

“Together in Achievement”



Disciplinary Procedure

including Allegations Against Staff
and Staff Code of Conduct

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Disciplinary Procedure

including Allegations Against Staff and Staff Code of Conduct

1. Policy statement

- 1.1. 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 Aspire academies can work with employees to maintain satisfactory standards of conduct and to encourage improvement where necessary.
- 1.2. It is the policy of Aspire Multi-Academy Trust to ensure that any disciplinary matter is dealt with fairly and that steps are taken to establish the facts and to give employees the opportunity to respond before taking any formal action.
- 1.3. This procedure does not form part of any employee's contract of employment and it may be amended at any time following consultation. We may also vary application of this procedure, including any time scales for action, as appropriate.
- 1.4. The policy has been implemented following consultation with staff and recognised trade unions. It has been formally adopted by Aspire's Board.

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.
- 2.3. Minor conduct issues can often be resolved informally between employees and their line manager. These discussions should be held in private and without undue delay whenever there is cause for concern. Where appropriate, a note of any such informal discussions 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 but may be referred to as part of any disciplinary proceedings where appropriate. 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).
- 2.4. Employees will not normally be dismissed for a first act of misconduct, unless the academy decides that the conduct amounts to gross misconduct or the employee has not completed a probationary period.
- 2.5. As recognisable figures in the local community the behaviour and conduct of Aspire employees 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 (see disciplinary rules).

3. Confidentiality

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

- 3.2. Employees, and anyone accompanying them (including witnesses), must not make electronic recordings of any 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. Informal Process

- 4.1. In the course of day-to-day activities, there will be occasions when line managers will need to advise employees informally of minor breaches of discipline. Most cases of minor misconduct are best dealt with through informal processes rather than through the formal disciplinary procedure. The line manager should discuss any problem with the employee at the earliest possible opportunity with the objective of encouraging and helping the employee to improve and stopping the matter from escalating.
- 4.2. The line manager is required to keep notes of the date and content of the informal discussion and to inform the headteacher, who may decide that no further action is required or may initiate a preliminary investigation or may initiate an immediate full investigation.

5. Allegations

- 5.1. Allegations may be brought to the academy's attention in a number of ways and through a variety of sources. Appendix 1 sets out the disciplinary rules. As with disclosures made by children and young people, adults need to be aware that in making an allegation it is not always possible to keep the matter confidential. The Headteacher 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.
- 5.2. Allegations which involve issues of child protection and/or abuse of children by staff should be referred immediately to the Designated Officer of the Local Authority. See Appendix 2 for further guidance on the management of this type of allegation. No further action under this procedure will usually be taken until the Designated Officer of the Local Authority has been consulted.

6. Investigations

Preliminary investigation

- 6.1. Upon receiving any allegations against employees it is likely that further information will be required to establish what the next course of action should be. The Headteacher should seek to establish the basic facts of the situation; this may involve looking at records, speaking to witnesses, reviewing CCTV etc.
- 6.2. A preliminary investigation meeting may be held with the employee to establish the basic facts of the circumstance and to enable the Headteacher 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 meeting will not be required in all cases and it is for the Headteacher to decide if this is appropriate.

Further investigation

- 6.3. After a preliminary investigation where it is determined that there is a need for investigation, or if the concerns are serious enough to warrant a full investigation immediately, the Headteacher will usually appoint an Investigating Officer to carry out the investigation. This will be an appropriate person to the nature of the allegations and the role of the employee. In the case of

allegations made against the Headteacher, the Chair of Governors will be responsible for the management of the procedure and determining an appropriate Investigating Officer, either internally or externally.

- 6.4. 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.
- 6.5. 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. Aspire academies recognise that some employees may find this difficult or worrying; however, all employees are expected to fully participate in any such investigation.
- 6.6. 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. 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.
- 6.7. Employees must co-operate fully and promptly in any investigation. This will include providing the names of any relevant witnesses, disclosing any relevant documents or information and attending investigative interviews if required. As each investigation will vary in length and complexity it will be completed in as short a time frame as possible.

