

Disciplinary Policy

All Salford Academy Trust Staff



1. Introduction

1.1 Salford Academy Trust are committed to providing a high quality education for their pupils. In order to achieve this, it is expected that the conduct and performance of all employees will be of the highest standard. The expected standards of behaviour are set out in a number of documents and policies including; the teaching standards, the grievance and dignity at work policy, keeping children safe in education and all other appropriate legislative requirements.

1.2 The aims of this Disciplinary Procedure and its associated Disciplinary Rules are to set out the standards of conduct expected of all staff and to provide a framework within which Salford Academy Trust can work with employees to maintain satisfactory standards of conduct and to encourage improvement where necessary.

1.3 Salford Academy Trust is committed to ensuring that our students will be well equipped with the skills necessary to be successful in their next steps into education and employment. In order to achieve this, it is expected that the conduct and performance of all employees will be of the highest standard.

1.4 It is the Trust's policy to ensure that any disciplinary matter is dealt with fairly and that steps are taken to establish the facts and to give employees the opportunity to respond before taking any formal action.

1.5 This procedure does not form part of any employee's contract of employment and it may be amended at any time following consultation. Whilst we will endeavour to apply this procedure as it is written, we may in exceptional circumstances, vary application of this procedure including any time scales for action, as appropriate.

The aims and objectives of this policy are as follows:

1. To provide a fair and equitable process for dealing with situations where an employee's conduct is called into question
2. To seek improvement in an individual's conduct or performance
3. To reinforce expected standards of behaviour or performance

2. Scope and Purpose of Policy

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

2.2 This procedure is used to deal with misconduct. It does not apply to cases involving genuine sickness absence, proposed redundancies or poor performance. In those cases reference should be made to the appropriate policy or procedure which are available from Salford Academy Trust.

2.3 Minor conduct issues can often be resolved informally between employees and their line manager or other appropriate senior manager by means of informal advice, coaching or counselling. These discussions should be held in private and without undue delay whenever there is cause for concern. Where appropriate, a note of any such informal discussions may be placed on the employee's personnel file. In some cases an informal verbal warning or instruction may be given, which will not form part of the disciplinary records. Formal steps will be taken under this procedure if the matter is not resolved, or if informal discussion is not appropriate (for example, because of the seriousness of the allegation). In some cases, the

Principal rather than immediate line manager, may discuss minor conduct issues with employees dependent on the nature of the issue.

2.4 If, despite informal warnings and guidance, an employee fails to improve their conduct, then the matter may be dealt with under the formal process. Informal warnings and counselling are not part of the formal disciplinary procedure and the employee should be made aware of this. The employee does not have the right to be represented at this informal stage, although requests by employees to be accompanied by a colleague should not be unreasonably refused. There is no right of appeal against such informal action.

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

2.6 As recognisable figures in the local community, the behaviour and conduct of staff in Salford Academy Trust outside of work can impact on their employment. Therefore conduct outside work may be treated as a disciplinary matter if it is considered that it is relevant to the employee's employment.

2.7 The purpose of this policy is to provide a mechanism for dealing with disciplinary matters and to ensure that, as far as possible, disciplinary action is consistently and fairly applied.

2.8 For the purposes of this policy, when a representative is referred to, this is defined as a trade union representative or current work colleague. No other person may represent an employee at any stage of the procedure.

3. Confidentiality

3.1 It is the aim of Salford Academy Trust to deal with disciplinary matters sensitively and with due respect for the privacy of any individuals involved. All employees must treat as confidential any information communicated to them in connection with an investigation or disciplinary matter. Information relating to criminal activities or child protection related issues may be shared confidentially with appropriate and relevant external bodies.

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

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

4. Allegations

4.1 Allegations may be brought to Salford Academy Trust's attention in a number of ways and through a variety of sources. As with disclosures made by children and young people, adults need to be aware that in making an allegation it is not always possible to keep the matter confidential if related to criminal activities or child protection. The Principal, in consultation with Salford Academy Trust HR, will need to decide upon the most appropriate course of action and may choose to proceed with an investigation even if the person making the allegation does not want them to.

4.2 Allegations which involve issues of child protection and/or abuse of children by staff will be discussed with Salford Academy Trust and/or the Local Authority Designated Officer (LADO).

4.3 In the case of allegations made against the Principal, these should be reported to the Chair of the Local Governing Body (LGB) or the CEO of Salford Academy Trust. Allegations against any Executive members of Salford Academy Trust should be reported to the Chair of the Salford Academy Trust Board.

Further information in relation to dealing with Allegations against Staff is available in the Salford Academy Trust and local safeguarding procedures.

5. Trade Union Officials

Although normal disciplinary standards should apply to their conduct as employees, no formal disciplinary action is to be taken against an accredited representative of a trade union or teachers association until the circumstances of the case have been discussed with a senior trade union representative or full-time officer of the trade union or the teacher's association concerned.

6. Criminal Charges

6.1 Where conduct is the subject of a criminal investigation, charge or conviction the facts will be investigated before deciding whether to take formal disciplinary action. Disciplinary action will not be automatic and will depend upon the circumstances. Employees should inform their Principal immediately if they are involved in a criminal investigation, or are subject to a charge or conviction.

6.2 If the Principal is the subject of such action they should inform the Chair of the LGB or the CEO of Salford Academy Trust and any Executive members of Salford Academy Trust so involved should inform the Chair of the Salford Academy Trust Board.

6.3 Salford Academy 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.

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

6.5 Where a criminal investigation relates to allegations of abuse of children or young people, Salford Academy Trust will co-operate and share information about the employee with other relevant agencies as appropriate. Further information in relation to this is available in the Salford Academy Trust and local safeguarding procedures.

7. Suspension

7.1 In some circumstances it may be necessary to suspend the employee from work. The suspension will be for no longer than is necessary to investigate the allegations and conclude the disciplinary process.

7.2 The employee will be asked to attend a meeting with the Principal where they will be informed by the Principal as to the reason for suspension. If an employee wishes to be represented at the meeting all reasonable steps will be taken to enable this, but if considered necessary, the meeting will proceed if a representative is not available. The arrangements will be confirmed to the employee in writing as soon as possible.

