

Staff Conduct Concerns Policy



Review Date

March 2024

Ratified

April 2024

Next Review Date

March 2026

Responsible Directorate

Human Resources/Safeguarding

Our Trust

*These four critical questions make it clear who we are and what we do.
We ask ourselves these questions to guide our work and our improvement.*

Why do we exist?

To **transform life chances** by achieving the highest possible standards and preparing all our students to lead successful lives.

How do we behave?

- **Hard work**
We are determined to see things through to the end and are resilient when faced with challenges.
- **Integrity**
We do the right thing because it is the right thing to do.
- **Teamwork**
We work together to help everyone succeed.

What do we do?

- We educate, safeguard and champion all our learners.
- We set high standards for ourselves and our learners.
- We build the powerful knowledge and cultural capital which stimulate social mobility and lifelong learning.

How will we succeed?

1. Aligned autonomy
2. Keeping it simple
3. Talent development

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1 | Policy Statement

- 1.1 The aims of this *Staff Conduct Concerns* Policy is to set out the framework within which Academy Transformation Trust can work with employees to address concerns that may be raised regarding their conduct and specifically in relation to allegations made against staff by students of the trust or other vulnerable individuals and in particular the processes that take place when this happens.
- 1.2 It is our policy to ensure that any 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. We also recognise the impact that allegations can have on all individuals involved and commit to supporting members of staff during the process.
- 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 in consultation with staff and recognised trade unions and formally adopted by the Trust Board

2 | Scope and Purpose of Policy

- 2.1 This procedure applies to all employees, regardless of length of service. It does not apply to supply staff, contractors or volunteers. Further information can be found in our *Safeguarding Policy*.
- 2.2 This procedure is used to deal with allegations against staff.
- 2.3 Low Level Concerns regarding members of staff are recorded in line with KCSIE regulations.
- 2.4 As recognisable figures in the local community, the behaviour and conduct of academy and Trust staff in and outside of work can impact on their employment particularly if it may make an individual unsuitable to work with children. This is known as a transferable risk. Because of this, conduct outside of work may be treated as a Staff Conduct Concern/allegation if it is considered relevant to the employee's employment.
- 2.5 We offer access to confidential counselling to employees who require it through our Employee Assistance Programme (EAP) and benefits partner, [Vivup](#). Staff can access this service by contacting their local HR representative.

3 | Confidentiality and Data Protection

- 3.1 It is the aim of the Trust to ensure that matters are dealt with 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 during or after an investigation into an allegation.
- 3.2 A breach of confidentiality will be taken seriously and may warrant its own investigation.
- 3.3 Employees, and anyone accompanying them (including witnesses), must not make electronic recordings of any meetings or hearings conducted under this procedure.
- 3.4 Employees who are the subject of Position of Trust or Interagency meetings may not be provided with the minutes of those meetings without express written consent of the LADO and therefore, the trust will be bound by the Local Authority Designated Officer (LADO) process and the confidentiality requirements of that process.
- 3.5 The amended Education Act (2002) introduced reporting restrictions in respect of allegations made against teachers, preventing the publication of any material that may lead to the identification of a teacher in a school who has been accused by, or on behalf of, a pupil from the same school. This applies to parents and carers as well as the press. If for any reason the academy or Trust needs to make parents aware of any allegations, they should equally make them and others aware there are restrictions on publishing information.
- 3.6 During informal action, formal investigation, and any subsequent stages of the procedure, the academy or Trust will collect, process and store personal data in accordance with our Data Protection Policy. The data will be held securely and accessed by or disclosed to individuals only for the purposes of completing the disciplinary procedure. Records will be kept in line with the requirements of Data Protection Legislation (the UK General Data Protection Regulation and the Data Protection Act 2018) and any implementing laws, regulations and secondary legislation, as amended or updated from time to time. Any breach of data protection may constitute a disciplinary offence and be dealt with under this procedure.

4 | Definitions

- 4.1 Allegations may be brought to the academy or 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 or raising a concern, it is not always possible to keep the matter confidential. The Principal (or relevant senior member of Trust staff) will need to decide 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 should be referred immediately to the Local Authority Designated Officer (LADO). See our *Safeguarding Policy*.

5 | Investigations

Preliminary Investigation

- 5.1 When an allegation against an employee is made, further information will likely be required to establish what the next course of action should be. The Principal (or relevant senior member of Trust staff) should seek to establish the basic facts of the situation; this may involve looking at records, speaking to witnesses, reviewing CCTV and similar. A decision will be made as to whether there is a safeguarding concern and the level of that concern. There may be a referral to the LADO in respect of the allegations at which point the LADO will advise whether the school should continue to investigate the matter themselves or whether formal LADO process is initiated in which case management of the allegation will be led by the LADO with relevant parties involved for example police, social care, education etc.

