Conduct & Capability (Disciplinary) Policy

Date Approved	01-03-2025
Date of Next Review	01-03-2027

Changes from original policy following feedback / changes in legislation

Change	Reason Reviewer/ legislation	Date
Re named the policy (previously*Staff Disciplinary and Capability Policy)*	reviewer	Jan 2024
Introduction and purpose of procedure 2.2: *replaced* 'growing great staff' with 'support and a supportive performance improvement plan before'	reviewer	Jan 2024
Introduction and purpose of procedure 2.4: *added* 'and its commitment to the Trust's Equality, Diversity and Inclusion Policy'	reviewer	Jan 2024
Policy statement 3.2: *changed* ' Growing Great Staff' to 'Performance Management Process'	reviewer	Jan 2024
Addressing Initial Concerns 5.1: *added* 'and what informal support is available for the employee' and added wording 'performance management' in place of Growing Great Staff.	reviewer	Jan 2024
Stage 1, 6.1: *changed* 'support' to 'informal support and monitoring', *added*: 'This meeting is intended to establish the facts, set out the required standards which are believed to have been failed and allow the employee to respond to concerns about their performance and to make any relevant representations.' *added*: 'Employees must make the request to be accompanied in advance of the meeting to allow the school to prepare and to ensure the employer knows who the companion will be. The companion can address the hearing to put and sum up the employee's case, respond on behalf of the employee to any views expressed at the hearing and confer with the employee during the hearing. The companion does not, however, have the right to answer questions on the employee's behalf, address the hearing if the employee does not wish it or prevent the employer from explaining the case. The employee shall be allowed to ask questions, present their own evidence and rely on their own witness where appropriate and necessary, and will be permitted to respond to the evidence and ask questions'.	reviewer	Jan 2024
Stage 1 6.3: *Added* 'and in the case of teachers which of the standards expected of teachers are not being met' *Added* 'taking into account the individual's personal circumstances. This may include any medical conditions, working pattern, wellbeing support needs, or disabilities protected by the Equality Act.'	reviewer	Jan 2024
Scheduling formal Meetings 11.4: added in the requirements of the format of the written notification.	reviewer	Jan 2024

Warnings 11.6 : *changed period warning is live* from 8-12 to 12 and changed wording that delegates power to review warning to CEO/DoE	reviewer	Jan 2024
Status of Policy and Review 11.12: *this is a new section* 'The content and operation of this policy is reviewed as and when deemed necessary by the Trust. This will include ensuring that the arrangements minimise the impact on workload for all parties involved. The policy is discretionary and does not confer any contractual rights.'	reviewer	Jan 2024

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1 Context

1.1 The Inclusive Education Trust (IET) Board of Trustees has approved the following procedure for schools across the MAT and for the Central Team managed by the Executive Leadership Team.

In this document, reference to 'Trustees' represents the Board of Trustees. Reference to the Trust represents the Inclusive Education Trust and reference to the 'Local Governing Body (LGB)' represents the Local Governing Body of each school. Reference to 'the school' in this document represents each school in the MAT.

2. Introduction & Purpose of Procedure

2.1 The purpose of this procedure is to provide a framework to manage:

- unsatisfactory performance caused by an employee's lack of ability to achieve or maintain the required standards of work, and
- allegations of misconduct, where the employee has failed, through an act or omission, or a series of acts or omissions, to meet the standards of behaviour required by the school.

2..2 It is the Trust's principal aim to ensure that, where concerns about individual work performance or minor matters of misconduct arise, all the circumstances are appropriately investigated and the individual given support, relevant training and an opportunity to improve through the operation of informal support and a supportive performance improvement plan, before any formal sanctions are applied under this procedure.

2.3 The procedure is applicable to all members of staff employed by the Trust with the exception of employees serving a probationary period as they will fall under the probation management process. Early Career Teachers serving a statutory induction period are provided with a support and feedback structure as part of their induction programme and will therefore be subject to capability procedures only in cases of persistent or serious underperformance. Employees on temporary or fixed-term contracts will be subject to this procedure with adjustments made, where appropriate, to reflect the likely duration of the contract.