7. Criminal charges

- 7.1. Where conduct is the subject of a criminal investigation, arrest, 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 **Headteacher** immediately if they are involved in a criminal investigation, arrest, or are subject to a charge or conviction. Failure to notify their line manager may result in disciplinary action.
- 7.2. The academy 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.
- 7.3. 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.
- 7.4. Where a criminal investigation relates to allegations of abuse of children or young people the academy will co-operate and share information about the employee with other relevant agencies as appropriate.

8. Suspension

- 8.1. In some circumstances it may be necessary to suspend the employee from work, where there are reasonable grounds to suspend. The suspension will be for no longer than is necessary to investigate the allegations and conclude the disciplinary process. The arrangements will be confirmed to the employee in writing as soon as possible.

- 8.2. Suspension of this kind is not a disciplinary penalty and does not imply that any decision has already been made about the allegations. Employees will continue to receive normal salary and benefits during the period of suspension.
- 8.3. 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 well as the employee's role and if their continued presence would result in potential harm to the organisation or others, or make it difficult to investigate.
- 8.4. Where allegations are made that involve the protection of children suspension will not be considered to be automatic. A reasoned decision will be made based on all available information. Additional information on the management of these allegations is available in Appendix 2.
- 8.5. The suspension will be kept under review as the investigation progresses. As information is gathered it may become appropriate to lift the suspension during the course of the investigation or prior to any disciplinary hearing.
- 8.6. The decision to suspend an employee can be made by the Headteacher, or, if the Headteacher is under investigation, by the academy's Local Governing Body.

9. Disciplinary hearing

- 9.1. Following any investigation, if there are grounds for disciplinary action, the employee will be required to attend a disciplinary hearing. The employee will be informed in writing of the allegations against them, the basis for those allegations, and what the likely range of consequences will be if it is decided at the hearing that the allegations are true. The following will also be included where appropriate:
 - (a) a summary of relevant information gathered during the investigation;
 - (b) a copy of any relevant documents which will be used at the disciplinary hearing; and
 - (c) a copy of any relevant witness statements, except where a witness's identity is to be kept confidential, in which case as much information as possible will be provided while maintaining confidentiality.
- 9.2. The Headteacher 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.
- 9.3. Five working days' written notice of the date, time and place of the disciplinary hearing will be given to provide the employee with a reasonable amount of time to prepare their case based on the information that they have been provided with. The hearing will be arranged as soon as is practicably possible.
- 9.4. If the employee and/or their companion cannot attend the hearing they should inform the Headteacher immediately and consideration will be given to arranging an alternative time. Employees must make every effort to attend the hearing and failure to attend without good reason may be treated as misconduct in itself. Failure to attend without good reason, or persistent inability to do so (for example for health reasons), may lead to a decision being taken based on the available evidence.
- 9.5. If the employee chooses not to attend the hearing they may choose to send a written statement for consideration at the hearing or their trade union representative may attend on their behalf.

10. Role of Companion at Meetings and Hearings

- 10.1. An employee may bring a companion to any hearing or appeal where a formal warning may be issued or dismissal may be a potential outcome. The companion may be either a trade union representative or a work colleague. The employee must inform the Headteacher conducting the meetings who their chosen companion is, in good time before the hearing.
- 10.2. Should the employee choose to bring a companion to the hearing they will be responsible for making these arrangements and for providing their companion with any paperwork that they require for the hearing.
- 10.3. Acting as a companion is voluntary and your 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 companion.
- 10.4. If the choice of companion is not available at the time a hearing or appeal is scheduled, the employee may propose an alternative time for the hearing or appeal to take place and so long as the alternative time is reasonable and within five working days after the original scheduled date, we will postpone. If the employee's chosen companion will not be available for more than five working days afterwards, we may ask the employee to choose someone else.
- 10.5. A companion may make representations, ask questions, and sum up the employee's position, but will not be allowed to answer questions on the employee's behalf. The employee may confer privately with their companion at any time during a meeting.
- 10.6. The academy Headteacher may, at his/her discretion, allow the employee to bring a companion who is not a colleague or union representative (for example, a member of family) as a reasonable adjustment if the employee has a disability, or if they difficulty understanding English.

