




Disciplinary Policy and Procedure

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Signed			

PART ONE -POLICY

1. Introduction

All employees of Victoria Academies Trust. ('the Trust') are expected to maintain high standards of conduct and adhere to any Trust (or school) policies and procedures.

The purpose of this policy is to clarify the rights and responsibilities of the Trust, its constituent academies and its employees and to ensure that matters relating to conduct are dealt with in a fair, consistent and constructive manner.

It also aims to satisfactorily resolve issues of conduct at an early stage, where possible, in order to avoid punitive sanctions. They may however be occasions where conduct is more serious and warrants investigation and/or action under this policy.

2. Scope

The following procedure applies to all employees, permanent or temporary of Victoria Academies Trust.

This policy and procedure do not, however, apply to staff employed by external contractors.

The policy and procedure are intended to help the CEO and the Trust Board fulfil their responsibilities as required by the Education Reform Act 1998 with regards to disciplinary procedures. It also takes into account the appropriate provisions of the ACAS Code of Practice on Disciplinary and Grievance Procedures.

The member of staff leading any disciplinary procedure shall be of relevant seniority in the Trust. Usually this will be led by the member of the Executive Leadership Team (ELT) who line manages the employee.

This policy and procedure is designed to promote good and orderly employment relations, to help and encourage all employees to achieve and maintain acceptable standards of conduct, performance and attendance. This will ensure consistency and fair treatment for all and provide a fair method of dealing with alleged failures to follow those standards.

Copies of this policy and procedure is made available to all employees is on the Trust website.

This procedure has been adopted by the Victoria Academies Trust Board following consultation with the trade unions recognised by The Victoria Academies Trust.

3. Principles

The procedure is based on the following principles: -

- No disciplinary action will be taken against an employee until the case has been investigated, unless requested by the employee
- At any stage in the process, the Designated Manager may consider it appropriate to invoke an alternative policy
- Breaches of discipline need not necessarily be of the same nature to permit progression to the next stage of the procedure

- Employees will be advised verbally (as far as possible) and in writing of the nature of the allegations against them at the outset of the investigation and at each formal stage.
- The value of taking clear action without undue delay.
- Investigations to find out the relevant facts should be carried out promptly. The investigation should collect all relevant and supporting documents.
- The investigator should be someone without any direct involvement in the case.
- That at each stage the employee will be informed of the complaint against them personally and in writing before being interviewed under this procedure.
- Employees will have the right to be accompanied by a work colleague, or accredited trade union at any investigation interviews, disciplinary hearings or appeal hearings.
- The need for accurate and detailed written records throughout the procedure.
- The employee will be given an opportunity to state their case (which shall include the right of the employee or their representative to make a statement, ask questions of any witness and/or produce documents on their behalf) before decisions are reached.
- All parties will deal with issues promptly and not unreasonably delay meetings, decisions or confirmation of those decisions. Where a meeting needs to be rescheduled, it will only be rescheduled once (except in exceptional circumstances).
- Employees must take all reasonable steps to attend a disciplinary hearing. Failure to attend without a reasonable explanation could result in the hearing continuing in the employee's absence and a decision taken on the evidence available.
- Where formal action is taken in accordance with this procedure, it shall be the duty of the designated person taking such action
- To notify the employee concerned in writing of the action taken no later than five working days after the interview/meeting and to enclose all relevant documents and evidence under this procedure;
- To ensure that, if the employee has so requested, a copy of the notification is sent to the employee's representative (the designated person shall at an appropriate time inform the employee that he has the right to make such a request)
- To ensure that a copy of the notification is retained on the employee's personal file.
- That any formal decision should be communicated to the employee in writing within five working days of a hearing
- That the employee be notified of their right of appeal against any formal disciplinary action taken against them under the procedure
- All information will be held in confidence and only shared with those directly involved in the case and in circumstances where there is a legal obligation to disclose such
- All formal records and copies of correspondence will be retained on the employee's file as appropriate.
- The appeal hearing exhausts the internal process
- Where necessary and appropriate, Head Teachers from other academies within the Trust may chair disciplinary panels.
- Action taken under this procedure shall depend upon the nature of the employee's offence, any mitigating circumstances where these may be reasonably taken into account, and if appropriate the employee's past disciplinary record. A first offence, unless it is considered to be gross misconduct, shall not normally result in dismissal but it may, depending upon the factors aforementioned, result in any other of the disciplinary penalties defined in the procedure.

4. Disciplinary Rules

These rules set out the standards of conduct and performance at work that Victoria Academies Trust expects of its employees, and an indication of action/behaviour that is not acceptable. Any breach of

an employee's Terms and Conditions of Employment, any conduct which the Trust considers unsatisfactory or prejudicial to its interests or any failure to meet the required standards, may render the employee liable to disciplinary action.

It is emphasised that the list is neither exclusive nor exhaustive and there may be other offences which will render disciplinary action necessary. In some instances, the conduct detailed below may be considered sufficiently serious to be gross misconduct. The severity of each case will be considered on its merits when determining whether the allegations potentially constitute general misconduct or gross misconduct. Disciplinary action will be taken in accordance with the disciplinary policy & procedure.

5. Examples of conduct which can lead to disciplinary action

Misconduct

In some instances, the misconduct detailed below may be considered sufficiently serious to constitute gross misconduct. This list is not intended to be an exhaustive one and only gives an indication of the types of offence that may be considered misconduct.