2.4 The Trust is mindful of its obligations under the Equality Act 2010 and its commitment to the Trust's Equality, Diversity and Inclusion Policy and, with the exception of the exclusions noted above, this procedure will be applied fairly and consistently to all employees.

2.5 Any unsatisfactory performance or misconduct relating to discrimination and harassment will be dealt with according to the Trust's Equality, Diversity and Inclusion Policy and Anti-Bully and Harassment Policy (including Sexual Harassment) in the first instance.

3. Policy Statement

3.1 The Trust is committed to ensuring that high levels of performance and standards of behaviour are aspired to across the MAT and recognises that the majority of staff members meet or exceed the standards required of them including the seven principles of public life. In pursuit of this commitment, the Trust expects managers to lead by example, demonstrating a high level of competence, integrity and sound judgement, promoting effective working practices and supporting and encouraging staff when difficulties arise. In return, the Trust expects all employees to strive for high personal standards of performance and conduct and to participate in a culture of continuous improvement by identifying

and acknowledging areas for development or where training may be required, and seeking guidance and support from their performance manager when necessary and at an early stage.

3.2 The Trust acknowledges that minor issues relating to standards of performance and conduct can, and should, be dealt with through open, constructive dialogue between manager and employee as a normal part of the performance management process. In addressing circumstances where a member of staff's performance or conduct fails to reach an acceptable level, or where there is a sudden and serious deterioration in these standards, the Trust will seek to ensure through the application of this procedure that a focus is placed first and foremost on support and improvement. In doing so, the Trust also acknowledges its duty to give high priority to the education of young people and will therefore take into account the likely impact on students when considering what progress must be made and in what timeframe.

4. Roles & Responsibilities

4.1 The employee's performance manager is responsible for ensuring that minor issues relating to capability or conduct are dealt with promptly and without recourse to this procedure, as part of the usual process of performance management.

4.2 Formal meetings held as part of this procedure which could result in the issuing of a formal warning, will be conducted by either the line manager or allocated senior manager. The employee's performance manager, if different, will continue to be central to ongoing monitoring and support.

4.3 Formal meetings which may result in a decision to dismiss, will be heard by the Local Governing Body/Board of Trustees (as appropriate), as delegated to one or more of its members.

4.4 In cases where the CEO's capability or conduct is under review, the role of the manager at stages one and two will be delegated to one or more Members of the Board of Trustees.

5. Addressing Initial Concerns

5.1 The Trust recognises that, in many cases involving minor or early-stage concerns about work performance or conduct, the matter is best addressed and resolved discreetly through discussion between the manager and the employee concerned. Such concerns might include for example, minor inaccuracies in work undertaken, instances of poor timekeeping or an unexplained deterioration in standard of work. These initial discussions, aimed at understanding any underlying causes for the concerns about performance or behaviour and what corrective action might resolve the issue, and what informal support is available for the employee, will take place within the context of performance management and are therefore outside the scope of this procedure. Managers have both a right and a responsibility to bring such concerns to an employee's attention to allow them the opportunity to respond and to rectify the situation with the appropriate provision of guidance, support and any relevant training.

6. Stage One

6.1 Where the informal support and/or monitoring provided as part of performance management has failed to bring about a sufficient improvement, or where the concerns or allegations are considered too serious to be dealt with in the context of normal performance management, and/or when an appropriate level of investigation relating to conduct has ascertained that there is a case to answer (see 'Disciplinary Investigations', section 11.2) this procedure will be instigated, in the majority of cases commencing at Stage One. The line manager or allocated senior manager, as nominated, will arrange a formal meeting, giving at least 5 working days' notice in writing to the employee (see 'Scheduling Formal Meetings', section 11.4). This meeting is intended to establish the facts, set out the required standards which are believed to have not been met and allow the employee to respond to concerns about their performance/conduct and to make any relevant representations. The employee has the right to be accompanied at this meeting and any subsequent formal meetings, by a work colleague or representative of a recognised trade union and should be provided with a copy of the procedure in order to understand the context of the meeting. Employees must make the request to be accompanied in advance of the meeting, to allow the school to prepare and to ensure the employer knows who the companion will be.