11. Procedure at disciplinary hearings

- 11.1. The hearing will be chaired by the Headteacher. The Investigating Officer will also normally attend to present the investigation. A member of the Human Resources department may also be present.
- 11.2. At the disciplinary hearing the Investigating Officer will go through the allegations against the employee and the evidence that has been gathered. The employee (or their companion on their behalf) will be able to respond and present any evidence of their own. A format for a disciplinary hearing is attached at Appendix 3.
- 11.3. Relevant witnesses may be asked by the Investigating Officer or the employee to appear at the hearing. The employee must give sufficient advance notice if they wish to call witnesses to ensure that there is time to arrange their attendance. The employee will be given the opportunity to respond to any information given by a witness. However, the employee will not normally be permitted to cross-examine witnesses unless, in exceptional circumstances, the Headteacher decides that a fair hearing could not be held otherwise.
- 11.4. The Headteacher may adjourn the disciplinary hearing if there is a need to carry out any further investigations such as re-interviewing witnesses in the light of any new points that have been raised at the hearing. The employee will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.

11.5. The employee will be informed in writing of the decision and the reasons for it, usually within 5 working days of the disciplinary hearing. Where possible this information will also be explained to the employee in person.

12. Disciplinary penalties

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

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

12.3. A disciplinary warning or dismissal may be authorised by the Headteacher or where relevant, by the academy governing body; for example, if the Headteacher is under investigation or has served as the Investigating Officer.

First written warning

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

12.5. A first written warning will usually remain active for 12 months.

Final written warning

12.6. A final written warning will usually be appropriate for:

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

12.7. A final written warning will usually remain active for 12 months. In exceptional cases verging on gross misconduct, a final written warning may state that it will remain active indefinitely.

The effect of a warning

12.8. 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.

12.9. 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.

12.10. 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.

12.11. Dismissal

Dismissal will usually only be appropriate for:

- (a) any misconduct during the probationary period;
- (b) further misconduct where there is an active final written warning on the record; or

- (c) 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).

12.12. Alternatives to dismissal

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

- (a) Demotion;
- (b) Transfer to another department or job;
- (c) Loss of seniority; or
- (d) Reduction in pay.

13. Appeals against disciplinary action

- 13.1. 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 academy Chair of Governors within 5 working days of the date on which the employee was informed of the decision.
- 13.2. If the employee is appealing against dismissal, the date on which dismissal takes effect will not be delayed pending the outcome of the appeal. However, if the appeal is successful they will be reinstated with no loss of continuity or pay.
- 13.3. 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.
- 13.4. The employee must be given written notice of the date, time and place of the appeal hearing. This will normally be no less than 5 working days. The employee may bring a companion to the appeal hearing (see paragraph 9).
- 13.5. The appeal hearing will be conducted by a panel of academy governors who have not been previously involved in the case. The hearing may be a complete re-hearing (which would follow the format for hearings at Appendix 3) 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 (in which case the format would be reversed so that the appellant would present their appeal first). This will be at the governors' discretion depending on the circumstances of the case. In any event the appeal will be dealt with as impartially as possible.
- 13.6. Following the appeal hearing the panel of governors 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
- 13.7. The employee will be informed in writing of the decision and the reasons for it, usually within 5 working days of the appeal hearing. Where possible this information will also be explained to the employee in person. There is no further right to appeal.

14. Referrals to external bodies

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

15. Review of policy

This policy is reviewed and amended 3-yearly by Aspire's Board. We will monitor the application and outcomes of this policy to ensure it is working effectively.

APPENDIX 1

Disciplinary Rules / Staff Code of Conduct

1. Policy statement

- 1.1. 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 Headteacher and line managers can work with staff to maintain those standards and encourage improvement where necessary.
- 1.2. If any employee is in any doubt as to their responsibilities or the standards of conduct expected they should speak to their line manager.

2. Code of Conduct

- 2.1. While working for Aspire, you should at all times maintain professional and responsible standards of conduct. In particular you should:
 - (a) observe the terms and conditions of your contract, particularly with regard to:
 - (i) hours of work;
 - (ii) confidentiality;
 - (b) observe all of the Trust and academy policies, procedures and regulations which are shared with you 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 Headteacher and managers; and
 - (e) act at all times in good faith and in the best interests of the academy/Trust and those of our pupils and staff.
- 2.2 Failure to maintain satisfactory standards of conduct may result in action being taken under the Disciplinary Procedure.

