hearing or appeal will be postponed. If the employee's chosen companion will not be available for more than five working days afterwards, the employee may be asked to choose someone else.

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 his or her companion at any time during a meeting.

We may, at our discretion, allow the employee to bring a companion who is not a colleague or union representative (for example, a family member) as a reasonable adjustment if the employee has a disability or if they have difficulty understanding English.

Appendix 7 - APPEALS

Appeals

An appeal hearing provides the employee or former employee with the opportunity to have the facts of the case and the outcome of the original hearing reconsidered. The appeal will be a rehearing of the case. The appeal will be heard by a panel in accordance with the scheme of delegation.

Appeal hearings are an integral part of a fair disciplinary process. To ensure a fair and sensitive process is followed, managers governors and councillors hearing appeals will at all stages before, during and after proceedings

- conduct themselves impartially
- show due respect and courtesy to all parties
- recognise the uncomfortable, unfamiliar and stressful nature of proceedings for all concerned (including witnesses)
- be mindful of the consequences of their decisions
- ensure that an appropriate record of proceedings is taken
- carefully record their decision and the reasons for their decisions.

Procedure:

An appeal must:

- be submitted in writing to the Central HR Team (based at Hungerhill school bungalow or email Denton.K@brighterfutureslpt.com), in accordance with the letter confirming the disciplinary decision.
- be received within 5 working days of receipt of the letter confirming the disciplinary decision.
- be heard no sooner than 10 working days after the appellant is notified of the arrangements for the appeal (unless the appellant agrees to a shorter timescale).

The appeal will follow the same format as the original hearing as set out at Appendix 7: "Fact Sheet on Structure and Conduct of Hearings". This comprises of:

- introductions and explanation of process - presentation of management case (with reference to documents and witnesses as appropriate)
- questioning of management case and witnesses (by appellant, appellant's representative, and appeals body and adviser)
- presentation of appellant's case (with reference to documents and witnesses as appropriate)
- questioning of appellant's case and witnesses (by Management Presenting Officer, appeals body and adviser)
- final summaries from Presenting Officer and appellant (in that order) - adjournment for appeals body to make decision.

The appeals body will determine whether to:

- uphold the original finding and outcome; or - uphold the original finding but modify the outcome (by, for example, substituting it for a lesser sanction or outcome); or
- not uphold the original finding and in doing so remove the original sanction or outcome, or substitute for a lesser sanction or outcome.

The outcome of the appeal will be given orally at the end of, or as soon as possible after, the hearing, and will be confirmed in writing (by recorded delivery) within 5 working days. The CEO will be informed of the appeal process and any relevant information, unless the appeal involves him/her as either an investigating officer or as a subject of a disciplinary/grievance.

The Governors/Trustees will ensure the CEO is informed of any outcome on the same day as the appeal.

Subject only to any statutory rights the appellant may wish to exercise, the decision of the appeal hearing will be final, and no further rights of appeal or hearing will be allowed under this procedure.

There are circumstances in which an employee who is dismissed considers the dismissal unfair and they may apply to take their case to an Employment Tribunal. If an Employment Tribunal claim is received, please contact the CEO and the Central HR Team immediately for advice.

Automatic Unfair Dismissal (Industrial Action)

No disciplinary action or dismissal will be taken against any employee for participating in lawful industrial action, as dismissal for such participation is automatically unfair under legislation in force from 18 February 2026.

Appendix 8 - STRUCTURE AND CONDUCT OF HEARINGS

Structure of the Hearing

1. Introductions and explanation of the hearing process by the Hearing Officer/Chair of the hearing.

2. **Presentation of the alleged misconduct** by the Investigating Officer (termed, "Presenting Officer" for the purpose of this fact sheet). (At appeal hearings the Presenting Officer might be the original Hearing Officer rather than the Investigating Officer.)

3. Witnesses to be called as necessary, by the Presenting Officer, and to leave after
   - questioning by the Presenting Officer
   - questioning by the employee/appellant and their representative
   - questioning by the Hearing Officer/ members of the hearing and HR Consultant

4. Employee/appellant and their representative to ask questions of the Presenting Officer.

5. Hearing Officer/members of the hearing and HR Advisor to ask questions of the Presenting Officer

6. Employee/appellant and their representative to respond to the allegation, calling witnesses if necessary.

7. Witnesses to be called as necessary, by the employee/appellant, and to leave after
   - questioning by the employee/appellant and their representative
   - questioning by the Presenting Officer
   - questioning by the Hearing Officer/members of the hearing and HR Advisor.

8. Presenting Officer to ask questions of employee/appellant and their representative.

9. The Chair/members of the hearing and HR Advisor to ask questions of the employee/appellant and their representative.

10. Summing up (with no new information introduced)
    - Presenting Officer first, then employee/appellant and their representative.

11. Hearing adjourned for the Chair/ members of the hearing to consider the case.

    All parties will withdraw, with the exception of the Human Resources Advisor, to allow the Chair/members of the hearing to come to a decision.

The Human Resources Advisor will remain to provide advice. However, the decision is the responsibility of the Chair/members of the hearing.

12. Hearing to be reconvened and the Chair of the hearing to verbally announce the decision.

Conduct During a Hearing:

The role of the Chair of the hearing is to:

- Chair the hearing.
- Be responsible for the proper conduct of the hearing.
- Ensure both parties are provided with adequate opportunity to fully state their case.
- Take notes and ask questions, as appropriate.
- Decide what action to take, based on the evidence presented.
- Inform the employee of his/her decision, which is subsequently confirmed in writing. The letter should be sent via the post by recorded delivery.