Further Investigation

- 5.2 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 a member of the regional or central Trust HR Team will be involved and advice would be sought from the central trust safeguarding team. In the case of the LADO process being initiated it may not be possible for the school to begin an investigation straight away dependant on the circumstances of the allegation. The employee will be kept informed at all stages of the process.
- 5.3 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 formal disciplinary hearing if required. 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.
- 5.4 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, and sign and date the record. The Trust recognises that some employees may find this difficult or worrying, but all employees are expected to fully participate in any such investigation.
- 5.5 Investigation meetings are solely for the purpose of fact-finding and no decision on formal 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.
- 5.6 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.

6 | Criminal Charges

- 6.1 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 Principal or Trust line manager immediately if they are involved in a criminal investigation, arrest, or are subject to a charge or conviction. Failure to notify in itself can constitute a failure to follow policy and constitute a disciplinary investigation.
- 6.2 The Academy or 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.
- 6.3 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.
- 6.4 Where a criminal investigation relates to allegations of abuse of children or young people, the Academy or Trust will co-operate and share information about the employee with other relevant agencies as appropriate following advice from the LADO as described above.

7 | Culture of Vigilance

- 7.1 As a trust we continually strive to create a culture of vigilance and we regularly discuss with our employees their responsibilities in being vigilant to those around them and understanding the expectations of them.

CREATING A SAFER ENVIRONMENT

SelfReferral	Professional Challenge	Reporting concerns through appropriate channels	Challenging the outcome
<p>• Example: "I need to self report, as a child just inadvertently brushed up against me in a narrow corridor" "I need to self report as I have just realised, I was in a room alone with a child"</p> <p>• Possible Misconceptions: This is an admission of guilt. NO, this is transparency and self preservation.</p>	<p>• Example: "Ted, I have noticed that there is a Year 7 pupil who often seeks you out at break times when you are alone in your classroom, I think you need to report concerns about a potential infatuation to the Principal"</p> <p>• Possible misconceptions: This is a way to raise conflict and suspicion between colleagues NO, this is a way to support, educate and assist a colleague through a challenging situation</p>	<p>• Example: (To the Principal) "I am concerned at the way Mr Grey has favourites in his class and seeks them out at break times for treats or special activities" or "I am concerned that Mrs Blue seems to be overly familiar with a Year 11 pupil and mentioned meeting them outside of school, socially"</p> <p>• Possible misconceptions: may be making this into a bigger deal than it is. NO, a vigilant culture understands that these are either low level concerns or pass the harm test</p>	<p>• Example: "I reported a disclosure about a member of staff from a pupil last week and nothing appears to have been done"</p> <p>• Possible misconceptions: I am challenging authority and disrespecting the leadership team. NO, you are exercising professional challenge and raising the safeguarding culture and vigilance within the school</p>

Concerns when raised fall into three categories as per below and therefore will be dealt with proportionately and appropriately when they are raised.

Concern	Low Level Concern	Harm Test Passing Concern
<ul style="list-style-type: none">• Not attending compulsory meetings• "The rules don't apply to them" mentality	<ul style="list-style-type: none">• Is inconsistent with the staff code of conduct, including inappropriate conduct outside of work• Doesn't meet the threshold of harm or is not considered serious enough for the school or college to refer to the local authority.	<ul style="list-style-type: none">• 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• Behaved towards a child or children in a way that indicated that they may pose and risk of harm to children (Including sexually inappropriate comments)• Behaved or may have behaved in a way that indicates that they may not be suitable to work with children

8 | Process

8.1 When an allegation is raised we do the following:

- HR is informed of allegation by school
- The suspension checklist is reviewed with Principal and HR
- If the decision is not to suspend then the employee informed of any other adjustments such as work from home or office only working
- If the decision is taken to suspend then HR send a letter confirming suspension
- The Employee is reminded of EAP (VIVUP) and given a wellbeing point of contact
- HR attend Position of Trust Meetings (HR Business Partner level and above)
- Possible outcomes of Position of Trust meetings could be that there is no HR process until police investigation or that we follow our trust internal HR process
- If an internal process is to be follow, we would revert to the Disciplinary policy and procedure

9 | Referral to External Bodies

- 9.1 In cases where employees in regulated activity are dismissed, removed due to safeguarding concerns, or would have been had they not resigned during a disciplinary process, a referral should be made as soon as possible to the Disclosure and Barring Service (all staff) and Secretary of State (teachers only), where the thresholds for referral are met. This could also include when an individual is suspended and redeployed into work that is not regulated activity. A failure to do so when the criteria is met is a criminal offence. There may also be a requirement to refer the matter to the Teacher Regulations Agency as detailed above.

10 | Review of Policy

- 10.1 This policy is reviewed and amended bi-annually by the Trust in consultation with recognised trade unions. We will monitor the application and outcomes of this policy to ensure it is working effectively.

Appendix 1- Disciplinary Rules

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 Principals 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 or a member of Human Resources.