7.3 Suspension of this kind is not a disciplinary penalty and does not imply that any decision has already been made about the allegations. Employees will continue to receive full salary and benefits during the period of suspension. During the suspension meeting the employee will be given the opportunity to respond to the allegations. As part of the wellbeing of the employee, they would be referred to Occupational Health services and a welfare officer will be put in place for them. The role of the welfare officer is to keep in touch every 2 weeks to check on the employee's welfare. A welfare officer is not allowed to attend any investigatory meetings, for example and their role is only to check on employee welfare.

7.4 Alternatives to suspension, for example re-organisation of duties, work location; temporary redeployment to another role etc. will be explored where relevant before a decision to suspend is made. The nature and severity of the allegations will need to be considered as will the employee's role within Salford Academy Trust.

Where allegations are made that involve the protection of children suspension will not be considered to be automatic. A reasoned decision will be made based on all available information. However, suspension will usually be considered where:

- It appears on good grounds to be necessary for the protection of the pupils, other staff or property or;
- Where the continued presence at work of the person against whom the allegations are made would be an obstacle to full investigation.

7.5 The suspension will be kept under review (at least every four weeks) as the investigation progresses. As information is gathered it may become appropriate to lift the suspension during the course of the investigation or prior to any disciplinary hearing.

If following investigation it is decided that there is no case to answer, the suspension shall be lifted and the employee allowed to resume his/her normal work.

7.6 If following investigation it is decided that there is a case which may constitute gross misconduct, the suspension will remain in force and a formal hearing will be held in accordance with this policy.

The decision to suspend an employee and to lift a suspension is made by the Principal in consultation with Salford Academy Trust. There is no right of appeal against this form of suspension.

8. Investigations

Upon receiving any allegations against employees it is likely that further information will be required to establish what the next course of action should be. The Principal or appropriate senior manager should seek to establish the basic facts of the situation; this may involve looking at records, speaking to witnesses, reviewing CCTV etc. before a preliminary investigation meeting takes place. It is advisable that investigations are undertaken by someone other than the Principal therefore allowing the disciplinary hearing to be chaired by the Principal. It is an expectation that both preliminary and full investigations are undertaken thoroughly.

8.1 Preliminary Investigation meeting

A preliminary investigation meeting may be held with the employee to establish the basic facts of the circumstance and to enable the Principal or appropriate senior manager to determine whether further investigation is required. Such a meeting can sometimes give a reasonable explanation in response to allegations which then enables the matter to be concluded. A preliminary investigation meeting will not be required in all cases and it is for the Principal to decide if this is appropriate.

8.2 Investigating Officer

After a preliminary investigation where it is determined that there is a need for a full investigation, or if the concerns are serious enough to warrant a full investigation immediately, the Principal will usually appoint an Investigating Officer to carry out the investigation.

Salford Academy Trust will be responsible for the management of the procedure and determining an appropriate investigating officer, either internally or externally.

9. Formal Investigation

9.1 Interviewing the Employee

Investigation meetings are solely for the purpose of fact-finding and no decision on disciplinary action will be taken until after a disciplinary hearing has been held. Employees must be informed of their right to be accompanied at any relevant interview by a trade union representative or work colleague within the school to the investigation meeting if they are available. No other person may represent an employee at any stage of the procedure. A record of the meeting will be made and the employee will have the opportunity to review the record, make amendments for clarification purposes and sign and date the record.

Employees must co-operate fully and promptly in any investigation. This will include providing the names of any relevant witnesses, disclosing any relevant documents or information and attending investigative interviews if required. Investigations will vary in length and complexity but they will be completed in as short a time frame as possible to avoid any undue stress to either the employee or witnesses.

The employee will be given advance notice of the investigatory meeting and its purpose. The employee will be broadly informed of the nature of the matter under investigation but it may not be possible to be specific about the exact nature of the allegations until the investigation stage is complete.

Whilst an employee is under investigation, they will be referred to the Occupational Health services for additional support.

9.2 Interviewing Witnesses

It may be necessary to interview witnesses who may have information that is relevant to the allegations. A record of the meeting will be made and the witness will have the opportunity to review the record, make amendments for clarification purposes and sign and date the record. Salford Academy Trust recognises that some employees may find the process difficult or worrying. However, all employees are expected to fully participate in any such investigation. In the case of long term illness, which may prevent a witness from attending an interview, written questions would be provided and/or a statement requested.

It is critical that when pupils are witnesses to incidents, where possible, they should be interviewed separately as close as possible in time to when the incident occurred before their recollections fade and to avoid any collusion. Advice should be sought from Salford Academy Trust before any such interviews take place to determine whether the course of action is appropriate, with consideration being given to both the value and validity of pupil testimony and if there are any concerns in relation to child protection. Further information in relation to this is available in the Salford Academy Trust and local safeguarding procedures.

9.3 Further Investigation

The purpose of an investigation is to establish a fair and balanced view of the facts relating to any disciplinary allegations made against an employee, before deciding whether to proceed with a disciplinary hearing. The amount of investigation required will depend on the nature of the allegations and will vary from case to case. It may involve interviewing and taking statements from the employee and any witnesses, and/or reviewing relevant documents and other information. Further investigation may also involve the employee or any witnesses being re-interviewed. This will also vary from case to case. It is important that the employee is kept up to date throughout the investigation by the Investigation Officer about what is happening and what the next stage of the investigation will be i.e. that further witnesses need to be interviewed, or that there is sufficient evidence and the investigations are concluded or, that informal coaching/counselling will take place, or that a disciplinary hearing will be convened.

10. After the Formal Investigation

As part of the investigation, the Investigating Officer is expected to determine:

- Whether or not there is a case to answer
- Whether informal action would be a more appropriate course of action
- Whether further witnesses need to be interviewed
- Whether a disciplinary hearing be convened

The Investigating Officer may determine that though the explanation of misconduct is not satisfactory, informal action may be a more appropriate course of action. In this case, an informal verbal warning or instruction may be given, which will not form part of the disciplinary records though a note of any such informal discussions may be placed on the employee's personnel file.