3. Misconduct

- 3.1. The following are examples of matters that will normally be regarded as misconduct and will be dealt with under the Disciplinary Procedure:
 - Minor breaches of the Trust or academy policies;
 - Minor breaches of an employee's contract of employment;
 - Damage to, or unauthorised use of, academy or Trust property;
 - Poor timekeeping or time wasting;
 - Unauthorised absence from work;
 - Refusal to follow instructions;
 - Excessive use of academy telephones, email or internet usage for personal reasons;
 - Inappropriate or other offensive behaviour, including using obscene language, victimisation or harassment of other members of staff or pupils;
 - Negligence in the performance of duties;

- Smoking in no-smoking areas, which applies to anything that can be smoked and includes, but is not limited to, cigarettes, electronic cigarettes, pipes (including water pipes such as shisha and hookah pipes), cigars and herbal cigarettes; or
- Poor attendance.

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

4. Gross misconduct

4.1. Gross misconduct is a serious breach of contract and includes misconduct which, in the opinion of the Aspire academy, is likely to prejudice its business or reputation or irreparably damage the working relationship and trust between the academy 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).

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

- Theft, or unauthorised removal of property or the property of a colleague, contractor, pupil or member of the public;
- Fraud, forgery or other dishonesty, including fabrication of expense claims and time sheets, pupil's work, examinations or assessments;
- Actual or threatened violence, or behaviour which provokes violence;
- Deliberate damage to the buildings, fittings, property or equipment of the academy or Trust, or the property of a colleague, contractor, pupil or member of the public;
- Inappropriate conduct with children or young people, including failing to maintain appropriate professional boundaries;
- Serious failure to follow the academy's child protection procedures;
- Making a false declaration or failing to disclose information in relation to the disqualification from childcare requirements, or becoming disqualified from providing childcare;
- Serious misuse of the academy or Trust's property or name;
- Deliberately accessing internet sites at work or at home, using academy equipment, which contain pornographic, offensive or obscene material;
- Repeated or serious failure to obey instructions, or any other serious act of insubordination;
- Bringing the academy or Trust into serious disrepute;
- 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.
- Causing loss, damage or injury through serious negligence;
- Serious or repeated breach of health and safety rules or serious misuse of safety equipment;
- Unauthorised use or disclosure of confidential information or failure to ensure that confidential information in your possession is kept secure;
- Acceptance of bribes or other secret payments;

- Conviction or caution for a criminal offence that in the opinion of the academy 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;
- Possession, use, supply or attempted supply of illegal drugs;
- Serious neglect of duties, or a serious or deliberate breach of your contract or operating procedures;
- Unauthorised use, processing or disclosure of personal data contrary to our Data Protection Policy;
- Harassment of, or discrimination against, employees, pupils, parents or members of the public, related to any of the protected characteristics;
- Refusal to disclose any of the information required by your employment or any other information that may have a bearing on the performance of your duties;
- Giving false information as to qualifications or entitlement to work (including immigration status);
- Making a disclosure of false or misleading information under our Whistleblowing Policy maliciously, for personal gain, or otherwise in bad faith;
- Making untrue allegations in bad faith against a colleague;
- Victimising a colleague who has raised concerns, made a complaint or given evidence information under the Whistleblowing policy, Bullying and Harassment Policy, Grievance Procedure, Disciplinary Procedure or otherwise;
- Serious misuse of the academy's 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;
- Undertaking unauthorised paid or unpaid employment during your working hours;
- Unauthorised entry into an area of the premises to which access is prohibited]

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

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

APPENDIX 2

Managing allegations of abuse against teachers and other staff

In dealing with allegations of abuse against employees the statutory guidance 'Keeping Children Safe in Education' needs to be followed in ensuring that children and young people are not at risk of harm as well as supporting employees through the relevant processes.