The companion can address the hearing to put forward and sum up the employee's case, respond on behalf of the employee to any views expressed at the hearing and confer with the employee during the hearing. The companion does not, however, have the right to answer questions on the employee's behalf, address the hearing if the employee does not wish it or prevent the employer from explaining the case.

The employee shall be allowed to ask questions, present their own evidence and rely on their own witnesses where appropriate and necessary, and will be permitted to respond to the evidence and ask questions.

6.2 At a formal meeting held under Stage One of the procedure, the line manager or allocated senior manager will be able to consider a range of possible outcomes short of dismissal. Dismissal is a last resort and is only likely to be an appropriate consideration at this early stage in cases where the alleged conduct or incompetence is likely to constitute gross misconduct (see 'Gross Misconduct', section 11.1). In such cases, the CEO/Director of Education should seek HR advice before referring the matter to the Local Governing Body or the Trust (as appropriate) for consideration at a hearing under Stage Three of the procedure. Suspension of the employee must also be considered in such circumstances (see 'Suspension', section 11.3).

6.3 At the formal meeting under Stage One, the line manager or allocated senior manager will:

- Identify the shortcomings in performance and/or alleged misconduct; and in the case of teachers, which of the standards expected of teachers are not being met;
- Allow the employee and their companion the opportunity to state their case and respond to the concerns or allegations raised;
- Give clear guidance on the improved standard of performance and/or conduct required to enable the member of staff to avoid being subject to further stages of the procedure;
- Explain, where relevant to the circumstances, what support will be available to help the member of staff improve their standards of performance or conduct;
- In cases of poor performance and in some cases relating to conduct, outline the timetable for improvement and how progress will be monitored, taking into account the individual's personal circumstances. This may include any medical conditions, working pattern, wellbeing support needs, or disabilities protected by the Equality Act 2010. The timetable will depend on the circumstances of the individual case. It is for the school to fairly determine the set period. It should be reasonable and proportionate, but not excessively long, and should provide sufficient opportunity for an improvement to take place.
- Explain the consequences of a failure to improve.

6.4 The meeting will be adjourned if new facts come to light which the line manager or allocated senior manager decides to refer for further investigation.

6.5 After the meeting, the line manager or allocated senior manager will review the evidence and discussion which took place and decide, on balance of probability, whether the concerns or allegations are founded and what appropriate course of action to take from the following options:

- No formal action: this may be applicable where allegations are determined to be unfounded or unsubstantiated or where informal management action is deemed to be a more appropriate response to the concerns about performance or conduct.
- First written warning: this will be issued where there is serious concern about the standard of performance or where the allegations of misconduct are found to be justified and informal management action alone is deemed to be an insufficient response.
- Final written warning: this will be appropriate in cases of very serious concern about conduct or performance where the employee's actions have had, or are liable to have by their

continuation, a harmful impact on the school, such as on the education of students or the safety or welfare of others.

6.6 The employee will be notified of the decision as soon as possible following the meeting and, in any event, in writing within 5 working days. They will be informed, either at the same time or as soon as possible thereafter, of any arrangements for assessment and monitoring. Where a formal warning has been issued for capability reasons, the employee will be reminded that their pay progression (except in respect of cost of living increases) will be suspended until such a time as the required standard of performance has been reached. The letter to the employee will also confirm the period during which any written warning issued will remain live (see also 'Warnings', section 11.6) and the employee's right to appeal the decision in writing within 5 working days of receipt. The appeal may be heard by the CEO/Director of Education or allocated senior manager, if they were not involved in the initial decision, otherwise it will be directed to the Clerk to the Local Governing Body or Trust (as appropriate) who will convene an Appeal Hearing for this purpose (see also 'Appeals', section 10).

6.7 Stage Two of the procedure will not be instigated unless and until a formal warning has been issued under Stage One and therefore more than one formal meeting may be held under Stage One if appropriate to the circumstances.