- Absence - when an employee without sufficient cause, is absent from duty or is late for duty or other attendance; including unauthorised absence- employee without permission or sufficient cause leaves their place work and/or unsatisfactory attendance
- Poor time - keeping or repeated late attendance or leaving early without permission
- Persistent failure to comply with sickness reporting procedures
- Falsification in respect of sickness absence
- Failure to comply with the Trust's code of conduct
- Failure to comply with any Trust or school policies and procedures, including safeguarding, financial and health and safety requirements
- Failure to comply with data protection legislation, procedures and principles
- Unauthorised use, processing or disclosure of personal data contrary to the Data Protection Principles
- Improper or unauthorised disclosure of information - when an employee without proper authority communicates to any person information which was given to or acquired by them in confidence as an employee of the Victoria Academies Trust
- Misconduct in relation to official documentation - when an employee improperly destroys or mutilates any record, or document made, kept or required for the purpose of the Victoria Academies Trust or alters or erases or adds to any entry in such a record or document.
- Corrupt or improper practice - when an employee improperly uses, or attempts so to use, their official position for their own private advantage or for the private advantage of some other person
- Conduct at work likely to offend decency
- Sleeping on duty - except where expressly permitted
- Failure to comply with reasonable management instructions
- Wilful inefficiency or failure to achieve required work standards (where capability is not in question)
- Disobedience to orders- when an employee without sufficient cause, disobeys, or omits or neglects to carry out a lawful order whether in writing or not, including failure to observe the operational regulations and standing orders of the Victoria Academies Trust.
- Abuse of authority- when an employee's conduct towards a fellow employee, student or the public is oppressive or abusive.
- Neglect of duty -when an employee:

- Without sufficient cause fails to discharge the obligations which statute or their contract places upon them
- By carelessness or neglect allows any loss, damage or injury to occur to the Academy's interest, or any person or property
- Fails to report any matter which it is their duty to report
- Fails to make an entry which it is their duty to make, in any document/record
- Fails to properly account for, or to make a prompt and true return of, any money or property which comes into their possession in the course of their duties.
- Unauthorised employment- when an employee:
 - Undertaking unauthorised work, during hours when contracted to work for Victoria Academies Trust, or engaging in employment during off-duty hours, which is detrimental to the interests of Victoria Academies Trust.
 - An employee's off-duty hours are their personal concern, but they should not subordinate their duty to their private interests or put themselves in a position where their duty and their private interests' conflict. Victoria Academies Trust does not preclude employees from undertaking additional employment, with permission where necessary, but any such employment must not, in view of the Victoria Academies Trust, conflict with or react detrimentally to Victoria Academies Trust's interests, or in any way weaken public confidence in the way Victoria Academies Trust conducts its business.
- Threatening or abusive language or behaviour towards colleagues, members of the school or wider community, other stakeholders or members of the public.
- Obscene language or behaviour
- Insubordination
- Falsehood When an employee:
 - Knowingly or through neglect makes any false, misleading or inaccurate oral or written statement or entry in any record or document made, kept or required for the purposes of the Victoria Academies Trust
 - Has knowingly or through neglect falsified any information used in support of an application for any post in the employment of the Victoria Academies Trust.
- Being an accessory to a disciplinary offence - when an employee connives at or is knowingly an accessory to any offence against discipline.
- Criminal conduct- when an employee has been found guilty by a Court of Law of a criminal offence, and when where in the view of Victoria Academies Trust, the nature of the offence conflicts with or reacts detrimentally to the Victoria Academies Trusts interests, or in any way weakens public confidence in the Victoria Academies Trust.
- Conflict of personal/work interest
- Damage to, or destruction of property, equipment or official documents
- Improper or unauthorised use of Trust/school time, property and resources including the excessive use of telephone, email or internet, accessing inappropriate material on the internet or sending inappropriate emails
- Neglect of health - where an employee neglects their personal hygiene to such an extent that it is offensive to their fellow employees and or members of the public.
- Neglect of personal hygiene - where an employee neglects their personal hygiene to such an extent that it is offensive to their fellow employees and or members of the public.
- Damage to Victoria Academies Trust property - when an employee:
 - Wilfully or without due care causes any waste, loss or damage to any property of Victoria Academies Trust, or fails to take proper care thereof
 - Fails to report any loss or damage to any such property issued to, or used by them or entrusted to their care.
- Sleeping on duty (except when expressly permitted)

- Smoking on the Academy site
- Discrimination against an employee, student or the public on the grounds of sex, age, race, sexual orientation, religion or belief.

Gross misconduct

For offences of suspected or alleged gross misconduct, suspension will normally apply, followed by summary dismissal if the offence is established and there are no acceptable mitigating circumstances.

Gross misconduct is misconduct of such a nature that Victoria Academies Trust is justified in no longer tolerating the continued presence at the place of work of the employee who commits such an offence. The sanction for gross misconduct will normally be summary dismissal, i.e. dismissal without notice.

The following list is not exhaustive and only gives an indication of the types of offence that may be considered gross misconduct. Examples of offences of gross misconduct include:

- Unauthorised removal or use of Victoria Academies Trust property
- Stealing from the Victoria Academies Trust, its employees, its students or the public
- Other offences of dishonesty, including falsification (or aiding and abetting the falsification) of subsistence and expenses claims, timesheets, etc. and the falsification of qualifications which are a stated requirement of employment or which result in financial gain
- Sexual misconduct at work
- Deliberately accessing internet sites containing pornographic, offensive or obscene material, in work time or on equipment provided by Victoria Academies Trust
- Serious misuse of Victoria Academies Trust property or name
- Malicious damage to Victoria Academies Trust's property
- Serious breaches of safe working practices, regulations or procedures endangering other people including deliberate damage to, neglect or, misappropriation of safety equipment
- Unlawful discrimination or harassment
- Serious misuse of information technology systems including abuse of email or the internet (including social media) which could call into question the employee's suitability and integrity to carry out their role
- Being under the influence of drink, illegal drugs and substances or legal drugs (which impair capacity and have not been disclosed) or in possession of or supplying drugs during working time or at a Trust or school event or engaging in such behaviour outside of working hours which would impair the employee's ability to undertake their duties safely or effectively
- Unauthorised entry into an area on the premises to which access is prohibited
- Breach of copyright/intellectual property
- Making a false disclosure or giving false/misleading information under the Whistleblowing Policy
- Making malicious allegations
- Covertly recording hearings, meetings or colleagues
- Unauthorised removal, use or non-return of Trust/school property
- Serious breach of safeguarding or child protection procedures and/or potentially placing a child or vulnerable adult at risk of harm
- Failure to report an incident of child protection or adult abuse which has come to the employee's attention

- Bringing the Victoria Academies Trust into serious disrepute. in both work and/or the employee's own time
- Breach of rules for Professional Bodies or recognised standards applying to trade bodies or professionals (including the Teachers Professional Standards)
- A serious breach of confidence. Conduct likely to cause serious loss of confidence in the Trust/school and/or is contrary to the interests of the Trust. This includes criminal offences or inappropriate behaviour outside of work which may impede the employee's continued ability to perform their role.
- An employee's failure to notify the Trust if they are found by the Police/Court to have engaged in criminal activity or are under investigation by the Police
- Knowingly taking parental, paternity or adoption leave when not eligible to do so for the purpose other than supporting a child
- Concerns of a safeguarding nature
- Committing a criminal offence which renders the employee unsuitable to work in an education establishment e.g:
 - Sexual offences
 - Fighting
 - Physical assault
 - Harassment and bullying
- Being under the influence of drink or drugs (other than those which are used in accordance with the instructions of a medical practitioner) when an employee renders themselves unfit through drink or drugs for duties which they are or will be required to perform or which they may reasonably foresee having to perform.