1. Scope

- 1.1. This appendix will be used alongside the Disciplinary Procedure where allegations have been made that might indicate a person would pose a risk of harm if they continue to work in regular or close contact with children in their present position, or in any capacity. If the school receives an allegation relating to an incident where an individual or organisation was using the school premises for running an activity for children, we follow our school safeguarding policies and procedures, informing the LADO, as we would with any safeguarding allegation.
- 1.2. It will be used in respect of all cases in which it is alleged that an employee has:
 - behaved in a way that has harmed a child, or may have harmed a child;
 - possibly committed a criminal offence against or related to a child; or
 - behaved towards a child or children in a way that indicates that they would pose a risk of harm if they work regularly or closely with children.
- 1.3. As with other conduct issues, the behaviour of employees outside of work may impact on their role within the academy. Therefore, if concerns are brought to the academy's attention about an employee's behaviour in regard to their own children or any other child/children outside of the academy, consideration will be given to any implications for children with whom the employee has contact with at work.

2. Initial considerations

- 2.2. Where the Headteacher determines that the allegations meet the criteria above they will immediately contact the Designated Officer of the Local Authority and provide them with all relevant information.
- 2.3. The Designated Officer of the Local Authority and the Headteacher will consider the nature, content and context of the allegation and agree a course of action. The Designated Officer of the Local Authority [*formally known as Local Authority Designated Officer - LADO*] may ask for further relevant information to be provided or obtained such as previous history, whether the child or their family have made similar allegations, and the individual's current contact with children.
- 2.4. **Outcomes of initial considerations**
 - 2.4.1. No further action by external agencies or the academy is to be taken in regard to the individual facing the allegation. The decision and reasons for this will be recorded. The Headteacher will agree with the Designated Officer of the Local Authority what information should be put in writing to the employee and what if any action is appropriate to take in respect of the person making the allegation. After consulting the Designated Officer of the Local Authority, the Headteacher will inform the employee about the allegation and provide them with as much information as possible at the time.

OR

- 1.1.2. No further action by external agencies, but the Headteacher determines further action is required and will refer to the Disciplinary Procedure.

OR

- 2.4.2. The Designated Officer of the Local Authority determines that a strategy discussion is needed, or police or Local Authority's social care services need to be involved. The Designated Officer of the Local Authority will coordinate the appropriate arrangements and will inform the Headteacher. The Headteacher should not provide any further information to the employee. The strategy discussion will determine what action will be taken and by whom. The point at which the academy can continue with its own disciplinary procedures will be determined. No further investigation should be carried out until agreed through this process.

3. Suspension

- 3.2. Suspension will not be an automatic response when an allegation is reported and alternative arrangements will be considered. The risks of the employee remaining in the academy during any process of investigation will be carefully evaluated. In cases where there is cause to suspect children at the allegation are at risk of significant harm, or the allegation warrants investigation by the police, or is so serious that it might be grounds for dismissal the employee will usually be suspended.
- 3.3. Suspension will be managed as per the Disciplinary Procedure.
- 3.4. The Headteacher consider the advice of the Local Authority children's social care services or the police with regard to suspension, but will make their own informed decision with regard to the suspension of any employee.

4. Support for Staff

- 4.2. Where an employee is the subject of an allegation of abuse, Aspire academies recognise that in most circumstances this will be a time of stress and anxiety. Employees are advised to seek support from their trade union representative or an appropriate colleague.
- 4.3. The employee will be kept informed of the likely course of action as the case progresses unless there is an objection by the Local Authority social care services or the police.

5. Confidentiality

The provisions in the Disciplinary Procedure regarding confidentiality apply to cases where allegations of abuse are made. The academy will make every effort to maintain confidentiality and guard against unwanted publicity. During the process of managing these types of allegation the academy will only release information to the wider Trust community for the purposes of reducing speculation. In such circumstances, the full agreement of the member of staff concerned will be sought.

6. Investigations

- 6.2. Investigations under the Disciplinary Procedure will not usually commence until agreement from the Designated Officer of the Local Authority and any other external agencies involved in dealing with the allegations have agreed that the academy can proceed. The provisions in the Disciplinary Procedure regarding investigations apply where allegations of abuse are made. Those undertaking investigations into allegations of abuse should be alert to any sign or pattern

which suggests that the abuse is more widespread or organised than it appears at first sight, or that it involves other perpetrators or institutions. It is important not to assume that initial signs will necessarily be related directly to abuse, and to consider occasions where boundaries have been blurred, inappropriate behaviour has taken place, and matters such as fraud, deception or pornography have been involved.