7. Assessment & Monitoring Period

7.1 An assessment and monitoring period will follow a formal meeting held at any stage of the procedure at which the employee's level of performance has been discussed and after which a decision was made either to take informal management action or to issue a written warning. It will sometimes, but not generally, be applicable in cases of misconduct. The length of this stage will depend on the circumstances of the individual case but, in straightforward cases, it will last for between four and six weeks. Monitoring, evaluation, guidance and support will continue during this stage. In more complex cases, for example where specific additional training or support is needed or where particular knowledge must be acquired, a longer period of monitoring appropriate to the circumstances will be considered.

7.2 At, or towards, the end of the assessment period, the manager tasked with monitoring the employee during this period will be expected to reach a judgement on the level of progress made:

Performance/Conduct Reaches Required Standard: Where performance/conduct has reached the required standard by the end of the assessment period, a meeting will be convened at which the employee is informed that the formal procedure is now ending and confirming any ongoing arrangements for informal monitoring and support. Pay progression, where previously suspended, will be reinstated at this stage, to be effective from the date of the meeting terminating the procedure.

Performance/Conduct Fails to Reach Required Standard: Where acceptable progress/conduct has not been made by the end of the assessment period, or at any time during the assessment period if there is a serious deterioration in performance/conduct, the member of staff will be invited to another formal meeting in accordance with the next appropriate stage of the procedure.

8. Stage Two

8.1 If, following the Stage One meeting and any resulting assessment and monitoring period:

a) the required standard of performance or conduct has not been reached,
b) the standard of performance or conduct has deteriorated further, or
c) there are further allegations of misconduct,

another formal meeting will be convened, giving the employee at least 5 working days' notice in writing. If dismissal is a potential outcome, either as a result of a final written warning being issued at Stage One or because of the seriousness of the concerns, the matter should instead be referred directly to Stage Three. In such cases, the CEO/Director of Education should seek HR advice before referring the matter to the Local Governing Body or the Trust (as appropriate).

8.2 The meeting will usually be conducted by the same person (the line manager or allocated senior manager) responsible for conducting the formal meeting(s) held under Stage One of the procedure and

the substance of the meeting will be similar, whilst recognising the increased level of concern and the implications for the employee of a failure to improve.

8.3 After the meeting, the line manager or allocated senior manager will review the evidence and discussion which took place and decide, on balance of probability, whether the concerns or allegations are founded and what appropriate course of action to take from the following options:

- No formal action: this may be applicable where allegations are determined to be unfounded or unsubstantiated or where some concerns remain but there has been sufficient improvement in standards of performance or conduct that informal management action is now deemed to be a more appropriate response.
- Final written warning: this will be appropriate where serious concerns about the standard of performance or conduct remain, in spite of any further support or guidance provided.

8.4 The employee will be notified of the decision as soon as possible following the meeting and, in any event, in writing within 5 working days. They will be informed, either at the same time or as soon as possible thereafter, of any arrangements in place for assessment and monitoring. The letter to the employee will also confirm the period during which any written warning issued will remain live (see also 'Warnings', section 11.6) and the employee's right to appeal the decision in writing within 5 working days of receipt. The appeal may be heard by the CEO/Director of Education or allocated senior manager, if he/she was not involved in the initial decision, otherwise it will be directed to the Clerk to the Local Governing Body or Trust (as appropriate) who will convene an appeal hearing for this purpose (see also 'Appeals', section 10).

8.5 More than one formal meeting may be held under Stage Two if appropriate to the circumstances.

9. Stage Three

9.1 If, following the Stage Two meeting and any resulting assessment and monitoring period:

a) the required standard of performance or conduct has still not been reached,
b) the standard of performance or conduct has deteriorated further, or
c) there are further allegations of misconduct,

or

at any stage where the matter has been referred for consideration by the Local Governing Body or the Trust (as appropriate) the Clerk to Local Governing Body or the Trust (as appropriate) will convene a Hearing Panel, providing at least 10 working days' notice in writing to the employee (see 'Scheduling Formal Meetings', section 11.4). Consideration should be given at this stage as to whether suspension of the employee is appropriate (see 'Suspension', section 11.3).

9.2 The meeting may be adjourned if, in the view of the chairperson of the hearing, the meeting cannot continue until either new evidence is investigated or a witness who is absent is called.

9.3 As with all formal meetings held in accordance with the procedure, the employee will be entitled to be accompanied by a trade union representative or workplace colleague and will have the opportunity to challenge evidence, question relevant witnesses and state their case.

9.4 After the meeting, the Hearing Panel will consider all the evidence presented to them and reach a decision. As part of the decision-making process the Hearing Panel will determine whether, on the balance of probabilities, the concerns about the individual's performance or conduct are justified and, if so, what outcome is most appropriate in all the circumstances of the case.

9.5 Where dismissal is being considered, the Hearing Panel will first discount options which could be put forward as an alternative to dismissal, such as demotion or transfer to another post which more closely matches the employee's capabilities.

9.6 The employee will be notified of the decision as soon as possible and, in any event, in writing within 5 working days. The letter will include confirmation of whether the Hearing Panel found there to be a case to answer and, what, if any, formal action is being taken.

9.7 Where the outcome is not dismissal but where there are still concerns, the letter will outline what actions and improvements are needed to obviate the need for a further formal meeting and the employee will subsequently be notified of any further arrangements for assessment and monitoring. The letter to the employee will also confirm the period during which any written warning issued will remain live (see also 'Warnings', section 11.6) and the employee's right to appeal the decision in writing within 5 working days of receipt. An appeal against a decision made by a Hearing Panel will be referred to the Clerk to the Local Governing Body or Trust (as appropriate) who will convene an Appeal Panel of which no members should have been involved with the original decision. (See also 'Appeals', section 10).

9.8 Following a decision to dismiss, the school will issue notice of termination in accordance with the employee's contractual or statutory notice period (whichever is greater). As a general rule, the employee will not be expected to attend work during the notice period. In cases of gross misconduct, the employee may be summarily dismissed (without notice).

10. Appeals

10.1 There shall be a right of appeal against any decision to impose a written warning or other formal sanction as a result of action taken by the employee's line manager or allocated senior manager or Hearing Panel. In exercising this right, the employee must confirm the grounds on which they are making the appeal. In cases of poor performance, the process of assessing and reviewing capability in accordance with this procedure will continue pending the outcome of any appeal.

10.2 Appeals against warnings issued during Stage One or Stage Two will be heard by the CEO/Director of Education or one or more Local Governing Body or Trust members (as appropriate), in accordance with the scheme of delegation in place and bearing in mind the need to secure impartiality at every stage of the process. No person will hear an appeal against his/her own decision. Appeals against dismissal, or against formal warnings or sanctions determined by the original Hearing Panel, will always be heard by one or more Local Governing Body or Trust members with delegated powers (as appropriate). References to the Appeals Panel hereafter may therefore be interpreted accordingly, although the 'panel' could in some cases consist of one person.

10.3 The Appeal Hearing will be arranged to take place as soon as is reasonably practicable, allowing the employee at least 5 working days' notice of the date (or 10 working days where the appeal is against a dismissal decision).

10.4 The purpose of the meeting is for the Appeals Panel to consider the grounds for appeal and to review the fairness of the outcome of the original meeting. New evidence may be considered at the appeals stage but no additional grounds for action against the employee may be introduced.

10.5 Within 5 working days of the Appeal Hearing taking place, the employee will be notified in writing of the outcome and any actions which have been determined. There is no further right of appeal.

10.6 If a dismissed employee is reinstated on appeal, their salary will be back-paid to the date of the original termination, minus any monies already paid in respect of notice.

11. Procedural Points & Specific Circumstances

11.1 Gross Misconduct

Gross misconduct is deemed to be misconduct which is serious enough to overturn the contract between the employer and the employee, thus justifying summary dismissal (dismissal without notice). For the purposes of this procedure, examples of gross misconduct include but not limited to:

- Theft or fraud;
- Physical violence or bullying;
- Deliberate and serious damage to property;
- Serious misuse of position, the school's property or name;
- Deliberately accessing internet sites containing pornographic, offensive or obscene material;
- Serious insubordination;

- Sexual misconduct, at or away from work, which affects the employee's suitability to work with children;
- Falsification of qualifications or provision of deliberately misleading information used as the basis for employment decisions;
- Unlawful discrimination or harassment;
- Bringing the school into serious disrepute;
- Serious incapability at work brought on by alcohol or illegal drugs;
- Causing or risking loss, damage or injury through serious negligence;
- A serious breach of health and safety rules;
- A serious breach of trust and/or confidence;
- Behaviour that is seriously inappropriate and incompatible with the employee's role and position.

N.B This list is illustrative and is not intended to be exhaustive.

Gross misconduct will also include circumstances where a failure of work performance is so serious that summary dismissal is justified. Such serious instances are rare but may occur where the evidence points to the occurrence of damaging or dangerous errors, omissions or negligence which, even where the result was unintentional, have the effect of seriously undermining trust and confidence in the individual.

11.2 Disciplinary Investigations

The nature and extent of any investigation into alleged misconduct will depend on the seriousness and complexity of the matter under consideration. The individual's line manager, allocated senior manager or external provider (as appropriate) will carry out preliminary enquiries to establish whether or not there appears to be a case to answer. Based on the outcome, either no further action will be taken or a disciplinary investigation will be initiated. Some allegations will require referral to one or more outside agencies for advice before an internal investigation can be authorised: for example, those involving child protection, financial irregularities or other potential criminal activities. The guidance of the Local Authority Designated Officer (LADO) will be sought at the earliest opportunity in any case involving allegations of a child protection nature against a member of staff, and the local authority's procedure for investigating and managing such allegations will be followed.

Except where the police or LADO have advised otherwise, the employee will be informed of the nature of the allegations against them and provided with full details of these as well as confirmation that an investigation is underway and by whom.

An investigatory interview with the employee will be held, giving reasonable advance notice. Whilst there is no entitlement to be accompanied at such a meeting, a reasonable request to be accompanied by a trade union representative or workplace colleague will be given due consideration, provided that a lack of availability on the part of the companion does not hinder the progress of the investigation.

Where possible, investigations will be completed within 4 working weeks. In more complex cases, however, particularly where outside agencies are involved, this cannot always be achieved. In such circumstances, the employee will be kept informed about the progress of the investigation and the outcome will be communicated at the earliest opportunity.

11.3 Suspension

There may be instances where suspension on full pay is necessary while investigations into concerns or allegations about competence or conduct are carried out. Suspension is not an assumption of wrongdoing and is not considered to be a formal sanction. It is most likely to be deemed appropriate when:

- The allegation relates to a matter of gross misconduct;
- Where the alleged incompetence or misconduct has, or is liable to, put other parties or property at risk;

- Where there are reasonable grounds for a belief that the investigation may be compromised by the individual's ongoing presence (e.g. through tampering with evidence or influencing witnesses);
- Where relationships have severely broken down.

A decision to suspend will not be made until alternative courses of action have been considered, such as transfer to an alternative post or temporary allocation of other duties.

It is the school's policy that either the CEO/Director of Education or Board of Trustees have the discretion to impose or lift a suspension. The Board of Trustees will usually delegate this responsibility to the Trust Board chair.

A decision to suspend will be communicated at the earliest opportunity to the employee, in person where circumstances permit and, in any event, confirmed in writing within 2 working days.

Where suspension lasts longer than 4 weeks it will be reviewed thereafter at regular intervals and the employee kept informed about progress. Where an investigation can find no case to answer, the suspension will be lifted and the employee supported to reintegrate into work as soon as possible.

11.4 Scheduling Formal Meetings

Written notification of the formal meeting should be received by the employee no later than 5 working days before the hearing. The written notification should include:

- Details of the alleged misconduct or capability issues and possible consequences.
- Copies of any written evidence, including witness statements
- The time, date and location of the disciplinary meeting (including the details if the meeting is to be held over video conferencing, if relevant)
- A statement that the employee has the right to be accompanied by a colleague or a trade union representative
- Notification that the employer intends to call witnesses (if relevant)
- A request that if the employee intends to call a witness, they should notify the employer
- Names of the personnel who will be conducting the hearing

Meetings should be held during the employee's usual working day. Other arrangements can be made by mutual agreement. School closure periods will generally result in a temporary suspension of the procedure.

The employee is expected to make every effort to attend meetings at the required time. The school will, where reasonably practicable, seek to liaise with the employee regarding the availability of their chosen work colleague or trade union representative to ensure that postponements are not necessary. If the employee's work colleague or trade union representative is unable to attend, an alternative date may be suggested by the employee. This will not be unreasonably declined provided it can be accommodated by those conducting the hearing and does not result in an unacceptable delay. As a general rule, a delay of up to 5 working days will be acceptable but the school will consider each request on its own merits. Any subsequent postponements, or a failure of the employee to turn up to a scheduled meeting without good reason, is likely to result in the formal meeting proceeding as planned and being decided on the basis of other available evidence.

11.5 Formal Action Against Trade Union Representatives

Where a formal investigation or formal meeting is being arranged in accordance with this procedure in relation to a trade union representative employed by the school, the case must first be discussed with a full-time official from the appropriate union after obtaining the employee's agreement.

11.6 Warnings

The period during which a warning will remain 'live' for the purposes of this procedure is not definitive and may be varied according to the circumstances of the case. As a general rule, written warnings will remain live for a period of 12 months for a final warning after which point they will be disregarded. A longer warning period may be appropriate in certain cases, for example where there has been a history

of variable performance, a repetition of similar matters of misconduct or where a longer warning period was determined as an alternative to dismissal. The CEO/Director of Education or Board of Trustees may exercise discretion to disregard the warning prior to its documented expiry date in circumstances where the employee has reached and maintained an acceptable standard, confirming this in writing to the employee. (The Board of Trustees will usually delegate this responsibility to the Trust Board chair).

11.7 Ill-Health Absence

The ill-health absence of an employee during the procedure will not result in any delay to convening meetings or hearings beyond what is reasonable in the circumstances. One attempt to reschedule a meeting will be made where ill-health absence intervenes and it should be explained to the employee that if they are still unable to attend on the rescheduled date the meeting will proceed in their absence. The employee will be offered the alternative options of making a written submission and/or asking their companion to attend the rescheduled meeting to make oral submissions and to question witnesses on his/her behalf before a final decision is reached.

Absence which appears to have been triggered by the instigation of the procedure or which occurs during an assessment and monitoring period will usually be referred immediately to the school's occupational health provider to obtain advice. If the absence becomes long term, then this will be dealt with in accordance with the MAT's Attendance Management Policy.

11.8 Grievances

Grievances which relate directly to the instigation or operation of this procedure will be addressed in accordance with the existing rights under this procedure to state a case and to appeal against any formal action taken. Grievances which are not directly related to capability or disciplinary proceedings will be dealt with separately, without delay to the progress of this procedure.

11.9 Overlapping Conduct & Capability Issues

On occasion, an employee may not be meeting the required standards of work either in terms of their performance or their conduct. In such cases, issues of conduct may be considered alongside performance issues in a joint formal meeting to avoid the complexity of instigating parallel procedures with similar stages and potential outcomes.

11.10 Data Protection

The Trust MAT processes personal data collected during the investigation stage and any subsequent stages of disciplinary action in accordance with its data protection policy. In particular, data collected as part of the investigation stage and any subsequent stages of disciplinary action is held securely and accessed by, and disclosed to, individuals only for the purposes of completing the disciplinary procedure. Inappropriate access or disclosure of employee data constitutes a data breach and should be reported in accordance with the data protection policy immediately. It may also constitute a disciplinary offence, which will be dealt with under this disciplinary procedure.

11.11 Referrals to Professional Bodies & Other Agencies

The Trust adheres to all procedures in relation to the requirement to make referrals to the relevant regulatory bodies in respect of matters of concern regarding the safeguarding of children and, in respect of teaching staff, other matters of misconduct which resulted in, or would have been likely to have resulted in, dismissal.

11.12 Status of Policy and Review

The content and operation of this policy is reviewed as and when deemed necessary by the Trust. This will include ensuring that the arrangements minimise the impact on workload for all parties involved. The policy is discretionary and does not confer any contractual rights.