11. Disciplinary Hearing

Following any investigation, if there are grounds for formal disciplinary action, the employee will be required to attend a disciplinary hearing. The employee will be informed in writing of the allegations against them, the basis for those allegations, and what the likely range of consequences will be if it is decided at the hearing that the allegations are true. The following will also be included where appropriate:

- (a) a summary of relevant information gathered during the investigation;
- (b) a copy of any relevant documents which will be used at the disciplinary hearing; and
- (c) a copy of any relevant witness statements, except where a witness's identity is to be kept confidential, in which case as much information as possible will be provided while maintaining confidentiality.

A hearing officer will be appointed to hear the facts of the case and make an appropriate decision. It is recommended that, for school based employees, the Principal is appointed hearing officer, unless they have been involved in the case or they are the subject of the investigation, or in cases where dismissal is a possible outcome, in which case a panel will be convened. Salford Academy Trust reserve the right to appoint a hearing officer or panel member from within the wider trust if this is deemed appropriate.

At least seven working days written notice of the date, time and place of the disciplinary hearing will be given to provide the employee with a reasonable amount of time to prepare their case based on the information that they have been provided with. The hearing will be arranged as soon as is practicably possible.

Once the allegations have been prepared and any supporting written information and/or documentary evidence is available for issue to the employee the hearing date should be set. However, whenever possible a mutually convenient date should be agreed with the employee and their representative to ensure the hearings do not have to be delayed or postponed at short notice.

The Principal will be responsible for ensuring that all of the arrangements for the hearing are made and that the employee receives the appropriate paperwork and notice of the hearing.

Any written evidence must be exchanged in advance of the Hearing, normally no later than 5 days prior to the Hearing. Both parties must indicate which witnesses will be present at the Hearing, if any. Details of witnesses to be called by both parties should also be exchanged in advance of the hearing.

12. Role of Representative at Meetings and Hearings

Where it is considered necessary to take formal disciplinary action, the employee concerned will be given adequate notice of the right to representation. The representative may be either a trade union representative or a current colleague from within the Academy the employee is based at. The employee should inform the Principal, or other senior manager, conducting the meetings who their chosen representative is in good time before the hearing.

Should the employee choose to bring a representative to the hearing they will be responsible for making these arrangements and for providing their representative with any paperwork that they require for the hearing. Acting as a representative is voluntary and colleagues are under no obligation to do so. If they agree to do so they will be allowed reasonable time off from duties without loss of pay to act as a representative.

13. Sickness of Employee

Where during a period of suspension an employee produces a medical certificate then the suspension will be lifted and sickness absence will be substituted. Where an employee is unable to attend an investigatory interview or disciplinary hearing they must produce a medical certificate. Where the sickness continues beyond one week the employee will be required to attend the Occupational Health Unit in order that the Occupational Health Physician may determine whether or not they are fit to attend the interview or hearing, before a decision is made to proceed with the hearing in his/her absence. The employee must be advised in advance and be given the opportunity to have their case presented by their representative or by sending in a written submission prior to the hearing.

14. Disciplinary Penalties

The Chair may find that there is no case to answer and may refer the case back to an informal process. Alternatively the Chair may give the employee a disciplinary warning or dismiss them.

Formal disciplinary action will normally be appropriate either:

- After the issue of an informal warning has failed to achieve improvement in conduct
- As a result of an initial act of misconduct, depending on the circumstances

The usual penalties for misconduct are set out below. No penalty should be imposed without a hearing.

Whilst an incremental approach will normally be appropriate, the level of disciplinary action will depend upon the circumstances of the case. For example in a case where the initial act of misconduct or omission is more serious, but does not constitute gross misconduct, the issue of the first and final warning may be appropriate as the first warning. Therefore, it is not necessary for all the stages in the procedure to be followed before employment is terminated.

Salford Academy Trust aims to treat all employees fairly and consistently, and a penalty imposed on another employee for similar misconduct will usually be taken into account but should not be treated as a precedent. Each case will be assessed on its own merits.

First written warning. It will usually be appropriate for a first act of misconduct where there are no other active written warnings on the employee's disciplinary record.

Final written warning. It will usually be appropriate for:

- misconduct where there is already an active written warning on the employee's record; or
- misconduct that is considered sufficiently serious to warrant a final written warning even though there are no other active warnings on the record.

Dismissal. It will usually only be appropriate for:

- further misconduct where there is an active final written warning on the record; or
- any gross misconduct regardless of whether there are active warnings on the record. Gross misconduct will usually result in immediate dismissal without notice or payment in lieu of notice (summary dismissal) but in exceptional circumstances, a first and final written warning may be issued as an alternative).

Alternatives to dismissal. In some cases the alternatives to dismissal may be considered. These will usually be accompanied by a final written warning. Examples include:

- Demotion;
- Transfer to another department or job;
- Loss of seniority; or
- Reduction in pay.

15. The Effect of a Warning

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

15.2 A first written warning will usually remain active for six months and a final written warning will usually remain active for 12 months. Exceptional cases verging on gross misconduct may warrant indefinite warnings whereby a final written warning may state that it will remain active indefinitely. The conduct will be reviewed at the end of a warning's active period and if it has not improved sufficiently the active period may be extended.

After the active period, the warning will remain permanently on the employee's personnel file but will be disregarded in deciding the outcome of future disciplinary proceedings.

16. Appeals against Disciplinary Action

16.1 The employee has the right to appeal against the disciplinary action taken against them. This must be in writing, stating the full grounds of appeal and sent to the Principal within five working days of the date on which the employee was informed of the decision in writing (the date of the letter).

16.2 Grounds for appeal may include, for example, the severity of the penalty, perceived unfairness of the judgement, new significant evidence coming to light or alleged procedural deficiencies.

16.3 The appeal hearing will be chaired by a panel of Local Governing Body and Salford Academy Trust representatives. Where possible, the appeal hearing will be conducted by a different Chair/different panel who have not been previously involved in the case.

