Disciplinary Policy

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"Learning together, to be the best we can be"

1. Context

1.1. Nexus Multi Academy Trust and its constituent schools are committed to a coherent approach to the safety, protection and wellbeing of members of the school community, and to fairness and consistency in the way that disciplinary matters and staff grievances are handled.

1.2. This Disciplinary Policy will contribute to achieving this. It will be used alongside the Trust's policies on child protection and safeguarding, allegations of abuse against staff, whistleblowing, appraisal and capability and the employee handbook and code of conduct. The policy applies to all staff employed by the Trust.

1.3. The Trust expects staff to be professional and hardworking. It does not expect to have to discipline them for misconduct but disciplinary sanctions have to be in place should the need arise, if informal action has not been effective or is inappropriate. The Appraisal and Capability Policy provides information on how the Trust manages employee performance.

2. Scope

2.1 This policy relates to all schools and settings across Nexus MAT and supersedes any local policies and procedures that have been in use prior to the academy conversion. Where required, an individual Nexus MAT academy – in agreement with the Trust Chief Executive Officer - may publish a supplementary policy guidance document or procedure in line with this policy, to ensure that any idiosyncrasies associated with that specific academy are covered in their local policy library.

3. Staff conduct in our academies

3.1. **Staff** should ensure that their conduct in is in line with Trust and school-level policy and sets a good example to pupils and other staff. This includes:

- observing the terms and conditions of their contract;
- attending work regularly and on time;
- performing work duties to the high standard expected;
- treating with respect everyone they come into contact with during the course of their work;

- complying with requirements relating to training and Continuing Professional Development, health and safety, and information sharing;
- alerting managers to any circumstances that may adversely affect their work;
- complying with the requirements of the Teacher and the Headteacher Standards.

3.2. Failure to maintain satisfactory standards of conduct may result in action being taken under this procedure.

3.3. **Leaders** have the additional responsibilities of:

- recruiting staff that they think are capable of working to the high standards expected across the Trust, and managing them effectively;
- monitoring staff conduct and taking action where conduct is unacceptable;
- encouraging staff to alert them to circumstances that may adversely affect their work;
- communicating the Trust policy and standard expectations to all staff, ensuring there is a clear understanding of both;
- providing effective feedback on the conduct, attendance and performance to individuals they are responsible for;
- ensuring that any actions taken as a result of staff misconduct or gross misconduct are carried out discreetly, fairly, and in confidence.

3.4. The **Chief Executive Officer** must adhere to the 7 principles of public life, and all leaders across the Trust are expected to conform to these standards. The principles are:

- **Selflessness -** Holders of public office should act solely in terms of the public interest.
- **Integrity -** Holders of public office must avoid placing themselves under any obligation to people or organisations that might try inappropriately to influence them in their work. They should not act or take decisions in order to gain financial or other material benefits for themselves, their family, or their friends. They must declare and resolve any interests and relationships.
- **Objectivity -** Holders of public office must act and take decisions impartially, fairly and on merit, using the best evidence and without discrimination or bias.

- **Accountability -** Holders of public office are accountable to the public for their decisions and actions and must submit themselves to the scrutiny necessary to ensure this.
- **Openness -** Holders of public office should act and take decisions in an open and transparent manner. Information should not be withheld from the public unless there are clear and lawful reasons for so doing.
- **Honesty -** Holders of public office should be truthful.
- **Leadership** - Holders of public office should exhibit these principles in their own behaviour. They should actively promote and robustly support the principles and be willing to challenge poor behaviour wherever it occurs.

3.5. This policy is published by the Trust Board.

3.6. **The Trust Board has a responsibility to:**

- treat all incidents of staff misconduct or gross misconduct fairly and in line with Trust policy;
- review this policy annually or after any incident of serious/gross misconduct to ensure that it is effective, practicable and fair.

4. Types of misconduct

4.1. Listed below are some actions normally considered to be misconduct or serious/gross misconduct that would be dealt with under this policy. The lists are a guide and are not exhaustive. The Trust has the right to discipline a member of staff for misconduct or serious/gross misconduct even if the action they have taken is not listed below:

- Breaches of an employee's contract of employment;
- Breaches of the Trust or one of its academy's policies, including the sickness absence policy, IT user policy and health and safety policy;
- Unauthorised absence from work;
- Unauthorised use of Trust facilities – for example using the internet for excessive personal emailing;
- Persistent lateness, poor timekeeping or timewasting;
- Inappropriate or offensive behaviour – for example, using foul or abusive language;
- Intentionally disobeying the reasonable instructions of a senior member of staff;

- A breach of confidentiality or Trust regulations;
- Negligence in the performance of duties;
- Raising malicious or vexatious grievances about other staff.