6. Additional Considerations/Action

6.1 Safeguarding & Child Protection

Allegations relating to safeguarding and child protection must be dealt with in accordance with statutory guidance and the Trust procedures for managing allegations against staff. The Head Teacher should consult the Local Authority Designated Officer (LADO) for further advice and action as appropriate.

5.2 Financial Irregularities

Any allegation relating to financial irregularity, corruption or fraud should be immediately reported to the Chief Operating Officer and /or the Chief Executive, who will consider whether the matter should be reported to the Police, ESFA, Trust Auditors or other appropriate body.

5.3 Criminal Activity

Employment law is based upon a different set of principles to criminal law, which means that the Trust may take action before a criminal case is concluded. In addition, being found not-guilty of a criminal offence would not preclude disciplinary action being taken against an employee. Any disciplinary investigation or hearing should not be allowed to prejudice a police investigation or criminal case and therefore authorisation to proceed with a disciplinary investigation should be secured before proceeding.

5.4 Professional Association or Trade Union Officials

Where it is alleged that an official of a trade union or professional association has committed a breach of discipline, they shall be informed of the complaint against them in accordance with the principles and the provisions of this procedure. The designated person taking disciplinary action shall notify HR who shall inform the appropriate senior representative or full-time official of that trade union or professional association of the allegations before any further action is taken against the official.

6. Roles and Responsibilities

6.1 Designated Manager

The Head Teacher will normally manage disciplinary matters within their school, however dependant on the circumstances the Head Teacher/ Executive leaders/CEO or Trust Board can also manage these matters and will be referred to in the policy as the 'Designated Manager'.

It may be appropriate, in some circumstances, for the Head Teacher under the direction of the Executive Leadership Team (ELT) to delegate responsibility to a senior manager within the school or the Trust Central Management Team.

In cases where allegations are made against a Head Teacher or member of staff the Executive leadership Team will normally assume the role of the Designated Manager.

For allegations against the Directors of School or Chief Operating Officer, the CEO will assume the role.

Where allegations are made against the Chief Executive, a member of the Trust Board (normally the Chair) will manage the process as the Designated Manager.

6.2 Investigating Officer

The Designated Manager under the direction of ELT will appoint an Investigating Officer who is of an appropriate level of seniority and should not have had any previous involvement which could compromise their impartiality. During the investigation the Investigating Officer may be supported by HR.

The Investigating Officer must act impartially and should undertake a fair and reasonable investigation, which may involve interviewing witnesses, obtaining and analysing written, electronic and other forms of evidence.

In some circumstances, it may be appropriate to appoint an Investigating Officer from outside of the school, either from the Trust's Central Management Team, another school within the Trust or an independent external investigator.

6.3 Disciplinary and Appeals Panel Members

Disciplinary and appeal hearings will be heard in accordance with the Trust's Scheme of

Delegation ([Scheme of Delegation](#))

Panel members must act with impartiality and should make their decisions based upon the evidence presented to them at the hearing.

6.4 Advisors to the Panel

At any disciplinary hearing, including during the subsequent deliberations leading to a decision, the panel may be supported by Head of HR or an external HR consultant.

On other occasions, it may be appropriate for other specialists, e.g. a legal representative, to advise the panel.

PART TWO - PROCEDURE

7. Assessment of Allegations

Upon becoming aware of an allegation, the Designated Manager must make an assessment of the available information to determine what course of action should be taken, e.g. is there sufficient evidence to warrant a formal investigation? Can the matter be dealt with informally? Or are further fact-finding enquiries required? The Executive Leadership Team must be informed of any allegations which could result in disciplinary proceedings/investigation. Only if the Designated Manager is satisfied that there is just cause to invoke disciplinary proceedings should a formal investigation be instigated.

8. Suspension

Suspension should only be applied where circumstances of the case make it unacceptable for the employee to remain at work while the matter is under investigation. Such circumstances may include, but is not limited to:

- Where a child (or children) is/are at risk of harm
- Where there is an allegation which, if proven, could constitute gross misconduct
- For the protection of colleagues, property or the employee themselves
- Where it is believed that the continuing presence of the employee in the workplace could impede the investigation

The CEO has the authority to suspend staff on full pay or the Chair of Trustees if this relates to the CEO. The decision to suspend on full pay should be taken only after consultation with HR. Every effort should be made to enable the employee to be accompanied by a trade union representative or colleague at a suspension meeting.

Suspension is not in its self a disciplinary penalty under this procedure, nor shall it be considered formal action under this procedure. Suspension shall be with full pay and it should only be used pending investigation and action.

Alternatives to suspension must be considered and utilised where appropriate, including undertaking a different role, working at a different location, being subject to additional

supervision etc.

The appropriateness of continuing the suspension will be reviewed on a regular basis by the Designated Manager. At any point during the investigation, or on receipt of the disciplinary investigation report, the Designated Manager may decide (or recommend) that the suspension should be lifted.

Similarly, where an employee was not suspended at the outset of the investigation, the Designated Manager may, after becoming aware of further evidence or on receipt of the investigation report, determine (or recommend) that suspension is appropriate.

During the period of suspension an employee will not normally be required to attend work but will be bound by their terms and conditions of employment. An employee who is suspended will receive their usual pay and benefits. Victoria Academies Trust may impose such conditions as are appropriate during any period of suspension; such conditions may (without limitation) stipulate that the employee:

- Should not make contact with work colleagues or specified third parties;
- Should not attend at their normal place of work (or premises of Victoria Academies Trust);
- Will have their IT access discontinued for the period of suspension;
- Should return any property of Victoria Academies Trust for the period of suspension;
- Must be available to respond to any queries relating to their work;
- Must cooperate with the investigation process.

Furthermore, during the period of suspension, a named contact will be assigned to maintain contact with the employee and details of available support (e.g. the Employee Support Programme/Sodexo) will be provided to them.