16.4 New evidence may only be introduced where it is significant and was not previously available to either side. In such situations, new evidence must be disclosed at least three days prior to the appeal hearing. If the employee provides new evidence, the Chair/panel may request the appeal be adjourned to enable further investigations.

If any new matters are raised in the appeal hearing further investigation may need to be carried out. The Chair may adjourn the appeal hearing if there is a need to carry out any further investigations such as re-interviewing witnesses in the light of any new points that have been raised at the hearing. If any new information comes to light this will be provided to the employee with a summary including, where appropriate, copies of additional relevant documents and witness statements. The employee will have a reasonable opportunity to consider this information before the hearing is reconvened.

16.5 The employee must be given written notice of the date, time and place of the appeal hearing. This notice will be given normally, no less than five working days after the appeal is made. The employee may bring a representative to the appeal hearing. Appeal hearings will be held as soon as possible.

16.6 The hearing may be a complete re-hearing or it may be a review of the fairness of the original decision in the light of the procedure that was followed and any new information that may have come to light. This will be at the Principal's discretion depending on the circumstances of the case. In any event the appeal will be dealt with as impartially as possible.

Following the appeal hearing the Chair/panel may:

- (a) confirm the original decision;
- (b) revoke the original decision; or
- (c) substitute a different penalty. Ordinarily a penalty will not be increased on appeal unless there is new information or evidence being available that requires further investigation

The employee will be informed in writing of the decision and the reasons for it, usually within five working days of the appeal hearing. Where possible this information will also be explained to the employee in person. There is no further right to appeal.

17. Referrals to External Bodies

- 17.1 There is a legal requirement for the trust to make a referral to the Disclosure and Barring Service (DBS) where it is believed that an individual has engaged in conduct (including inappropriate sexual conduct) that harmed (or put at risk of harm) a child or vulnerable adult, or if an individual otherwise poses a risk of harm to a child or vulnerable adult, or if an individual has been cautioned or convicted of a relevant offence.
- 17.2 In such circumstances, the duty to refer an individual to the DBS arises where the individual has been removed from relevant work with children or vulnerable adults or the person has chosen to cease relevant work in circumstances where they would have been removed had they not done so (e.g. resigned).
- 17.3 There are other situations where a referral to the DBS may also be made, for example, if following an internal investigation there is insufficient evidence to show relevant conduct occurred, but it is considered that the risk of harm to a child or vulnerable adult exists.
- 17.4 The DBS will consider whether to bar the person from working in regulated activity.
- 17.5 An employer has a statutory duty to make reports, and to provide relevant information to the DBS. Referrals should be made as soon as possible after the resignation or removal of the employee involved. In addition, the trust must make a referral to the DBS as soon as it is aware that an employee who works with children or vulnerable adults in regulated activity has been cautioned or convicted for a relevant offence.
- 17.6 Employers have a statutory duty to consider referral of cases involving serious professional misconduct of teachers to NCTL. Where a teacher's employer has dismissed the teacher for misconduct, or would have dismissed them had they not resigned first, they must consider whether to refer the case to NCTL. Further information can be found at <https://www.gov.uk/guidance/teacher-misconduct-referring-a-case> or from Human Resources.

18. Policy Review

This policy is reviewed and amended every two years (unless there is a change in employment law of practice) by Salford Academy Trust in consultation with the recognised trade unions. Salford Academy Trust will monitor the application and outcomes of this policy to ensure it is working effectively.

Appendix 1: Disciplinary Rules

Policy Statement

The aim of the Disciplinary Rules and Disciplinary Procedure is to set out the standards of conduct expected of all staff and to provide a framework within which the Principal and line managers can work with staff to maintain those standards and encourage improvement where necessary.

If any employee is in any doubt as to their responsibilities or the standards of conduct expected they should speak to their line manager, the Principal or Salford Academy Trust HR.

Rules of Conduct

While working for Salford Academy Trust employees should at all times maintain professional and responsible standards of conduct. In particular:

- (a) observe the terms and conditions of your contract, particularly with regard to:
 - i. hours of work;
 - ii. confidentiality;
- (b) observe all of Salford Academy Trust's central and local Academy policies, procedures and regulations which are notified to you from time to time by means of notice boards, e-mail, the intranet or otherwise;
- (c) take reasonable care in respect of the health and safety of colleagues, pupils and third parties and comply with our Health and Safety Policy;
- (d) comply with all reasonable instructions given by the Principal and managers; and
- (e) act at all times in good faith and in the best interests of Salford Academy Trust and those of our pupils and staff.

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

Misconduct

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

- (a) Minor breaches of the Salford Academy Trust's central and local policies and guidance relating to Absence, ICT Use, Health and Safety
- (b) Minor breaches of an employee's contract of employment;
- (c) Failure to disclose financial or non-financial interests which could conflict with Salford Academy Trust's interests;
- (d) Damage to, or unauthorised use of, Salford Academy Trust property;
- (e) Poor timekeeping, time wasting or failure to remain at work during working hours without permission or sufficient cause;
- (f) Unauthorised absence from work;
- (g) Refusal to follow lawful and reasonable instructions;

- (h) Excessive use of the Salford Academy Trust telephones, email or internet usage for personal reasons;
- (i) Inappropriate or other offensive behaviour, including using obscene language, victimisation or harassment of other members of staff, students or the public;
- (j) Negligence in the performance of duties;
- (k) Failure to adopt safe working practices where required by law or management;
- (l) Failure to maintain documents/records where it is the employees duty to do so where required by law or management;
- (m) Failure to follow procedures for reporting accidents at work, violence to staff or other notifiable occurrences;
- (n) Unauthorised use of plant, premises, equipment, machinery or vehicles belonging to Salford Academy Trust;
- (o) Knowingly being an accessory to a disciplinary offence;
- (p) Refusal to cooperate with any formal internal investigation;
- (q) Unauthorised disclosure of information which could be harmful to Salford Academy Trust, employees or its pupils;
- (r) Smoking in no-smoking areas; or
- (s) Poor attendance.

This list is intended as a guide and is not exhaustive and offences of a similar gravity will receive the same treatment.