4.2. **Gross misconduct** is a serious breach of contract and includes misconduct, which in the opinion of Nexus Multi Academy Trust is likely to prejudice our reputation or irreparably damage the working relationship and trust between the Trust and the employee. Gross misconduct will be dealt with under this procedure and could lead to dismissal without notice or pay in lieu of notice. Staff alleged to have committed gross misconduct may be suspended before consideration for dismissal. Gross misconduct may include:

- Harassment of or discrimination against a child or employee;
- Inappropriate conduct with children or young people, including failing to maintain appropriate professional boundaries;
- Failure to follow the academy's child protection procedures;
- Breaches of health and safety requirements;
- Physical assaults or threats to a colleague, pupil or member of the public;
- Actual or threatened violence, or behaviour which provokes violence;
- Unauthorised removal of Trust property, or malicious damage to Trust property or equipment;
- Criminal offences that in the Trust's opinion may undermine that employee's ability to do their job or adversely affect internal relations, staff or pupils;
- Dishonesty involving anything that relates to life in academies;
- Fraud or forgery, including falsification of documents such as expense claims, pupils' work, examinations or assessments;
- Theft;
- Being under the influence of alcohol, illegal drugs or other substances during working hours or not being capable of fulfilling duties because of their effects;
- Any action that harms the reputation of the Trust;
- Negligence or a deliberate breach of an employee's contract of employment;
- Failure to obey instructions, or any other act of insubordination;
- Accessing internet sites at work or at home, or using academies equipment, which contains pornographic, offensive or obscene material;

- Making a false declaration or failing to disclose information in relation to the disqualification from childcare requirements, or becoming disqualified from providing childcare;
- The disclosure of confidential information;
- Failure to ensure confidential information is kept securely;
- Possession, use, supply of illegal substances;
- Serious misuse of IT policies or systems.

5. Staff discipline procedures

5.1. It is the Trust 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. An employee may bring a trade union representative or a work colleague to any meeting. Employees will not normally be dismissed for a first act of misconduct, unless the Trust decides that the conduct amounts to gross misconduct or the employee has not completed a probationary period.

5.2. **Disciplinary investigations**

5.2.1. When a manager thinks that misconduct has taken place, and where it is determined that an investigation is needed, the manager will determine if it is in the interest of the Trust and/or the employee to suspend the individual on full pay without prejudice. HR advice **must** be taken at this time.

5.2.2. Once a decision has been made and action taken, the manager must then delegate authority to carry out an investigation. For a Headteacher, this delegated responsibility would usually be allocated to the Deputy Head in the first instance or another senior member of staff, who will keep written records of any meetings. The purpose of an investigation is to establish a fair and balanced view of the facts. It may involve interviewing the employee and any witnesses, and reviewing relevant documents or other information. The Headteacher will first and foremost inform the member of staff that they are going to initiate an investigation.

5.2.3. Where any allegation is made, the Headteacher should be informed and a meeting will be arranged with the member of staff in question. If the Headteacher is the person in question, the Chief Executive Officer

must be informed and will arrange the meeting. This will take place immediately if there is concern that a child is at risk of harm, or normally within 5 working days if this is not the case.

5.2.4. If an allegation is made against a trade union representative, no disciplinary action will be taken until an employed official of that trade union has been consulted. The Trust HR Team **must** be informed if this is the case.

5.3. Investigatory meeting

5.3.1. The Investigating Officer will listen and view any evidence presented including the details of the misconduct and any discussions which have followed. A member of the Trust HR Team may be asked to attend to support the Investigating Officer. A trade union representative or work colleague may be asked to attend by the employee. 5 working days' written notice should be given of the investigatory meeting.

5.3.2. An investigation report will be written following the meeting which includes an introduction, methodology, findings and potential further actions.