9. Investigation Procedure

The purpose of the investigation is to establish the facts before memories fade. Any witness statements should be taken promptly and all aspects of the investigation should be recorded in writing.

The employee will also be given the opportunity to attend an investigatory interview in person and will have the right to be accompanied by a trade union representative or a work colleague. They will be given 5 working days' notice of the interview unless this is waived by mutual agreement.

The employee must make good efforts to attend the investigatory interview and to cooperate with the investigation. They will have the opportunity to submit any evidence that they wish to and may inform the Investigation Officer of any potential witnesses in support of their case. It is however for the Investigation Officer to determine who will be interviewed.

Where the investigation requires the direct questioning of other employees, they should be advised that the questioning relates to a formal investigation, the outcome of which could result in their statement being used or in their being called as a witness at any subsequent disciplinary meeting.

Any investigation should be treated as a priority and wherever possible should be completed within 8 working weeks. In most cases, investigations will take much less time, but in cases of alleged gross misconduct, if a longer period is anticipated the employee and his/her representative must be informed with reasons for the delay.

Should the Investigation Officer identify any material issues which would materially impact upon the investigation (e.g. they identify evidence which would clearly absolve the employee of the allegations), they have a responsibility to inform the Designated Manager/ELT/Trust Board without delay.

At the conclusion of the investigation, the Investigation Officer will submit an investigation report to the Designated Manager/ELT/Trust Board. The report should include details of all evidence collated and should contain a recommendation as to whether there is a case to answer at a disciplinary hearing. The Investigation Officer will not be involved in determining what action, if any, should be taken against the employee.

10 Conclusion of the Investigation

On the receipt of the investigation report, the Designated Manager will determine whether there is a case to answer.

If the decision is made to proceed to a disciplinary hearing, the letter confirming this will restate the allegations and give notification of the proposed date of the hearing. The panel of the disciplinary hearing will be dependent upon the nature of the allegation and the potential outcomes.

If it is determined that there is no case to answer or that the matter could be dealt with by alternate means, e.g. management advice, training etc. no further formal action will be necessary. Discussions may however take place to determine how the matter should be resolved informally. A letter confirming this will be sent to the employee, setting out the reasons for not proceeding to a disciplinary hearing.

11. Disciplinary Procedure

12. Pre -Agreement (Fair Blame)

Where it has been determined that there is a case to answer, the Designated Manager may agree with the employee (and their representative) that it is not necessary to hold a formal disciplinary hearing and hold a Fair Blame disciplinary meeting.

A Fair Blame Disciplinary Meeting will only be appropriate where the facts of the case are not in dispute and the employee agrees to accept a pre-determined sanction.

In such circumstances, a Fair Blame disciplinary meeting would be held to discuss the key findings of the investigation, expectations of the employee moving forward and to issue the agreed sanction.

Pre-agreement **will not apply** to any allegations relating to safeguarding/child protection,

allegations of gross misconduct or where dismissal is a potential outcome of the case.

A Fair Blame Disciplinary Meeting is a fast-track meeting in which a disciplinary warning (up to, and including, a final written warning) is given to an employee. It can only be used in agreement with the manager and the employee. It enables faster resolution and closure to a disciplinary matter for the employee and is less formal meeting than a Disciplinary Hearing. Parties in attendance will be the appropriate designated manager (please refer to the Schedule of Delegation), a HR representative and the employee. The employee has the right to be accompanied by an accredited trade union representative or a work colleague.

At the meeting the appropriate manager will feedback the outcome of the case review. The employee will have the opportunity to give a response to the allegations and raise any further mitigation. If no further issues come to light the appropriate manager will offer a disciplinary sanction.

Where the employee accepts the warning, this will be confirmed in writing with a copy placed on their personnel file. The employee will be given the right of appeal. Where the employee does not accept the sanction, a Disciplinary Hearing will be convened.

13. Disciplinary Hearing – Pre-Hearing Arrangements

Following an investigation of the allegations against an employee if the Designated Manager ELT / Trust Board feels that the employee has a case to answer a disciplinary meeting will be arranged. If in the opinion of the Designated Manager ELT/ Trust Board /designated person the allegations if sustained would warrant a final warning or dismissal, the matter shall be referred to the appropriate member of ELT/Trust Board/Disciplinary Committee (if the hearing is being conducted by the Disciplinary Committee a representative of the Trust must be present at the meeting).

The employee and his/her representative shall be given not less than 5 working days' notice of the date, time and place of the disciplinary meeting. A copy of all documentation to be considered at the hearing and a list of witnesses who will be called by the management side will be sent to the employee with the calling notice.

If the employee wishes to call witnesses to give evidence on his/her behalf, it is the employees responsibility to inform the witnesses of the date and time of the hearing. If the witnesses are employees of the Victoria Academies Trust their names should be provided to HR no later than three working days before the hearing to enable arrangements to be made for their release from duty.

If the employee cannot attend a meeting, they should inform HR in advance wherever possible. If the employee fails to attend through circumstances beyond their control a further meeting will be arranged. If the employee's representative cannot attend on the proposed date, the employee can propose another date as long as it is reasonable and is not more than 5 working days after the date originally proposed (this limit may be extended by mutual agreement). If an employee fails to attend a meeting without good reason a decision may be made in their absence on the evidence available.

A note taker should be present at the hearing and minutes of the hearing should be made available to the employee upon request. The Trust does not support audio recording of disciplinary hearings apart from in exceptional circumstances, in which case, all parties present must agree to the recording. Covert recording is considered to be gross misconduct

If the investigation relates to misconduct a disciplinary hearing is conducted in line with the scheme of delegation. The Designated Manager/Headteacher and Trust representative would form part of the panel and be supported by HR. The employee and his/her representative shall be given not less than 5 working days' notice of the date, time and place of the disciplinary meeting.

The employee will also be informed in writing of the specific nature of the allegations against them, the potential outcome, arrangements for the hearing, including any witnesses being called, and will also be provided with copies of all documents that will be relied upon during the hearing, the investigation report.

The employee will be given the opportunity to submit any evidence in support of the allegations and to identify any witnesses that they wish to call. This must be notified to the Designated Manager (or other named officer) at least 3 working days before the hearing.

14. Disciplinary Hearing – Procedure

The procedure/agenda to be followed at a disciplinary hearing is outlined in **Appendix xx**.

All parties are expected to behave in a professional and respectful manner during the hearing and everyone should be given the opportunity to present their case without interruption, in accordance with the hearing agenda. The Chair of the panel will address any concerns relating to the behaviour of any party.

Once all evidence has been presented, all parties except the panel, advisors to the panel and the note taker (if applicable) should withdraw from the meeting to allow deliberations to take place in private.

In reaching their decision, the panel should consider all evidence presented during the hearing in order to decide whether the case has been proven or not proven.

If the case is proven, the panel should take the following information into action when deciding on an appropriate sanction:

- The employee's previous disciplinary record
- The employee's length of service and general performance
- What action (if any) has been taken against other employees in similar previous cases to ensure consistency
- Whether the sanction is reasonable in the circumstances.

The Panel's decision will normally be conveyed to all parties verbally on the day of the hearing and subsequently confirmed in writing within 5 working days of the decision being reached. In cases where this is not possible (e.g. due to time constraints, the need to reconvene to reach a decision etc.) agreement will be reached with the employee as to how the decision will be communicated to them.

The outcome letter must outline the findings of the panel, any sanction given and provide details of the employee's right of appeal.

15. Sanctions

In accordance with the procedure and in the event of the employee being found blameworthy, the following potential outcomes could include:

Formal (Recorded) Verbal Warning (Reprimand)

Where appropriate e.g. where a member of staff has not heeded previous informal warning, or where the offence is such that it would warrant a formal verbal warning, the Designated Manager/ Headteacher/ ELT or Trust Board will following investigation of the allegations meet with the member of staff his/her representative in accordance with the procedure for a disciplinary meeting. If, in his/her opinion, such action is justified, the Designated Manager/ Headteacher/ ELT or Trust Board shall issue a formal verbal warning to the employee that his/her conduct/capability is not acceptable and that a further offence, within a specified period (which shall not exceed six months will lead to further disciplinary action against him/her.

The issue of such a warning shall be notified in writing (letter of expectation) to the employee including setting clear expectations for the employee in terms of future conduct, requiring the employee to undertake training/retraining, providing additional support, implementing additional supervision arrangements etc. The outcome letter should clearly state the improvements/standards required and outline the consequences of failing to meet these requirements. and a copy of the letter shall be retained on the employee's personal file.

At the meeting and in the subsequent written notification, the Designated Manager/ Headteacher/ ELT or Trust Board shall inform the employee that he/she has a right of appeal to the Appeals Committee and that if he/she wishes to exercise that right, he/she must do so in writing to Head of HR within 10 working days of the notification of the decision in writing. The letter to HR should set out the grounds for the appeal.

Formal (Written) Warning

Where appropriate e.g. where an employee has not heeded previous verbal warnings or where the offence is such that it would warrant a formal (written) warning.

Where appropriate, following an investigation of the allegations the Designated Manager/ Headteacher/ ELT or Trust Board, may meet with the employee with his/her representative, in accordance with the procedure for a disciplinary meeting, and if in his/her opinion the allegations are substantiated, issue a formal (written) warning to the employee that his/her conduct/capability is not acceptable and that a further offence within a specified period (which shall not exceed eight months) will need to further disciplinary action against him/her.

The issue of this warning shall be notified in writing to the employee by Human Resources and a copy of the letter shall be retained on the employee's personal file for the specified period. At the meeting and in the subsequent written notification Human Resources shall inform the employee that he/she has a right of appeal to the Appeals Committee and that if he/she wishes to exercise that right, he/she must do so in writing to Head of HR within 10 working days of the notification of the decision in writing and set out the grounds for the appeal.

Severe Warning

Where appropriate e.g. where an employee has not heeded a previous formal written warning, or that the alleged offence is such that it would warrant a severe warning, following investigation of the allegations the Designated Manager/ Headteacher/ ELT or Trust Board shall meet with the employee with his/her representative, in accordance with the procedure for a disciplinary meeting and if in his/her opinion the allegations are substantiated, the Designated Manager/ Headteacher/ ELT or Trust Board shall issue a severe warning to the employee that his/her conduct/capability is not acceptable and that a further offence within a specified period (which shall not exceed 12 months) would lead to further disciplinary action being taken against him/her.

The issue of the severe warning shall be notified in writing to the employee by Human Resources and a copy of the letter shall be retained on the employee's personal file for the stated period. At the meeting and in the subsequent written notification, Human Resources shall inform the employee that he/she has a right of appeal to the Appeals Committee and that if he/she wishes to exercise that right, he/she must do so in writing to Head of HR within 10 working days of the notification of the decision in writing and set out the grounds for the appeal.

Final Warning

Where appropriate e.g. where an employee has not heeded a previous severe warning, or that where the alleged offence is such to warrant a final warning, the designated person, after investigation of the allegations, shall if he/she considers that the employee has a case to answer and that if substantiated the allegations would warrant a final warning, refer the matter to the Designated Manager/ Headteacher/ ELT or Trust Board

1. The procedure for the meeting of the Disciplinary Committee (made up of Academy Councillor/Trust board/Designated Officer and ELT members, according to position of the member of staff and knowledge of the alleged incident) to consider the case is detailed in section headed Procedure for disciplinary Meeting.
2. If, in the Disciplinary Committee's opinion, the allegations are substantiated, Designated Officer/ELT /Chair of Trust/Disciplinary Committee shall issue a final warning to the employee that his/her conduct/ capability is not acceptable and that a further offence within a specified period (which shall not exceed 24 months) will lead to the implementation of the procedure for dismissal.
3. The issue of the final warning shall be notified in writing to the employee by Human Resources and a copy shall be retained on the employee's personal file for the specified period. At the meeting and in the subsequent written notification, the employee shall be informed that he/she has the right of appeal to the Appeals Committee and that if he/she wishes to exercise that right he/she must do so in writing to Head of HR within 10 working days of the written notification of the decision and set out the grounds for the appeal.

Action Short of Dismissal

If there is still a failure to improve conduct, or if the employee's misconduct is sufficiently serious, the Executive Head/CEO/Chair of Trust/Disciplinary Committee may consider other sanctions short of dismissal, including for example:

- Demotion;
- Redeployment to another role (including at a different location);
- The extension of a final written warning with a further review period;
- The removal of responsibilities or other changes to the employee's job role

Action short of dismissal may be combined with another disciplinary sanction (for example, the outcome of a disciplinary hearing might be redeployment plus a final written warning).