2 Rules of conduct

2.1 While working for the Trust or one of our academies, you should at all times maintain professional and responsible standards of conduct. You should:

2.1.1 Observe the terms and conditions of your contract, particularly with regard to:

- hours of work
- confidentiality

2.1.2 Ensure that you understand and follow our Staff Code of Conduct

2.1.3 Observe all of the Trust's policies, procedures, and regulations which are available via the Governor's Virtual Office and notified to you from time to time by means of notice boards, e-mail, SharePoint, and any other means of communication

2.1.4 Take reasonable care in respect of the health and safety of colleagues, pupils and third parties and comply with our Health and Safety Policy

2.1.5 Comply with all reasonable instructions given by your Principal or managers

2.1.6 Act at all times in good faith and in the best interests of the academy and Trust and those of our pupils and staff.

2.1.7 Ensure that you never behave in a way, either inside or outside of work, that indicates you may pose a risk of harm to children/not be suitable to work with children

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:

- 3.1.1 Minor breaches of Trust policies including the Sickness Absence Policy, ICT Policy, and Health and Safety Policy
- 3.1.2 Minor breaches of an employee's contract of employment
- 3.1.3 Damage to, or unauthorised use of, the academy or Trust's property
- 3.1.4 Poor timekeeping or time wasting
- 3.1.5 Unauthorised absence from work
- 3.1.6 Refusal to follow instructions
- 3.1.7 Excessive use of the academy's or Trust's telephones, email or internet usage for personal reasons
- 3.1.8 Inappropriate or other offensive behaviour, including using obscene language, victimisation or harassment of other members of staff or pupil
- 3.1.9 Negligence in the performance of duties
- 3.1.10 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.

3.2 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 academy or Trust, is likely to prejudice its business or reputation or irreparably damage the working relationship and trust between the employee and their employer. 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:

- 4.2.1 Theft, or unauthorised removal of property or the property of a colleague, contractor, pupil or member of the public
- 4.2.2 Fraud, forgery or other dishonesty, including fabrication of expense claims and time sheets, pupil's work, examinations or assessments
- 4.2.3 Actual or threatened violence, or behaviour which provokes violence
- 4.2.4 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
- 4.2.5 Inappropriate conduct with children or young people, including failing to maintain appropriate professional boundaries
- 4.2.6 Serious failure to follow the required child protection procedures
- 4.2.7 Behaving in a way, either inside or outside of work, which could cause harm to a child, or could indicate that you pose a risk of harm to children/may not be suitable to work with children
- 4.2.8 Making a false declaration or failing to disclose information in relation to the disqualification from childcare requirements, or becoming disqualified from providing childcare
- 4.2.9 Serious misuse of the Academy or Trust's property or name
- 4.2.10 Deliberately accessing internet sites at work or at home, using School equipment, which contain pornographic, offensive or obscene material

- 4.2.11 Repeated or serious failure to obey instructions, or any other serious act of insubordination
 - 4.2.12 Bringing the academy or Trust into serious disrepute
 - 4.2.13 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
 - 4.2.14 Causing loss, damage or injury through serious negligence
 - 4.2.15 Serious or repeated breach of health and safety rules or serious misuse of safety equipment
 - 4.2.16 Unauthorised access, use or disclosure of confidential information or failure to ensure that confidential information in your possession is kept secure
 - 4.2.17 Acceptance of bribes or other secret payments
 - 4.2.18 Conviction or caution for a criminal offence that in the opinion of the 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
 - 4.2.19 Possession, use, supply or attempted supply of illegal drugs
 - 4.2.20 Serious neglect of duties, or a serious or deliberate breach of your contract or operating procedures
 - 4.2.21 Unauthorised use, processing or disclosure of personal data contrary to our Data Protection Policy
 - 4.2.22 Harassment of, or discrimination against, employees, pupils, parents or members of the public, related to any of the protected characteristics contrary to our Equal Opportunities Policy, Dignity at Work Policy, or any other policies
 - 4.2.23 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
 - 4.2.24 Giving false information as to qualifications or entitlement to work (including immigration status)
 - 4.2.25 Making a disclosure of false or misleading information under our Whistleblowing Policy maliciously, for personal gain, or otherwise in bad faith
 - 4.2.26 Making untrue allegations in bad faith
 - 4.2.27 Victimising a colleague who has raised concerns, made a complaint or given evidence information under the Whistleblowing Policy, Dignity at Work Policy, Grievance Procedure, Disciplinary Procedure, or other
 - 4.2.28 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 Policy
 - 4.2.29 Undertaking unauthorised paid or unpaid employment during your working hours
 - 4.2.30 Unauthorised entry into an area of the premises to which access is prohibited
 - 4.2.31 Making covert recordings of colleagues or managers
- 4.3 This list is intended as a guide and is not exhaustive.
- 4.4 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- 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.