5.3.3. Potential further actions may include:

- no further action is taken or
- a disciplinary hearing should take place or
- that the misconduct refers to capability (see appraisal and capability policy)

5.4. No further formal action will be taken

5.4.1. If the senior leader has investigated the misconduct of a staff member and has made the recommendation that no further action be taken, or that informal action should be taken, the member of staff will be informed in writing within 5 working days of the investigatory meeting. If the investigator believes that the misconduct was a one-off, a misunderstanding, or an act of poor judgement, the leader/manager who initiated the investigation may wish to arrange a follow-up meeting to discuss this with the staff member and the implications of their conduct.

5.4.2. Leaders/managers may use this follow-up meeting to draw up a personal plan to improve conduct, timekeeping or organisational skills. An improvement plan may be created with measurable improvements as targets and reasonable timescales in which to improve. These will be reviewed at the end of the agreed improvement period and if insufficient improvement has been made the leader/manager may make the decision to take more formal action.

5.5. A disciplinary hearing will take place

5.5.1. In cases where an act of serious/gross misconduct or incidents of misconduct have taken place, the manager may advise that a disciplinary hearing should take place to review the conduct of the member of staff and decide on a formal course of action. Persons who are considered to have committed gross misconduct may be suspended before consideration for dismissal.

5.5.2. The person who is the subject of the investigation will be informed as soon as a disciplinary hearing has been decided. If there has been an allegation made against them by a pupil, they will be informed only after the Headteacher has spoken to a member of the Trust HR Team. The employee will then be advised what the next course of action will be. However, if the police or children's social care are to be involved, for example in a case of alleged sexual misconduct, they will be contacted before the employee and will advise on what information may be disclosed to the person under investigation.

5.5.3. In the case of an employee who has been accused of abuse, the academy/Trust will report this through children's social care and will take their lead from these services, usually the Local Authority Designated Officer (LADO). If the employee is a member of a union or any other professional association, they should be advised to contact that body at the outset of the investigation.

5.6. Disciplinary hearings

5.6.1. When a manager has recommended disciplinary action, a disciplinary hearing will be convened. The purpose of the disciplinary hearing is to test the facts and probe the evidence through reviewing the investigation. Employees should be allowed to state their case and from this establish any mitigating circumstances.

5.6.2. The disciplinary will be heard by the Chief Executive Officer or another named executive leader, unless they are the responsible line manager – in this instance, a panel of governors will be convened. The Headteacher/Line Manager will act as an advisor unless they have also been the investigating officer. A member of the Trust's HR Team will advise the panel.

5.6.3. The employee will be notified in writing as soon as is practicable of the date, time and location of the hearing (at least 5 working days' notice). The procedure and copies of relevant documentation that will be used - or may be useful or necessary to prepare a response - will be provided. The employee will be informed of the allegations against them, the basis for those allegations and the likely range of consequences if it is decided at the hearing that the allegations are substantiated.

5.6.4. An employee may be accompanied to all meetings where a warning or dismissal may be an outcome, and this will be either a trade union representative or a work colleague. The employee will be informed of their right to be accompanied in the written notification of the hearing. Should they wish to be accompanied to the hearing, they will be responsible for making the necessary arrangements and providing them with copies of paperwork that they may require.

5.7. Process

5.7.1. The hearing will follow the following process:

- Investigating Manager outlines case
- Opportunity for employee and hearing panel to ask questions
- Employee given opportunity to state their case
- Opportunity for investigating manager and hearing panel to ask questions
- Witnesses available for questioning by all parties
- Investigating manager summarises case
- Employee summarises their defence
- End of hearing, to allow deliberation
- Outcome to be communicated in writing within 3 working days

5.7.2. The Trust has a duty of care to its employees and will do all it can to minimise the stress of the disciplinary process.

5.7.3. The Trust buys into an Employee Assistance Programme which is available to all staff through Westfield Health. Employees should be signposted to this service.

5.7.4. The employee may need other additional support and the employing academy/Trust will consider what would be appropriate. If there is a criminal investigation and the police are involved, they may provide this additional support. For more information on support, confidentiality, suspensions, resignations and investigation processes that relate to allegations of abuse, please refer to the Trust's Allegations of Abuse Against Staff Policy.

5.8. Confidentiality

5.8.1. The Trust will make every effort to protect the privacy of all parties during and after an investigation into misconduct. It is in everyone's best interest to maintain this confidentiality to ensure a fair investigation with minimum impact for all parties. All employees must treat information communicated to them in connection with an investigation or disciplinary matter as confidential.

5.8.2. A breach of confidentiality will be taken seriously and may warrant its own investigation. It is a criminal offence to publish information that could lead to the identification of someone who is the subject of an allegation or a disciplinary hearing before they are charged or summonsed.

5.8.3. Where the Trust is legally required or entitled to make a statement in relation to the outcome of disciplinary action, employees will be informed of this wherever possible.

5.9. Suspensions

5.9.1. The Trust will not suspend a member of staff without serious consideration, and will not do it automatically when an allegation of abuse or potential gross misconduct is made. Depending on the nature of the case, it may be possible that alternative arrangements are made such as work location or reorganisation of duties, and these will be considered before a decision to suspend is made.

5.9.2. Suspension is not a disciplinary penalty and does not imply that any decision has already been made about the allegations. Where an employee is suspended, they will receive confirmation in writing as soon as possible and will be informed of the reason for the suspension. The suspension will be for no longer than is necessary and will be kept under review. Employees will continue to receive full pay and benefits during any period of suspension.

5.10. Resignations

5.10.1. If an employee tenders their resignation when a disciplinary hearing has been ordered or during an investigation, the investigation may still continue until an outcome has been reached, with or without the person's cooperation. They will be given full opportunity to respond to the hearing. A referral to the Disclosure and Barring Service (all staff) and Secretary of State/Teaching Regulation Agency (staff employed on Teachers' terms and conditions) will also be made where the thresholds for referral are met.

5.11. Record keeping

5.11.1. Detailed records of all investigations and outcomes should be kept securely, and in line with the Data Protection Act (1998) and General Data Protection Regulation (2018), in the personal file of the person who has been under investigation, who should be given a copy of the same information. This will enable the Trust to:

- provide all the necessary information for future employers if the individual requires a reference. Where DBS checks highlight allegations that did not result in any criminal charges, records will need to show exactly what happened, what points of action were taken during and after the investigation, and how the result of the investigation was reached;
- prevent unnecessary re-investigation in the future if an allegation resurfaces.

5.12. Allegations or investigations that are proven to be malicious will not be kept on employment records or used in employee references.

5.13. Action on conclusion of the case

5.13.1. The employee will be informed in writing of the decision and the reasons for it, usually within 5 working days of the hearing. It will be necessary to determine if the employee has an existing live warning on file before a decision is made, as employees already on a written or final written warning for similar misconduct may be dismissed, with contractual notice. Advice from the Trust HR Team **must** be sought if this is the case.

5.13.2. The Disciplinary Hearing may find that there is no case to answer and refer the case back to an informal process or the Trust's capability procedures.

5.13.3. Disciplinary action comes with the following timescales:

- Verbal warning - live on file for **6 months**
- Written warning- live on file for **9 months**
- Final written warning – live on file for **18 months,** although, depending on the nature of the misconduct, this may be extended

5.13.4. The panel will inform the Chief Executive Officer in writing if they choose to dismiss an employee with the reasons for the dismissal and the employee's contract of employment will be terminated.

5.13.5. Where an employee is dismissed, a referral to the Disclosure and Barring Service (all staff) and Secretary of State/Teaching Regulation Agency (for those employed on Teachers' terms and conditions) will be made where the thresholds for referral are met.

5.13.6. If it is decided that the employee may return to work (after a suspension), provisions will be put in place by the setting to ensure that the transition is as smooth as possible. This may involve a phased return for a trial period or use of another member of staff as a support system in the short term.

5.14. Appeals

5.14.1. Members of staff can appeal disciplinary action taken against them within 5 working days of the date on which they were informed of the decision in writing.

5.14.2. The appeal will be dealt with as impartially as possible and will be conducted by a panel of governors. A member of the Trust HR Team will advise the panel. The employee will be given written notice of the date, time and place of the appeal hearing no less than 5 working days before the hearing. They may be accompanied at the appeal hearing by a trade union representative or colleague.

5.14.3. Following the appeal hearing, the panel may confirm or revoke the original penalty or substitute with a different penalty. Ordinarily a penalty will not be increased on appeal unless there is new information or evidence that requires further investigation. The employee will be informed in writing of the decision and the reasons for it, usually within 5 working days of the hearing.

5.14.4. The decision of the appeals panel is final and there is no further right to appeal.