The issue of the action short of dismissal shall be notified in writing to the employee by Human Resources and a copy shall be retained on the employee's personal file for the specified period. At the meeting and in the subsequent written notification, the employee shall be informed that he/she has the right of appeal to the Appeals Committee and that if he/she wishes to exercise that right he/she must do so in writing to Head of HR within 10 working days of the written notification of the decision and set out the grounds for the appeal.

Dismissal

If the Designated Officer/ELT /Chair of Trust/Disciplinary Committee find that an allegation of gross misconduct is proven, the employee will be summarily dismissed without notice and that the date of dismissal would be on the date that the decision is notified to him/her in writing by Human Resources.

Where there is further misconduct during the life of a final written warning, or where the misconduct is sufficiently serious, the employee may be dismissed with notice or payment in lieu of notice. prescribed in his/her Contract of Employment and such notice shall be effective from the date upon which the decision is communicated to him/her in writing by Human Resources.

The employee must be provided with written reasons for dismissal, the date on which their employment will terminate and their right of appeal.

The decision of the Designated Officer/ELT /Chair of Trust/Disciplinary Committee shall be notified in writing to the employee by Human Resources and a copy shall be retained on the employee's personal file. At the meeting and in the subsequent notification to the employee, the employee shall be informed that he/she has a right of appeal to the Appeals Committee and that if he/she wishes to exercise the right he/she must do so in writing to Head of HR Human Resources within 10 working days of the written notification of the decision and must set out the grounds for the appeal.

16. Appeals

Employees have the right of appeal against any decision taken in relation to them at a disciplinary hearing.

The appeal must be made within 10 working days of the decision being communicated to the employee (i.e. the date of the outcome letter).

Upon written notification that an employee wishes to exercise his/her right of appeal, Human Resources shall acknowledge receipt of this notification. In normal circumstances the appeal shall be heard not later than 30 working days after receipt of the written notification of appeal.

The appeal should be made using the appeal form attached to this policy as **Appendix xx**

Grounds for appeal would normally be based on one or more of the following reasons:

- a) **Breach of Procedure:** they believe that the disciplinary process was flawed.
- b) **Facts:** e.g. new evidence has come to light that was not available at the time of the disciplinary hearing
- c) **Decision:** they believe that the action taken or sanction of the hearing was unfair, unreasonable or discriminatory.

The employee will be required to state their reasons for their appeal and include any supporting evidence as appropriate.

All appeals against any sanctions are dealt by the Appeals Committee. The procedure for the appeal is outlined at **Appendix xxx**

The panel members should have had no previous involvement in the matter.

The appeal hearing will not be in the form of a re-hearing but will concentrate upon the employee's grounds of appeal.

- The Appeals panel may reach one of the following decisions:
 - To uphold any sanction imposed at the disciplinary hearing.
 - To replace any sanction imposed at the disciplinary hearing with a lesser penalty.
 - To replace any sanction imposed at the disciplinary hearing with a more severe penalty (up to and including summary dismissal); or
 - To remove any sanction imposed at the disciplinary hearing from the employee's personnel file.

The decision will be confirmed in writing to the appellant within 5 working days. This decision will exhaust the internal process. There will be no further right of appeal and The decision of the Committee shall be notified in writing to the appellant by Human Resources within 5 working days and a copy of the letter shall be retained on the employee's personal file. There shall be no further right of appeal under the matter may not be pursued through any other internal policies.

17. Records

In order that comprehensive records are maintained, copies of all notes/minutes and correspondence arising out of the operation of this procedure shall be retained on the employee's personal file for the period that the sanction is live.

There may be exceptional occasions when the warning cannot be disregarded, for example, where the employees conduct is satisfactory throughout the period of the warning, only to lapse thereafter. Where a pattern emerges, an employee's disciplinary record will be taken into consideration when determining any future disciplinary sanction.

Where an employee is subject to disciplinary action or appeals against disciplinary action being taken, he/she may if he/she so requests, have sight of or copies of any relevant documents contained in his/her personal file. Such a request shall be made in writing to Human Resources. The employee shall be allowed sight of the documents or supplied with copies of the documents within three working days of the request.

Spent disciplinary sanctions must only be declared to a prospective employer if the reason for the sanctions concerns safeguarding or child protection. Expired sanctions for other reasons will not be declared to any prospective employer.

In line with statutory requirements, for any allegations of a child protection/safeguarding nature, a clear and comprehensive summary of the allegation, details of how the allegation was followed up and resolved, and a note of any action taken and decisions reached, will be kept on the confidential personnel file of the employee, and a copy provided to the person concerned.

The purpose of the record is to enable accurate information to be given in response to any future request for a reference, where appropriate. It will provide clarification in cases where future DBS checks reveal information from the police about an allegation that did not result in a criminal conviction and it will help to prevent unnecessary re-investigation if an allegation re-surfaces after a period of time.

The record will be retained at least until the accused has reached normal retirement age or for a period of 10 years from the date of the allegation if that is longer.

Any allegations that are found to be malicious will be removed from personnel records.

18. Records of Low-Level Safeguarding Concerns

Any low-level safeguarding concerns will be recorded in writing including the details of the concern, the context in which the concern arose, and action taken. These records will be kept securely in a restricted access folder in line with GDPR. Records will be reviewed so that potential patterns of concerning, problematic or inappropriate behaviour can be identified. Where a pattern of such behaviour is identified, the Trust will decide on a course of action, either through its disciplinary procedures or where a pattern of behaviour moves from a concern to meeting the harms threshold, in which case it will be referred to the LADO. This information will be retained until the individual leaves their employment with the Trust .

19. Resignations and Settlement Agreements

Statutory guidance must be followed when dealing with allegations of safeguarding/child protection nature. Therefore:

- Allegations concerning the safety and welfare of children must be investigated and heard even if the employee resigns. A conclusion must be reached in the case whether or not the employee co-operates in the proceedings.
- Settlement agreements will not be used where the allegations relate to the safety and welfare of children.

20. Referrals to Statutory/Regulatory Bodies

No agreement should be made which would prevent the Trust from complying with its duty to make a referral to the DBS or any professional/regulatory body.

Employers have a duty to make a referral to relevant statutory and professional/regulatory bodies in the event that an employee is dismissed or resigns from their role in order to avoid dismissal.

The Chief Operating Officer and/or the Chief Executive should be informed before any referrals are made to any statutory, regulatory or professional bodies.

21. Disclosure and Barring Service (DBS)

Employers have a statutory duty to make a referral to the DBS where an employee has been dismissed (or is likely to have been dismissed had they not resigned) and has been convicted or cautioned of a relevant offence or satisfied the harm test or has engaged in conduct that could have harmed a child or placed them at risk.

Current DBS guidance should be read and considered before making a referral.

22. Teaching Regulation Agency (TRA)

Where a teacher has been dismissed for serious misconduct (or would potentially have been dismissed had they not resigned), the Trust will consider whether a referral should be made to the Secretary of State, via the TRA.

Current TRA guidance should be read and considered before making a referral.

23. Other Regulatory/Professional Bodies

Depending upon the nature of the allegation and the outcome of the case, it may be appropriate to make a referral to other regulatory or professional bodies.

24. Employee Support

It is acknowledged that being subject to disciplinary proceedings can be stressful or upsetting for the employee concerned. The following support will be available for employees:

- A named welfare contact
- Access to the Employee Support line (Sodexo package)
- Regular updates (every 4 weeks) about the progress of the investigation
- Referral to Occupational Health (as appropriate)

Employees are also encouraged to seek support from their respective trade union.

25. Ill Health/Sickness Absence

Ill health and/or sickness absence will not necessarily constitute grounds for ceasing an investigation or disciplinary proceedings however, it is important that an employee is not unduly denied or prevented from participating in the process or from responding to allegations.

If the employee states that they are not fit to co-operate with the investigation or attend a hearing, it may be appropriate to refer them to Occupational Health to establish their fitness to participate.

The Disciplinary committee may choose to arrange another date (once) depending on circumstances, where an employee has given prior notice that they are unable to attend a hearing due to ill health. In such circumstances, a second hearing date will be arranged within a reasonable timescale, which should not result in any significant delay to convening the hearing.

If the employee is unable to participate in the process, other reasonable adjustments may need to be considered, e.g. allowing the employee to respond to the Investigation Officer's questions in writing or providing a written statement to a disciplinary hearing.

In certain circumstances it may be necessary to conclude the investigation without the employee's input. They will however be given the opportunity to respond to the allegations should there be a case to answer either in person, in writing or via a representative, if appropriate.

Due consideration will be given to the provisions of the Equality Act 2010 when dealing with an employee's ill health and/or disability.

26. Monitoring

This procedure will be monitored to collect information in order to analyse trends and produce statistics. All information will be held in the strictest confidence.

27. Glossary of Terms

'Representative' - an employee is entitled to be accompanied by a colleague, or Trade Union Representative (an official employed by a Trade Union or a lay trade union official, as long as they have been reasonably certified in writing by their union as having experience of, or having received training in acting as a worker's companion at disciplinary meetings) if they wish. When calling an employee to a disciplinary meeting he/she must always be informed of that right.

'Working days' – days when the employee would normally be expected to attend for work.

'Suspension from Duty' means suspension on full pay without prejudice to enable allegations to be investigated. Suspension is not in itself a disciplinary penalty under this procedure, nor shall it be considered formal action under this procedure. Suspension shall be with full pay and it should only be used pending investigation and action.

'Appeals Committee' means a Committee consisting of a minimum of 3 members, members of the Academy Councils/Trust Board who have had no prior involvement in the case.

'Personal File' means that file maintained by the Academy relating to the specific individual concerned.

Appendix 1 – Fair Blame information

Disciplinary Policy & Procedure - Fair Blame

What is a Fair Blame disciplinary meeting?

A Fair Blame disciplinary meeting is a fast-track meeting in which a disciplinary warning (up to, and including, a final written warning) is given to an employee.

When would a Fair Blame meeting be held?

A Fair Blame meeting will only be appropriate where the employee has taken full responsibility for their actions and accepted the allegations against them. This process does not require a full investigation to be undertaken. Similarly, a Fair Blame meeting is not suitable in cases of gross misconduct where summary dismissal may be considered, the employee is subject to a Final Written Warning or where the allegations are denied.

What is the purpose of a Fair Blame meeting?

It enables faster resolution and closure to a disciplinary matter for the employee and is less formal meeting than a Disciplinary Hearing.

Who attends the Fair Blame meeting?

Parties in attendance will be the appropriate designated manager (in accordance with the Scheme of Delegation), a HR representative and the employee. The employee has the right to be accompanied by an accredited trade union representative or a work colleague.

What happens at the meeting?

At the meeting the appropriate manager will feedback the outcome of the case review. The employee will have the opportunity to give a response to the allegations and raise any further mitigation. If no further issues come to light the appropriate manager will offer a disciplinary warning.

What happens once a warning has been offered?

Where the employee accepts the warning this will be confirmed in writing with a copy placed on their personnel file. The employee will be given the right of appeal. Where the employee does not accept the warning, a Disciplinary Hearing will be convened.

Appendix 2 – Fair Blame Hearing Agenda

Action	Person
Introductions and explanation of the process to be followed	The Chair
Outline of reasons for the hearing	The Chair
Feedback the outcome of the case review	The Chair
Response to allegations and any further mitigations	Employee or trade union representative/ work colleague
Questions to employee	The Chair and HR representative
Questions to the Chair	Employee or trade union representative/ work colleague
The employee and their representative withdraw from the hearing the whilst case is being considered	Employee, trade union representative/ work colleague
If the Chair requires further clarification on a point of fact, the employee and their representative will be asked to return	The Chair
The Chair makes the decision	The Chair and HR consultants/legal advisors (as appropriate)
Hearing reconvened all parties return and employee informed of decision and any right of appeal	The Chair
Formal letter confirming decision and right of appeal	The Chair