The Review Panel is to:

- Listen to the evidence presented by all parties
- Ask questions of parties as appropriate
- Decide whether or not misconduct has been committed by the employee and whether this warrants dismissal

The Committee can only consider the allegation(s) submitted and no other matter will be considered. The Committee may only ask questions during the course of the hearing, they should refrain from making comments or judgements until the adjournment.

The HR Advisor's role is to:

- Clarify any procedural matters raised during the course of the hearing
- Provide professional advice to the Chair/Committee during the hearing and during the decision-making process
- Ask any relevant questions of any parties as appropriate

Standards of Behaviour:

- All those involved in the hearing are expected to be respectful and courteous.
- Any behaviour from any party deemed to be inappropriate, offensive, intimidating, malicious, insulting or abusive and/or intended to undermine, humiliate, or injure the other party will not be tolerated and the meeting may be adjourned.

Witnesses

- Witnesses should provide relevant evidence and respond only to questions they are asked.

Documentation

- It is the responsibility of each party to ensure that all evidence they wish to refer to is included in the bundle, which is circulated to all parties prior to the hearing.

- New documentary evidence can only be submitted at the discretion of the Chair/Chair of the hearing.
- It is felt that the relevance of any submission is questionable the Chair of the hearing will look for clarification from the HR Advisor prior to proceeding on that point. It is important to consider the General Data Protection Act when submitting any information personal to other parties, and again clarification must be obtained from the HR Advisor if personal information is supplied without the express consent of the individual concerned. If consent is not given, the documents will need to be either anonymised or not supplied to maintain the duty of confidentiality to other employees.
- Witnesses can be provided when necessary with the appropriate documentary evidence to refer to during the hearing.

Adjournments

- An adjournment may be sought at any time during the hearing process where appropriate.
- The decision to adjourn rests solely with the Chair of the hearing.

Appendix 9 - REFERRALS TO REGULATOR PROFESSIONAL BODIES

If an employee is dismissed or resigns before a disciplinary process is completed and the Trust considers that it may have dismissed the employee at the outcome of the process, there may be a statutory duty to report the case to an appropriate regulatory professional body. (This is applicable in cases of incompetence as well as misconduct.)

Teacher Regulation Agency (TRA)

The Teacher Regulation Agency (TRA) acts on behalf of the Secretary of State for Education and is responsible for investigating allegations of serios misconduct against teachers and headteachers in schools in England.

If appropriate the TRA can prohibit a teacher from teaching in schools.

Employers have a statutory duty to consider referral of cases involving serious professional misconduct to TRA. Where a teacher's employer has dismissed the teacher for misconduct of would have dismissed them had they not resigned first, they must consider whether to refer the case to TRA.

The school/UTC must refer to the Teacher misconduct referral form for employers and seek advice from the Trust HR.

Allegations of serious misconduct against a teacher may be referred to TRA by any of the following:

- a teacher's employer, including an employment or supply agency
- members of the public who think that a case of misconduct by a teacher is serious enough to warrant a prohibition order
- the police
- the Disclosure and Barring Service (DBS) and other regulators who are aware of relevant information

A referral is appropriate if the alleged misconduct is so serious that it warrants a decision on whether the teacher should be prevented from teaching. Cases of less serious misconduct, and all cases of incompetence, should be dealt with locally by employers.

TRA can put an interim prohibition order in place to prevent a teacher from teaching until their case has been fully investigated. The Prohibition of Teachers document explains (available on the Government Website) provides advice on the factors relating to decisions leading to the prohibition of teachers from the teaching profession, the types of misconduct and relevant offences that may lead to prohibition.

Referral to Disclosure and Barring Service (DBS)

Employers have a legal duty to make a referral to the DBS where:

- An individual has harmed, or poses a risk of harm, to a child or vulnerable adult;
- The harm test is satisfied in respect of that individual;
- The individual has received a caution or conviction for a relevant offence, or if there is reason to believe that individual has committed a listed relevant offence; and
- That individual has been removed from working (paid or unpaid) in regulated activity, or would have been removed had they not left
- The DBS will then consider whether to bar the person. You should make a referral as soon as possible and ordinarily on conclusion of an investigation, when an individual is removed from working in regulated activity.
- The DBS sets out the circumstances where a childcare organisation must refer names to the Secretary for State for consideration of inclusion in the Barred List
- The Trust will refer on to the Teacher Regulation Agency (TRA) misconduct cases relating to registered teachers,

Making Referrals

- The CEO/Headteacher/Principal will be responsible, with the assistance of the Central HR Team, for ensuring that a referral has been made.

- Misconduct referrals will be made promptly within one month of the termination of employment (or, where applicable, suspension) and be accompanied by supporting evidence.

Appendix 10 – WITNESS STATEMENT

Name:
Date and Time:

Account of Incident:

SIGNATURE:

DATE:

Appendix 11 - INVESTIGATION FORM (FOR COMPLETION BY INVESTIGATING OFFICER)

*Please provide as much information as possible, including time/place/witnesses/evidence from CCTV. **(Add context prior to and post incident).**

Staff/Student Name:

Date and time of incident:
Where did the incident take place?
Names of witnesses:
Account of incident

SIGNATURE:

DATE: