



Disciplinary Policy

Last policy review date:	September 2020	
Next policy review date:	September 2023	
Policy Owner:	COO	
Policy approval: <i>i.e. Trust board or delegated to subcommittee or individual</i>	Trust Board – September 2020	
Cross references <i>i.e. with other Trust policies</i>		
Statutory Policy?	YES	

Policy statement

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 Odyssey Trust for Education can work with employees to maintain satisfactory standards of conduct and to encourage improvement where necessary.

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

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.

The policy has been [agreed OR implemented following consultation] with [staff and/or recognised trade unions]. It has been formally adopted by the [Governing Body/Board/Trust].

Scope and purpose of policy

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.

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 in the Staff Handbook.

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).

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.

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

Confidentiality and data protection

It is the aim of the Trust 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.

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

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.

During informal action, formal investigation and any subsequent stages of the procedure, the Trust will collect, process and store personal data in accordance with the Data Protection Legislation. The data will be held securely and accessed by, and 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** (being (i) unless and until the GDPR is no longer directly applicable in the UK, the General Data Protection Regulation ((EU) 2016/679) and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the UK and then (ii) any successor legislation to the GDPR or the Data Protection Act 1998). Any breach of data protection may constitute a disciplinary offence, and be dealt with under this procedure.

Allegations

Allegations may be brought to the Trust'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 or the Head of School 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.

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.

Investigations

Preliminary investigation

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. SLT member (appointed by the Headteacher/ Head of School) should seek to establish the basic facts of the situation; this may involve looking at records, speaking to witnesses, reviewing CCTV etc.

A preliminary investigation meeting may be held with the employee to establish the basic facts of the circumstance and to enable the SLT member 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/ Head of School to decide if this is appropriate.

Further investigation

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 or Head of School 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 or Head of School, the CEO/Executive Headteacher will be responsible for the management of the procedure and determining an appropriate investigating officer, either internally or externally.

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.

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. The Trust recognises that some employees may find this difficult or worrying, however all employees are expected to fully participate in any such investigation.

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.

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.

Criminal charges

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/ Head of School or Line Manager 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.

The 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.

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.

Where a criminal investigation relates to allegations of abuse of children or young people the Trust will co-operate and share information about the employee with other relevant agencies as appropriate.

Suspension

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.

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.

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.

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.

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.

The decision to suspend an employee can be made by the Headteacher, Head of School or CEO/Executive Headteacher.

Disciplinary hearing

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.

The Headteacher or Head of School 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.

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.

If the employee and/or their companion cannot attend the hearing they should inform the Headteacher/ Head of School 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.

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.

Role of Companion at Meetings and Hearings

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/ Head of School conducting the meetings who their chosen companion is, in good time before the hearing. In addition, whilst employees do not normally have the right to bring a companion to an investigation meeting, employees are allowed to bring a trade union representative or work colleague to the investigation meeting if one is available. No rearrangements will be made to the time and date of the investigation meeting to enable a companion to attend.

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.

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.

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.

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.

We may, at our 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.

Procedure at disciplinary hearings

The hearing will be chaired by the Headteacher, Head of School or CEO/Executive Headteacher. The Investigating Officer will also normally attend to present the investigation. A member of the Human Resources department may also be present.

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.

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 Chair decides that a fair hearing could not be held otherwise.

The Chair 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.

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.

Disciplinary penalties

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

The usual penalties for misconduct are set out below. No penalty should be imposed without a hearing. The Trust aims to treat all employees fairly and consistently, and a penalty imposed on another employee for similar misconduct will usually be taken into account but should not be treated as a precedent. Each case will be assessed on its own merits.

A disciplinary warning, dismissal or alternatives to dismissal may be authorised by the Headteacher, the Head of School or CEO/Executive Headteacher.

Verbal warning

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

A verbal warning will usually remain active for 6 months.

First written warning

A first written warning will usually be appropriate for:

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

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

Final written warning

A final written warning will usually be appropriate for:

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

A final written warning will usually remain active for 18 months. In exceptional cases verging on gross misconduct or where a final written warning has been issued as an alternative to dismissal, a final written warning may state that it will remain active indefinitely.

The effect of a warning

Verbal and 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.

The conduct will be reviewed at the end of a warning's active period and if it has not improved sufficiently the active period may be extended.

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

Dismissal

Dismissal will usually only be appropriate for:

- any misconduct during the probationary period;
- further misconduct where there is an active final written warning on the record; or
- any gross misconduct regardless of whether there are active warnings on the record. Gross misconduct will usually result in immediate dismissal without notice or payment in lieu of notice (summary dismissal).

Alternatives to dismissal

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

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

Appeals against disciplinary action

The employee has the right to appeal against the disciplinary action taken against them. This must be in writing, stating the full grounds of appeal and sent to the CEO/Executive Headteacher within 14 calendar days of the date on which the employee was informed of the decision.

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.

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.

The employee must be given written notice of the date, time and place of the appeal hearing. This will normally be no less than seven working days. The employee may bring a companion to the appeal hearing (see paragraph 9).

Where possible, the appeal hearing will be conducted by Headteacher, Head of School or CEO/Executive Headteacher if they 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 appeal panel's discretion depending on the circumstances of the case. In any event the appeal will be dealt with as impartially as possible.

Following the appeal hearing the panel may:

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

The employee will be informed in writing of the decision and the reasons for it, usually within 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.

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.

Review of policy

This policy is reviewed and amended, every 3 years or earlier if there are changes in legislation, by the Trust in consultation with the recognised trade unions. We will monitor the application and outcomes of this policy to ensure it is working effectively.

Appendix 1 - Disciplinary rules

Policy statement

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

If any employee is in any doubt as to their responsibilities or the standards of conduct expected they should speak to their line manager or a member of Human Resources.

Rules of conduct

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

- observe the terms and conditions of your contract, particularly with regard to:
 - (i) hours of work;
 - (ii) confidentiality;
- ensure that you understand and follow our Code of Conduct;
- observe all of the Trust's policies, procedures and regulations which are available from HR or notified to you from time to time by means of notice boards, e-mail, the intranet or otherwise;
- take reasonable care in respect of the health and safety of colleagues, pupils and third parties and comply with our Health and Safety Policy;
- comply with all reasonable instructions given by the Headteacher/Head of School and managers; and
- act at all times in good faith and in the best interests of the Trust and those of our pupils and staff.

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

Misconduct

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

- Minor breaches of the Trust's policies including the Sickness Absence Policy and Health and Safety Policy;
- Minor breaches of an employee's contract of employment;
- Damage to, or unauthorised use of, the Trust's property;
- Poor timekeeping or time wasting;
- Unauthorised absence from work;

- Refusal to follow instructions;
- Excessive use of the Trust's 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.

Gross misconduct

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

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

- 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 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 Trust'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 Trust's property or name;
- Deliberately accessing internet sites at work or at home, using School equipment, which contain pornographic, offensive or obscene material;
- Repeated or serious failure to obey instructions, or any other serious act of insubordination;
- Bringing the 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 access, 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 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;
- 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 contrary to our Equal Opportunities Policy or our Anti-harassment and Bullying Policy;
- 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, Anti-harassment and Bullying policy, Grievance Procedure, Disciplinary Procedure or otherwise;
- Serious misuse of our information technology systems (including misuse of developed or licensed software, use of unauthorised software and misuse of email and the internet) contrary to our ICT user policy;
- 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, 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.

Scope

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.

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.

As with other conduct issues the behaviour of employees outside of work may impact on their role within the Trust. Therefore, if concerns are brought to the Trust's attention about an employee's behaviour in regard to their own children or any other child/ children outside of the Trust, consideration will be given to any implications for children with whom the employee has contact with at work.

Initial considerations

Where the Designated Safeguarding Lead determines that the allegations meet the criteria above they will immediately contact the Designated Officer of the Local Authority¹ and provide them with all relevant information.

The Designated Officer of the Local Authority and the Headteacher/Head of School will consider the nature, content and context of the allegation and agree a course of action. The Designated Officer of the Local Authority 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.

Outcomes of initial considerations

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/Head of School.

The Headteacher/ The Head of School 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 Trust can continue with its own disciplinary procedures will be determined. No further investigation should be carried out until agreed through this process.

¹ Formally known as Local Authority Designated Officer (LADO)

Suspension

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 Trust during any process of investigation will be carefully evaluated. In cases where there is cause to suspect children at the School 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.

Suspension will be managed as per the Disciplinary Procedure.

The Headteacher/ The Head of School will 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.

Support for Staff

Where an employee is the subject of an allegation of abuse the Trust recognises 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. If the employee feels it is beneficial a referral to the Trust's occupational health provider and/or counselling service will be arranged.

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.

Confidentiality

The provisions in the Disciplinary Procedure regarding confidentiality apply to cases where allegations of abuse are made. The Trust will make every effort to maintain confidentiality and guard against unwanted publicity. During the process of managing these types of allegation the Trust will only release information to the wider Trust community for the purposes of reducing speculation.

Investigations

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 Trust 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.

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.

Photographing pupils.

The Investigating Officer or any other person at the Trust will not take photographs of pupils to support allegations of abuse.

In cases where the Headteacher/ Head of School 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.

Possible outcomes²

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

Malicious allegations

The Trust consider 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.

Records and references

A record of the allegations, any investigation and the outcome will be kept on the employee's file, in accordance with the requirements of Data Protection Legislation. 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 Trust provides for the employee concerned.

² 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 – 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