- 6.3. Interviewing pupils. The Investigating Officer will avoid interviewing pupils unnecessarily. Information will be gathered from the Local Authority social services and the police where available and accessible.
- 6.4. Photographing pupils. The Investigating Officer or any other person at the academy will not take photographs of pupils to support allegations of abuse. In cases where the Headteacher determines it appropriate to record injuries to a pupil they will use the appropriate procedure, e.g. body mapping, or refer to the Designated Officer of the Local Authority, the Local Authority social services or the police for advice. Photographs and other information provided by external agencies may be used as a part of the investigation process if appropriate and authorised by the relevant agency.

7. Possible outcomes¹

On the conclusion of the investigation one of the following four outcomes will be determined:

- Substantiated: there is sufficient evidence to prove the allegation (on the balance of probability)
- Malicious: there is sufficient evidence to disprove the allegation and there has been a deliberate act to deceive
- False: there is sufficient evidence to disprove the allegation
- Unsubstantiated: there is insufficient evidence to either prove or disprove the allegation. The term, therefore, does not imply guilt or innocence

8. Malicious allegations

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

9. Records and references

A record of the allegations, any investigation and the outcome will be kept on the employee's file. The employee will be provided with copies of any records held. These records will remain on file until normal retirement age or for a period of 10 years from the date of the allegation if that is longer. Details of allegations that are proven to be false, unsubstantiated or malicious will not be referred to in any reference that the academy or Trust provides for the employee concerned.

¹ Under KCSiE, schools may wish to use the additional definition of 'unfounded' to reflect cases where there is no evidence or proper basis which supports the allegation being made. It might also indicate that the person making the allegation misinterpreted the incident or was mistaken about what they saw. Alternatively they may not have been aware of all the circumstances.

APPENDIX 3

Low level concerns

Allegations / concerns that do not meet the harms threshold are referred to as “low level” concerns.

Aspire MAT adopts this policy and process to manage, take appropriate action and record any **low-level concerns** relating to safeguarding children (including allegations) which do not meet the harm threshold as set out in statutory guidance. Appendix 2: **Managing allegations of abuse against teachers and other staff** sets out the procedures to be followed where the threshold for harm is met. The procedures acknowledge that “**low-level**” concerns about behaviour or conduct may arise in several ways and from a number of sources. For example: suspicion; complaint; or disclosure made by a child, parent or other adult within or outside of the school; or as a result of vetting checks undertaken. The process sets out the appropriate action to be taken to safeguard children.

As part of the whole school approach to safeguarding, this policy is intended to:

- a) Promote an open and transparent culture in which all concerns (Low level or otherwise) are reported and managed in line with statutory requirements about all adults working in or on behalf of the individual academies (including supply teachers, volunteers and contractors) are dealt with promptly and appropriately.
- b) Recognise the critical importance of creating a culture in which all concerns about adults (including allegations that do not meet the harms threshold (appendix 2) are shared responsibly and with the right person, recorded and dealt with appropriately.
- c) Deal with low level concerns about individuals effectively to ensure that all staff, and others working in the Trust, are protected against potential false allegations or misunderstandings.
- d) Encourage an open and transparent culture; enable the school to identify concerning, problematic or inappropriate behaviour early; minimise the risk of abuse; and ensure that all adults working in or on behalf of the wider Trust are clear about professional boundaries and act within these boundaries, and in accordance with the ethos and values of each academy.

The Allegations threshold

Where an academy is required to manage an allegation that might indicate a person would pose a risk of harm if they continue to work in their present position, or in any capacity with children in a school or college, the **Disciplinary Procedure, Managing safeguarding risks and allegations/concerns of harm and abuse made against all school staff** will be followed. This includes all situations where it is alleged that anyone working in the school, including supply teachers, volunteers and contractors has:

- a) behaved in a way that has harmed a child, or may have harmed a child and/or;
- b) possibly committed a criminal offence against or related to a child and/or;
- c) behaved towards a child or children in a way that indicates he or she may pose a risk of harm to children; and/or
- d) behaved or may have behaved in a way that indicates they may not be suitable to work with children.