Appendix 3 – Disciplinary Hearing Agenda


Disciplinary Hearing Agenda	
Action	By
Welcome & Introductions	
Introductions, outline of format, protocols, arrangements for breaks etc.	Chair of the Panel
Presentation of the management case	
Presentation of the management case/investigation report <i>(format/order to be determined by the Presenting Officer)</i>	Investigating Officer(s)
Presentation of management case, including the calling of their witness/witnesses.	Investigating Officer(s)
Questions to Investigating Office(s)	Employee or trade union representative/ work colleague
	Panel and HR consultant/legal advisor (as appropriate)
Questions to witnesses	Investigating Officer(s)
	Employee or trade union representative/ work colleague
	Panel and HR consultant/legal advisor (as appropriate)
Presentation of the employee's case	
Presentation of the employee's response to the allegations <i>(format/order to be determined by the employee)</i>	Employee or trade union representative/ work colleague
Questions to employee	Investigating Officer
	The Chair and HR consultant/legal advisor (as appropriate)
Questions to witnesses	Employee or trade union representative/ work colleague
	Investigating Officer
	The Chair and HR consultant/legal advisor (as appropriate)
Summing Up (no new evidence is to be introduced)	
Summing up of management case	Investigating Officer(s)
Summing up of employee's case	Employee or trade union representative/work colleague
Adjournment	
Investigating Officer, the employee and their representative withdraw from the hearing whilst case is being considered	Employee, trade union representative/ work colleague and Investigating Officer
Deliberations	
If the Panel requires further clarification on a point of fact, both parties will be asked to return even if the question is to put to one side only, so that the other side can hear what is being said.	The Panel
The disciplinary panel deliberates in private	Panel and HR consultants/legal advisors (as appropriate)

Decision	
All parties are recalled and the panel's decision is announced unless other arrangements have been agreed. Employee informed of decision and any right of appeal.	The Chair of the Panel
Formal letter confirming decision and right of appeal	The Chair of the panel

Note:

1. The panel refers to members of the disciplinary panel plus any specialist advisors.
2. Advisors provide professional support only and do not have decision making powers.
3. The Investigation Officer can be supported by a HR advisor
4. Witnesses are only in attendance whilst giving evidence.

Appendix 4- Appeal Form

 Victoria ACADEMIES TRUST		
Disciplinary Appeal Form		
Section 1: Employee Details		
Name		
Job Title		
Address		
Email Address		
Representative Contact Details:		
Section 2 :Grounds of Appeal		
<p>The grounds for appeal must be stated in accordance with one or more of the following categories:</p> <p>a) Breach of procedures b) The facts of the case c) The action taken was unreasonable or disproportionate d) Any other substantial grounds of appeal</p> <p>Please indicate your grounds of appeal below and provide further details to support your appeal in Section 3. If the grounds of appeal are not clearly stated, your appeal may not be considered</p>		
a) Breach of procedures Are you appealing on the grounds that the procedure was unfairly applied? (Please tick)	Yes	No
If you answered yes, please provide further details in Section 3, including: <ul style="list-style-type: none"> • How the procedure was not followed correctly? • What effect you believe this had on the outcome of the disciplinary process? • Details of any evidence not available at the original hearing that supports this belief. • Details of why this evidence was not presented to the hearing. 		
b) The facts of the case Are you appealing on the grounds that the findings of the hearing were unfair? (Please tick)	Yes	No
If you answered yes, please provide further details in Section 3, including: <ul style="list-style-type: none"> • The evidence or facts that you dispute • The evidence that you believe was given too much or too little weight? • The findings or conclusions of the panel that you dispute. • Details of any evidence that supports your belief and why this was not presented to the hearing. 		
c) The action taken was disproportionate Are you appealing on the grounds that the findings of the hearing	Yes	No

disproportionate to the circumstances of the case? (Please tick)		
If you answered yes, please provide further details in Section 3, including: <ul style="list-style-type: none"> • The sanction or warning that was applied • The aspect of the sanction or warning that you believe was disproportionate • The reason you believe the sanction or warning was disproportionate • Details of any evidence that supports your belief and why this was not presented to the hearing. 		
d) Any other substantial grounds of appeal	Yes	No
Are you appealing for some other substantial reason? (Please tick)		
If you answered yes, please provide further details in Section 3, including: <ul style="list-style-type: none"> • the grounds on which you are appealing • its effect on the procedure followed • its effect on the findings of fact at the original hearing • its effect on the sanction applied • any evidence not available at the original hearing that supports this aspect of your appeal • details of what prevented you from presenting it 		
Section 3 – Further Details		
Please provide further details to support your grounds for appeal. Continue on a separate sheet if necessary.		
Appellant signature:	Print Name:	
	Date:	
Please note – appeals must be received by the Trust within 10 working days of receipt of the disciplinary letter		

Appendix 5 – Appeal Hearing Agenda

Action	By
Welcome & Introductions	
Introductions, outline of format, protocols, arrangements for breaks etc.	Chair of the Panel
Presentation of the employee's appeal	
Presentation of employee case by employee and or their trade union representative/work colleague. Employee given the opportunity to state the grounds on which the appeal is made.	Employee or trade union representative/ work colleague
Questions to employee (and their witnesses if applicable)	Designated Manager/Investigating Officer
	Panel and HR Consultant/Legal Advisor (as appropriate)
Presentation of the management response to the appeal	
Presentation of management case by Investigating Officer. Designated Manager who made the original decision given the opportunity to explain his or her decision to impose the given penalty.	Designated Manager/Investigating Officer
Questions to the Designated Manager and the Investigating Officer (and witnesses if applicable)	Employee or trade union representative/ work colleague
	Panel and HR Consultant/Legal Advisor (as appropriate)
Summing Up (no new evidence is to be introduced)	
Summing up of employee case	Employee or trade union representative/ work colleague
Summing up of management case	Designated Manager/Investigating Officer
Adjournment	
Designated Manager/Investigating Officer, the employee and their representative withdraw from the hearing whilst the appeal is being considered	Employee, trade union representative/ work colleague and Designated Manager and Investigating Officer
Deliberations	
If the Panel requires further clarification on a point of fact, both parties will be asked to return even if the question is to put to one side only, so that the other side can hear what is being said.	The Panel
The Appeals Panel deliberates in private.	The Panel
Decision	
Appeal hearing reconvened, all parties return and employee informed of decision. No further right of appeal.	Chair of the Panel
Formal letter confirming decision and no further right of appeal.	Chair of the Panel

Note:

1. The panel refers to members of the appeals panel plus any specialist advisors.
2. Advisors provide professional support only and do not have decision making powers.
3. The Designated Manager could be the Chair of the Disciplinary Panel and or the Investigation Officer