Gross Misconduct

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

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

- (a) Theft, or unauthorised removal of property or the property of a colleague, contractor, pupil or member of the public;
- (b) Fraud, forgery or other dishonesty, including fabrication of expense claims and time sheets, pupil's work, examinations or assessments;
- (c) Actual or threatened vandalism or violence, or behaviour which provokes vandalism or violence;
- (d) Deliberate damage to the buildings, fittings, property or equipment of the Salford Academy Trust, or the property of a colleague, contractor, pupil or member of the public;

- (e) Inappropriate conduct with children or young people, including failing to maintain appropriate professional boundaries;
- (f) Serious failure to follow the Salford Academy Trust's central and local child protection procedures;
- (g) Serious misuse, neglect, damage to or removal of Salford Academy Trust property;
- (h) Deliberately accessing internet sites at work or at home, using academy equipment, which contain pornographic, offensive or obscene material;
- (i) Repeated or serious failure to obey lawful and reasonable instructions, or any other serious act of insubordination;
- (j) Bringing Salford Academy Trust and its Academies into serious disrepute;
- (k) Being under the influence of alcohol, illegal drugs or other substances during working hours or not being capable of fulfilling your duties because of the effects of alcohol or illegal drugs or other substances;
- (l) Causing loss, damage or injury through serious negligence;
- (m) Serious or repeated breach of health and safety rules or serious misuse, damage to, neglect or removal of safety equipment;
- (n) Unauthorised use or disclosure of confidential information or failure to ensure that confidential information in your possession is kept secure;
- (o) Acceptance of bribes or other secret payments;
- (p) Conviction or caution for a criminal offence that in the opinion of Salford Academy Trust may affect our reputation or our relationships with our staff, pupils, parents or the public, or otherwise affects your suitability to continue to work for us
- (q) Making a false declaration or failing to disclose information in relation to being disqualified or disqualified by association from the provision of childcare, or becoming disqualified from providing childcare
- (r) Possession, use, supply or attempted supply of illegal drugs;
- (s) Serious neglect of duties, or a serious or deliberate breach of your contract or operating procedures in which the safety of pupils or their education is put at risk;
- (t) Unauthorised use, processing or disclosure of information classified as strictly confidential as per the data protection policy or management which could be harmful to Salford Academy Trust, employees or its pupils
- (u) Harassment of, or discrimination against, employees, pupils, parents or members of the public, related to any of the protected characteristics;
- (v) Refusal to disclose any of the information required by your employment both at the point of application and during employment, or any other information that may have a bearing on the performance of your duties i.e. criminal convictions spent or unspent, reason for dismissal;

- (w) Giving false information as to qualifications or entitlement to work (including immigration status);
- (x) Making a disclosure of false or misleading information under our Whistleblowing Policy maliciously, for personal gain, or otherwise in bad faith;
- (y) Making untrue allegations in bad faith against a colleague;
- (z) Victimising a colleague who has raised concerns, made a complaint or given evidence information under the Whistleblowing, Anti-Harassment, Bullying, Grievance Procedure, Disciplinary policies or otherwise;
- (aa) Serious misuse of our information technology systems (including misuse of developed or licensed software, use of unauthorised software and misuse of email and the internet) contrary to our ICT user policy;
- (bb) Undertaking unauthorised paid or unpaid employment during your working hours whilst expected to attend work; or, whilst absent due to sickness and should it prejudice a return a work; or should be detrimental to your obligation to satisfactorily perform their duties of Salford Academy Trust or conflicts with Salford Academy Trust's interests;
- (cc) Unauthorised entry into an area of the premises to which access is prohibited;
- (dd) Smoking in identified no smoking areas containing flammable or explosive materials.
- (ee) Being inebriated and/or suspected of consuming alcohol.

This list is intended as a guide and is not exhaustive and offences of a similar gravity will receive the same treatment.

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

Appendix 2 - Invite to investigation

Private and confidential

Name

Address

Date

Investigatory interview

Dear

I am writing to inform you that you are required to attend an investigatory interview with (insert name of HR advisor) and myself on (date) at (time).

The interview will take place at (venue). Please report to the reception on arrival and ask for me.

At the investigatory interview matters concerning your standard of conduct will be discussed with you particularly in relation to (e.g. unauthorised absence).

The interview will be conducted in line with the trust's disciplinary procedure. Please find enclosed a copy of this procedure. The purpose of the interview is to establish the facts to determine whether to proceed to either; informal action, a formal hearing, no action or further investigation.

You must make every attempt not to discuss the matters under investigation with any work colleagues or any other person/s involved with this matter, with the exception of your Trade Union representative or the investigating officer assigned to this case (name).

You have the right to be accompanied at the interview by a trade union representative or a colleague. Should you wish to exercise this right it is your responsibility to arrange this.

During the initial investigatory meeting you will be asked to confirm in writing that all information and evidence can be shared with your Trade Union representative. This allows us to adhere to Data Protection/GDPR regulations and will be regarded as your written consent.

If there is an unavoidable reason that you are unable to attend this interview then you are required to telephone (name) on telephone number (number) as soon as possible with an alternative date within 5 working days after the date proposed.

We appreciate any investigation such as this will be an anxious time for you and should you require any welfare support, you may wish to contact <insert named school contact>. The support can include a named school/trust mentor or counselling support through the school/trust Occupational Health Provider.

Yours sincerely

Appendix 3 – invite to disciplinary hearing

Private and confidential

Name

Address

Date

Disciplinary hearing

Dear

I am writing to inform you that you are required to attend a disciplinary hearing in accordance with the trust's disciplinary procedure with myself at *(insert time)* on *(insert date)* at *(insert venue and venue address)*. Please report to reception on your arrival *(if applicable)*. Also in attendance at this meeting will be *(insert names of other attendees and their positions)*.

You should be aware that xxxx will be called as a witness

At the hearing you will be given the opportunity to answer the following allegation/s of misconduct **or** gross misconduct:

(Insert allegation/s)

Insert next paragraph if the allegation is gross misconduct:

This allegation amounts to a fundamental breach of trust and confidence that underpins your employment relationship with the Salford Academy Trust. You should therefore be aware that if the allegation is proven this may lead to your dismissal.

Insert next paragraph if the allegation is misconduct:

You should therefore be aware that if the allegation is proven this may lead to you being issued with up to a first and final written warning.

I must advise you that you have the right to be represented at the hearing by a Trade Union representative or colleague.

Please telephone *(insert name and number)* to confirm whether you intend to be represented at the hearing and to confirm whether you intend to call any witnesses. You are required to provide their names and details of the capacity in which they will be attending by *(insert date)*, along with any documentary evidence you intend to present at the hearing.

The documents that I may wish to refer to at the aforementioned disciplinary hearing are enclosed with this letter/will be forwarded to you prior to the meeting (delete as appropriate).

If documents enclosed insert the following paragraph:

These notes and evidence are provided to you in line with the disciplinary procedure to ensure that you can fully prepare your case and/or defend the allegations. Please be aware that, in line with the Data Protection Act, they should not be used for any other purpose than the disciplinary hearing, nor be disclosed to any other employees of Salford Academy Trust or any third parties, including those connected with the case (with the exception of your Trade Union representative who will be provided with a full copy of the documentation on confirmation of your written consent) (with the exception of the employee's trade union/professional association representative). Please ensure that you secure this information in a confidential place and that you comply with the requirements of the Data Protection Act. Failure to do so may result in disciplinary action. Please be assured that our copy will be retained securely, with access limited to those parties who need it in line with the trust's disciplinary procedure and Data Protection Act.

Information and evidence gathered by you to support your defence of the incident/allegation will only be shared with the appropriate officials linked to this case and will be treated in strict confidence.

If there is an unavoidable reason that you are unable to attend the hearing on the date and time arranged then you are required to telephone (name) on telephone number (number) as soon as possible with an alternative date and time within 5 working days.

Yours sincerely

Name
Position

Appendix 4 – format for disciplinary hearing

Either a senior manager, principal or a nominated chair from a panel of governors should chair the disciplinary hearing. However, the format for the disciplinary hearing remains the same.

The chair shall introduce all the parties concerned and will outline the procedure.

The hearing should take place in the following sequence:

1. The facts of the case are presented by the investigating officer who may call witnesses.
2. Witnesses may be cross-examined by employee/representative.
3. Questions for clarification from all parties (through chair).
4. Employee or representative presents their case and they may call witnesses.
5. Witnesses may be cross-examined by the investigating officer.
6. Chair, investigating officer or HR representative may place questions direct to employee or their representative.
7. The investigating officer sums up (no new evidence to be introduced).
8. Employee or representative sums up (no new evidence to be introduced).
9. All retire from the room except principal / panel of governors and the HR representative.
10. Deliberation.
11. Parties return. Chair informs the employee of their/the panel's decision. Inform employee of rights, particularly rights of appeal.
12. Confirmation of decision given in writing by chair.

Appendix 5 – disciplinary outcome formal warning

Private and confidential

Name

Address

Date

Outcome of disciplinary hearing

Dear

I refer to the disciplinary hearing which you attended with myself and (names of panel members if applicable) on (insert day and date).

Also in attendance were (insert name HR advisor) and (insert name of investigating officer and job title). (Please note: include names of people who were observing and assisting the investigating officer if applicable) You were accompanied by your trade union representative (insert name and which union).

The hearing was held in accordance with the trust's disciplinary procedure to consider the following allegation/s of misconduct made against you;

List allegation(s) as outlined in invite to hearing letter

Careful consideration has been given to the information presented by all parties present at the hearing. I am now writing to confirm that my/our decision as conveyed to you on ***** is as follows: -

That the allegation/s are proven and;

Insert appropriate sanction

1. That you be issued with a first written warning which will remain on your record for a period of 6 months from (date of hearing)
2. That you be issued with a final written warning which will remain on your record for a period of 12 months from (date of hearing)

In making my decision please find some of the facts that I took into consideration:

(Insert main points)

A note of this warning has been placed on your personal file and will be taken into account should it be necessary to take further disciplinary action against you in the next 12 months. Following the expiry of the 12 month period, the warning will normally be disregarded for disciplinary purposes but will not be expunged from your personal file.

Please note that you have the right of appeal against my decision. If you wish to exercise

this right you must do so in writing to me within 5 working days of being notified of the result of the hearing, stating the reason for your appeal. Therefore if I have not received your written appeal by ***** date I will assume that you do not wish to exercise this right.

Please note, a copy of this letter has been sent to ***** your trade union representative who accompanied you at the hearing.

Yours sincerely

Name
Position

Appendix 6 – disciplinary outcome dismissal

Private and confidential

Name

Address

Date

Outcome of disciplinary hearing

Dear

I refer to the disciplinary hearing which you attended with myself and (names of panel members if applicable) on (insert day and date).

Also in attendance were (insert name of HR adviser) and (insert name of investigating officer and job title). (Please note: include names of people who were observing and assisting the investigating officer if applicable) You were accompanied by your trade union representative (insert name and which union).

The hearing was held in accordance with the trust's disciplinary procedure to consider the following allegation/s of misconduct **or** gross misconduct made against you;

List allegation(s) as per allegations letter

Careful consideration was given to the information presented by all parties present at the hearing. I am now writing to confirm that my/our decision as conveyed to you on ***** is as follows: -

Insert next paragraph if dismissal is with notice

That the allegation/s were proven and, as you have a final **or** first and final written warning live on your record, you are therefore dismissed with notice of ** weeks/payment in lieu of notice of ** weeks. Your last day of service will be recorded as *****.

Insert next paragraph if summary dismissal for gross misconduct

I/we believe that you have fundamentally and irrevocably breached the implied term of trust and confidence that underpins the employment relationship and you are therefore dismissed with immediate effect. Your last day of service will be recorded as *****.

In making my/our decision please find outlined below some of the key facts that I/we took into consideration (**use information recorded in decision matrix to populate**).

(Insert main points)

As you will be aware, you have already received a salary payment on *** for the whole of the month of ***. You have therefore been overpaid by ** days. Arrangements will be made with our payroll provider to invoice you for the amount overpaid. You should receive separate confirmation of the total amount to be reclaimed.

In these circumstances, it is considered that you forfeit any right to receive payment for any outstanding contractual annual leave. Instead, you will only qualify for a proportion

of the statutory minimum holiday provisions of the Working Time Regulations (1998) of ** days. As you have already taken a total of ** days (including Bank Holidays), this exceeds your entitlement / leaves a balance of **days pay which will be paid in your final salary payment due to you on / offset against any monies owed by you (delete as appropriate).

Please note that you have the right of appeal against this decision. If you wish to exercise this right you must do so in writing to me, within 5 days of receipt of this letter, stating the grounds for your appeal.

Therefore if I have not received your appeal document by ***** date I will assume that you do not wish to exercise this right.

Please note, a copy of this letter has been sent to ***** your trade union representative who accompanied you at the hearing.

Yours sincerely

Name
Position

Appendix 7 – outcome of appeal hearing

Private and confidential

Name

Address

Date

Outcome of appeal hearing

Dear

I refer to the appeal hearing you attended on (date). I chaired the hearing and (insert names and job titles of others in attendance) also attended. You were accompanied by (name of representative and trade union) / it was noted that you chose not to be accompanied at the meeting.

After giving careful consideration to all the information presented, it was decided that:

1. The original decision was reasonable and therefore your appeal is not upheld. Consequently the decision of (insert name of hearing officer) as outlined in the letter to you dated (date of hearing outcome letter) is confirmed and the sanction remains unchanged.
2. To uphold your appeal and that the following decision is applied:

Outline details of new decision and sanction.

In making my/our decision please find some of the facts that I/we took into consideration:

(Insert main points)

As you are aware this is the final stage of the appeals procedure.

Yours sincerely

Name

Chair of the appeal hearing

Appendix 8 – format for suspension meeting

Outline the reason that the meeting has been called – e.g. a serious matter has been brought to my attention regarding deliberate falsification of pupil data.

In order for the matter to be investigated and in line with the trust's disciplinary procedure you are to be suspended from duty with immediate effect.

The period of suspension is with full pay. Suspension does not imply guilt, nor is it a disciplinary sanction but, equally, because of the potential impact on the employee's career, it is not a neutral act. It should only be imposed if no alternatives to suspension (such as moving the employee temporarily to an alternative role) are considered appropriate. It is recommended that advice is sought from Human Resources prior to making the decision to suspend.

Outline terms of the suspension

- You must not attend (for any purpose) your place of work or any Salford Academy Trust premises, without prior consent. Should you feel it necessary to enter any such premises you must first seek approval from (insert names).
- You must not discuss the matters under investigation with any work colleagues or any other person(s) involved with this matter, with the exception of your trade union representative or the investigating officers assigned to this case (insert names). All information/evidence is covered by the Data Protection Act and failure to follow this request may have serious consequences and could be taken into consideration by the Hearing Officer.
- You must fully cooperate with the investigation and remain available should you be required to attend any investigatory interviews.
(If applicable: In this connection, you are required to attend the scheduled investigatory interview at (insert date and time). Such interviews will be conducted in accordance with the trust's disciplinary procedure. You will have the right to be accompanied at this interview by your trade union representative or a colleague of your choice.
- For your information I have enclosed contact details of the trade unions, should you wish to ask any of them for assistance
- You will receive full pay during your period of suspension.

Offer assurances that we will endeavour to undertake the investigation quickly for the matter to be resolved as soon as possible.

You will be contacted as soon as possible and you will be kept informed. The outcome of this meeting will be confirmed in writing.

Offer support mechanisms eg counselling

You will now need to leave the premises, taking any personal belongings with you. You will be escorted to collect them. You also need to declare any items you have in your possession which belong to the school/trust.

Appendix 9 – suspension outcome letter

Private and confidential

Name

Address

Date

Suspension

I refer to the meeting you attended on (insert date) with me. Also in attendance were (insert name of HR advisor) and you were accompanied by (insert name of representative) from (name of TU or work colleague) accompanied you **or** you chose not to be accompanied at the meeting.

I confirm that you are suspended from duty with immediate effect whilst an investigation is made into matters of a serious nature where the possibility of dismissal may arise / because there are grounds for doubt as to your suitability to continue working in your present position / pending criminal investigations or proceedings, in accordance with the trust's disciplinary procedure (please find enclosed a copy of the disciplinary procedure for your information).

The terms of the suspension were outlined to you, as follows:

- You must not attend (for any purpose) your place of work or any Salford Academy Trust premises, without prior consent. Should you feel it necessary to enter any such premises you must first seek approval from (insert names).
- You must not discuss the matters under investigation with any work colleagues or any other person(s) involved with this matter, with the exception of your trade union representative or the investigating officers assigned to this case (insert names).
- You must fully cooperate with the investigation (amend as appropriate) and remain available should you be required to attend any investigatory interviews. **OR** and you are required to attend the scheduled investigatory interview at (insert date and time). Such interviews will be conducted in accordance with the trust's disciplinary procedure. You will have the right to be accompanied at this interview by your trade union representative or a work colleague of your choice (who has no connection to the investigation or allegation). For your information I have enclosed contact details of the trade unions, should you wish to ask any of them for assistance
- You will receive full pay during your period of suspension.

As previously outlined to you there is no right of appeal against this suspension but I would like to assure you that this type of suspension is to protect all parties concerned and is not a form of disciplinary action.

Investigations are being undertaken and when these are complete you will be informed of the outcome accordingly. I would assure you that it is my intention that this matter be resolved as quickly as possible. Your suspension will be reviewed regularly to ensure that it is not unnecessarily protracted.

During your period of suspension, should you require any welfare support, you may wish to contact <insert named school/trust officer>. This support can include a named school mentor and/or counselling support accessed through the school/trust Occupational Health Provider.