The harm test is explained on the Disclosure and Barring service website on GOV.UK. Section 31(9) of the Children Act 1989 as amended by the Adoption and Children Act 2002

If an academy is in doubt as to whether the information which has been shared about a member of staff as a low-level concern in fact meets the harm threshold, they should consult with their LADO.

Low level concerns: definition

This policy and procedure will be used to manage all reports of “low-level” concern. The headteacher will be the ultimate decision maker in respect of all low-level concerns, although it is recognised that depending on the nature of some, low level concerns and/or the role of the DSL, the headteacher may want to consult with the DSL and take a more collaborative decision-making approach.

The term ‘low-level’ concern does not mean that it is insignificant, Keeping Children Safe in Education states that it is behaviour towards a child that does not meet the harms threshold: “*A low-level concern is any concern – no matter how small, and even if no more than causing a sense of unease or a ‘nagging doubt’ - that an adult working in or on behalf of the school may have acted in a way that:*

- a) is inconsistent with the staff code of conduct, including inappropriate conduct outside of work; and
- b) does not meet the harms allegations threshold or is otherwise not considered serious enough to consider a referral to the LADO.”

As part of their whole school approach to safeguarding, the Head teacher, governing body and designated safeguarding leads should ensure that they promote an open and transparent culture in which all concerns about all adults working in or on behalf of the academy (including supply teachers, volunteers and contractors) are dealt with promptly and appropriately.

Creating a culture in which **all** concerns about adults (including allegations that do not meet the harms threshold) are shared responsibly and with the right person, recorded and dealt with appropriately, is critical.

Examples of low-level concern

Such behaviour can exist on a wide spectrum, from the inadvertent or thoughtless, or behaviour that may look to be inappropriate, but might not be in specific circumstances, through to that which is ultimately intended to enable abuse. Behaviour is not limited to but could include:

- a) being over friendly with children;
- b) having favourites;
- c) taking photographs of children on their mobile phone;
- d) engaging with a child on a one-to-one basis in a secluded area or behind a closed door; or,
- e) using inappropriate sexualised, intimidating, or offensive language*

**Please note whilst (a) – (e) above are a direct quote from KCSIE as examples of “low level” concerns” , the LADO does not view (c) , (d) and (e) as low level concerns. Concerns of this nature require urgent discussion / referral to LADO in the first instance. The national LADO network has raised this as an issue with the safeguarding unit of the DFE. Potential patterns of concerning, inappropriate, problematic behaviour should be identified and appropriate action either thorough the School Disciplinary procedure or by referral to LADO where the harm threshold is met. Consideration should also be given as to whether there are wider cultural issues within the school that enabled the behaviour to occur and where appropriate policies should be revised, or extra training delivered to minimise the risk of it happening again.*

Reporting safeguarding concerns, including low level concerns about staff

All staff (including supply staff, volunteers, and contractors) should understand the processes and procedures to report and manage any safeguarding concerns about other staff members. In order to ensure that issues are appropriately managed and reported, if staff have safeguarding concerns, low level concerns or otherwise, or an allegation is made about another member of staff (posing a risk of harm to children), then:

- a) this should be reported to the headteacher or DSL;
- b) where there are concerns/allegations about the headteacher, this should be referred to the chair of governors or the CEO, Kate Watson
- c) where an employee or other person working at the school, feels unable to report a concern in this way they should refer to the Whistleblowing and Confidential Reporting Policy and /or contact an appropriate external agency, the Corporate Director for Children, Young People and Schools, Nottinghamshire County Council or their own professional body.

Staff code of conduct and safeguarding policies

This Employee Staff Code of Conduct reinforces professional and appropriate behaviour by setting out the expected standards of personal and professional conduct in relation to safeguarding children. This policy forms part of the Code of Conduct and other existing school systems to ensure all children are safe in this school.