Yours sincerely

Name
Position

Appendix 10 – applying the terms of suspension during sickness absence

Private and confidential

Name

Address

Date

Suspension

Dear

Following your recent submission of a sick note I am writing to confirm that with effect from DATE *{insert date sickness absence commenced}* you will transfer from suspension to sick leave. However, I must advise you that, as the outstanding disciplinary matter has not yet been resolved, whilst you are absent for sickness the terms of suspension as outlined in my letter of *{insert date of letter confirming suspension}* will still be applied.

I must therefore remind you that:

- You must not attend (for any purpose) your place of work or any Salford Academy Trust premises, without prior consent. Should you feel it necessary to enter any such premises you must first seek approval from (insert names).
- You must not discuss the matters under investigation with any work colleagues or any other person(s) involved with this matter, with the exception of your trade union representative or the investigating officers assigned to this case (insert names).
- You must fully cooperate with the investigation (amend as appropriate) and remain available should you be required to attend any investigatory interviews. OR and you are required to attend the scheduled investigatory interview at (insert date and time). Such interviews will be conducted in accordance with the trust's disciplinary procedure. You will have the right to be accompanied at this interview by your trade union representative or a colleague of your choice (who has no connection to the investigation or allegation). For your information I have enclosed contact details of the trade unions, should you wish to ask any of them for assistance
- You will receive full pay during your period of suspension.

Should you fail to comply with these terms your sick pay may be suspended and disciplinary action taken against you.

I confirm that during your sickness absence you will receive your sick pay entitlement and your absence will be monitored in accordance with the absence management procedure. You must comply with the terms of the occupational sick pay scheme particularly in relation to the submission of medical certificates to certify your sickness.

Arrangements are being made for you to be seen by a medical examiner to determine your fitness to attend an investigatory interview and/or subsequent disciplinary hearing. They will also be able to provide any additional support you may require (eg counselling).

Investigations are being undertaken and when these are complete you will be informed

of the outcome accordingly. I would assure you that it is my intention that this matter be resolved as quickly as possible. Your suspension will be reviewed regularly to ensure that it is not unnecessarily protracted.

During your period of suspension, should you require any welfare support beyond what is outlined above, you may wish to contact <insert named school/trust officer>.

Yours sincerely

Name
Position

Appendix 11 – suspension lift

Private and confidential

Name
Address

Date

Lifting of suspension

Further to my letter to you dated (date of suspension letter) I am now writing to inform you that, following preliminary investigations and having considered the facts given, it has become apparent that the matter is not as serious as initially alleged.

Therefore, I can confirm, (as verbally informed to you by), that your suspension has been lifted with effect from

* As you are aware, the matter is still being fully investigated and you will be informed of any developments that take place. On completion you will be informed if a disciplinary hearing will be held and the allegations you will be asked to answer.

* This matter will now proceed to a disciplinary hearing and you will be informed of the date & details of any allegations in due course.

* This matter is now considered closed and I can confirm it is not felt appropriate to take any disciplinary action.

I trust you can understand that I had a duty to fully investigate this matter based on evidence available at the time. The purpose of the “investigation” is as implied; to investigate and establish the facts of the case and also gives you the opportunity to provide explanations in connection with the matter. It is normal procedure (other than in very serious cases) to fully investigate first and only then do we proceed to take any action under the trust’s disciplinary procedure.

I would like to thank you for your continued co-operation and if you have any further concerns regarding this matter, please do not hesitate to contact me.

Yours sincerely

Name
Position

APPENDIX 12 – FRAMEWORK FOR THE INVESTIGATION

The investigation will be led by an appropriately trained senior manager/leader. They may be supported by another representative from the school/trust and the associated HR partner.

The investigation team will adopt an impartial approach throughout the investigation process and will focus on the facts being presented to them by the school/trust responsible for the allegation being made and the employee (supported by their Trade Union/Professional Association representative or appropriate workplace colleague). It should be fair and balanced and consider the points being made by both parties.

The investigation team will review information and evidence related to the allegation thoroughly and must make every attempt to acquire information from all associated parties. They must make sure they share their findings and check facts prior to completing the investigation process. They must also make sure they follow the disciplinary procedure.

It is the responsibility of the senior leadership team from the associated school/trust to make sure that support is in place for the employee under investigation. The investigatory team should check this is happening and take appropriate action if they believe the employee needs more support.

The investigation team should make sure they avoid including personal opinions and take a professional approach at all times.

The investigating officer should take note of the ACAS guidance which states: An investigator should restrict their recommendations only to suggesting whether any further action would be necessary or beneficial. In most circumstances an investigator should recommend formal action, informal action or no further action.

The lead investigation officer can also call a halt to the investigation at any time if they believe the case has no merit. If this approach is taken it will be formally approved by a lead trust officer and agreed with the employee and their representative as well as the associated school/trust leadership team. Clear reasoning must be provided.

The employee and their representative may feel that alternative mitigation may be possible which would result in a termination of the investigation. This could include the offer to be redeployed to an alternative position (including one at a lower grade) either within their own or another trust school or an offer of a settlement arrangement. The investigation team will consider any such offer as appropriate to the circumstances of the case and should seek further advice and support before any decision is made. This will be presented to the employee and their representative and the agreed action (including continuation of the investigation process) will be followed as appropriate.

Format for Disciplinary Hearing

Either the Principal/CEO of Salford Academy Trust or a nominated Chair from a panel of 3 governors/management committee members should chair the disciplinary hearing. However, the format for the disciplinary hearing remains the same.

The Chairman shall introduce all the parties concerned and will outline the procedure.

The hearing should take place in the following sequence: -

- The facts of the case are presented by the Investigatory Officer who may call witnesses.
- Witnesses may be cross-examined by employee/representative.
- Questions for clarification from all parties (through Chairman).
- Employee or representative present their case who may call witnesses.
- Witnesses may be cross-examined by the Investigatory Officer.
- Hearing panel or Investigating officer may place questions direct to employee or representative.
- The Investigatory Officer sums up (no new evidence to be introduced).
- Employee or representative sums up (no new evidence to be introduced).
- All retire from the room except members of the Discipline and Dismissal Committee and the HR representative.
- Deliberation.
- Parties return. Chairman gives verdict. Inform employees of rights, particularly rights of appeal
- Confirmation of decision given in writing by Chairman