Behaviour of all staff

All staff are expected to understand the appropriate standards of conduct required and ensure that safeguarding policies and procedures are implemented effectively. Where concerns are raised, the head teacher and the governing body will ensure appropriate action is taken in a timely manner to safeguard children and facilitate a whole school approach to dealing with **any issues** raised about the conduct of staff. The head teacher and the governing body will achieve the purpose of their low-level concerns policy by, for example:

- a) ensuring all staff are clear about what appropriate behaviour is, and are confident in distinguishing expected and appropriate behaviour from concerning, problematic or inappropriate behaviour, in themselves and others;
- b) empowering staff (including supply staff, volunteers and contractors) to share any low-level safeguarding concerns
- c) creating an environment where staff are encouraged and feel confident to self-refer, where, for example, they have found themselves in a situation which could be misinterpreted, might appear compromising to others, and/or on reflection they believe they have behaved in such a way that they consider falls below the expected professional standards.
- d) addressing unprofessional behaviour and supporting the individual to correct it at an early stage;
- e) providing a responsive, sensitive, proportionate handling of such concerns when they are raised;
- f) helping identify any weakness in the school or colleges safeguarding system.

Sharing low-level concerns

Each academy will ensure that any reported low-level concerns about supply staff and contractors are referred on to their employers, so any potential patterns of inappropriate behaviour can be identified.

Recording low-level concerns and confidentiality (GDPR)

All low-level concerns should be recorded in writing. The record should include details of the concern, the context in which the concern arose, and action taken. The name of the individual sharing their concerns should also be noted, if the individual wishes to remain anonymous then that should be respected as far as reasonably possible.

The records will be kept confidential, in accordance with the schools Data Protection Policy, held securely to comply with the Data Protection Act 2018 and the UK General Data Protection Regulation (UK GDPR). The Act does not prevent the sharing of information for the purposes of keeping children safe and fears of sharing information must not be allowed to stand in the way of the need to safeguard and promote the welfare and protect the safety of children.

Records will be reviewed as appropriate so that that potential patterns of concerning, problematic or inappropriate behaviour can be identified. Where a pattern of such behaviour is identified, the school 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, a referral to the LADO. The school will keep under review whether there are wider cultural issues within the school that enabled the behaviour to occur and where appropriate policies will be revised or extra training delivered to minimise the risk of it happening again.

Information regarding low level concerns will be retained on the employee's school personnel file

References

In accordance with statutory guidance, each academy will only provide substantiated safeguarding allegations in references. Low level concerns will not be included in references unless they relate to issues which would normally be included in a reference, for example, where there is evidence of misconduct or poor performance. Low-level concerns which relates exclusively to safeguarding (and not to misconduct or poor performance) should not be referred to in a reference. However, where a low-level concern (or group of concerns) has met the threshold for referral to the LADO and found to be substantiated, they will be referred to in a reference.

Responding to and recording low-level concerns

The academy will respond to reports of low-level concerns in the following way. If the concern has been raised via a third party, the headteacher/chair of governors or other nominated person will gather as much evidence as possible by speaking:

- a) directly to the person who raised the concern, unless it has been raised anonymously;
- b) to the individual involved and any witnesses.
- c) where appropriate the individuals involved will be asked to provide a written statement

The head teacher, Chair of governors or other nominated person will use the information gathered to help categorise the type of behaviour and determine what further advice and action may need to be taken. The school will record this information together with the rationale and justification for the decision and subsequent action taken.

The school recognises that the management of low-level concerns will be a reflection and extension of the School's Employee Code of Conduct/ behaviour policy.

- For further information regarding professional standards of conduct please click on the following link [GSWP-May-2019-final.pdf](#) and [GSWP COVID addendum April 2020 final-1.pdf](#)

APPENDIX 4

Format for disciplinary hearing

1. Welcome by chair of panel/hearing officer:
 - ask everyone present to introduce themselves and explain their role
 - explain purpose of hearing
2. Presentation of management case by investigating officer including evidence from management witnesses
3. Questions from employee/representative to investigating officer/witnesses
4. Questions from the hearing officer/panel to the investigating officer/witnesses
5. Presentation of employee's case by employee/representative including evidence from employee's witnesses
6. Questions to employee/witnesses from investigating officer
7. Questions to employee/witnesses from the hearing officer/panel
8. Summing up by investigating officer (no new evidence)
9. Summing up by employee/representative (no new evidence)
10. Hearing adjourned and all parties asked to leave whilst hearing officer/panel consider evidence, make a decision on level of sanction (if appropriate)
11. All parties return and employee advised of hearing officer/panel's decision, (sanction and right of appeal)
12. Notes from the meeting are used to confirm outcome in writing and sent to employee within the timescale set out in the policy.