



HR Service

# Diocese of Nottingham Catholic Multi-Academy Trusts

Disciplinary Policy  
and  
Procedure



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## HR Service

### Disciplinary Policy and Procedure

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Commitment to equality:

We are committed to providing a positive working environment which is free from prejudice and unlawful discrimination and any form of harassment, bullying or victimisation. We have developed a number of key policies to ensure that the principles of Catholic Social Teaching in relation to human dignity and dignity in work become embedded into every aspect of school life and these policies are reviewed regularly in this regard.

This Disciplinary Policy and Procedure has been subject to consultation with the Recognised Trade Unions. It was approved and adopted by the CMAT as detailed below:

<b>Policy Approved by:</b>	<b>Date of Approval</b>
Board of Directors – Our Lady of Lourdes Catholic Multi Academy Trust	<b>31.3.21</b>
Board of Directors – St Therese of Lisieux Catholic Multi Academy Trust	<b>30.3.21</b>
Board of Directors – St Ralph Sherwin Catholic Multi Academy Trust	<b>25.3.21</b>
Board of Directors – St Thomas Aquinas Catholic Multi Academy Trust	<b>25.3.21</b>

**It will be reviewed after 24 months in consultation with the Recognised Trade Unions.**

**Signed by Director of the CMAT:**

**Signed by CEO:**

## I. DEFINITIONS

In this Disciplinary Policy and Procedure, unless the context otherwise requires, the following expressions, where they appear, shall have the following meanings:

- i. 'CMAT' means the Catholic Multi Academy Trust, that is the company responsible for the management of the Central Team and the Academies and, for all purposes, means the employer of staff within the Central Team and the Academies.
- ii. 'Board' means the board of Directors of the CMAT who are responsible for carrying out the employment functions of the CMAT.
- iii. 'Central Team' means all staff employed in the Central Office functions of the CMAT.
- iv. 'Chair' means the Chair of the Board of the CMAT as appointed from time to time.
- v. 'Companion' means a willing work colleague not involved in the subject matter under which the policy is being invoked, a trade union official, an accredited representative of a trade union or other professional association of which the employee is a member.
- vi. 'Diocesan Education Service' means the education service provided by the diocese in which the CMAT is situated, which may also be known, or referred to, as the Diocesan School Commission.
- vii. 'Directors' means directors appointed to the Board of the CMAT from time to time.
- viii. 'Governor' means a member of the Local Governing Body of the School
- ix. 'Headteacher' means the most senior teacher in the School who is responsible for its management and administration. Such teacher may also be referred to as the Head of School or Executive Headteacher.
- x. 'Local Governing Body' means the Governors appointed from time to time to carry out specified functions in relation to the School as delegated by the CMAT.
- xi. 'School' means the Academy named at the beginning of this Policy and Procedure and includes all sites upon which the Academy undertaking is, from time to time, being carried out.
- xii. 'Vice-Chair' means the Vice-Chair of the Board of the CMAT as appointed from time to time.
- xiii. 'Working Day' means any day on which you would ordinarily work if you were a full-time employee. In other words, 'Working Day' will apply differently to teaching and non-teaching staff. However, part-time and full-time staff will not be treated differently for the purposes of implementing this Policy and Procedure.

## 2. SCOPE OF PROCEDURE

- 2.1 This Disciplinary Policy and Procedure applies to you if you are an employee or worker at the CMAT (hereinafter referred to as an “employee” or “you”).
- 2.2 The purpose of this policy is to provide a structure to address any issues or concerns that the CMAT may have relating to an employee’s conduct. ‘Misconduct’ means any action or inaction which may contravene the provisions of the employee’s contract of employment, the rules laid down by the CMAT and/or any Professional Code of Conduct and Practice. In such cases the Disciplinary Policy and Procedure will apply and the Capability Policy and Procedure may also apply.
- 2.3 An employee is entitled to have access, by arrangement, to their personnel file and to request the deletion of time-expired records in line with the provisions of the General Data Protection Regulation (GDPR) and the Data Protection Act 2018.
- 2.4 There may be occasions where an employee’s conduct could relate to their health. This Disciplinary Policy and Procedure may be used concurrently with the CMAT’s Sickness Absence Policy and Procedure. In particular, if an employee is absent from work on sick leave following this Disciplinary Policy and Procedure being invoked, the CMAT may use its Sickness Absence Policy and Procedure if it is appropriate in the specific circumstances. The process of managing unsatisfactory behaviour using this Disciplinary Policy and Procedure will not necessarily cease where the employee is absent on the grounds of illness.
- 2.5 Subject to Paragraphs 2.5(a) and (b) of the CMAT’s Grievance Resolution Policy and Procedure, there may be occasions when an employee brings a grievance pursuant to the CMAT’s Grievance Resolution Policy and Procedure in connection with actions taken under this Disciplinary Policy and Procedure. This shall not lead to any automatic delay or pause in the conduct of any matters under this Disciplinary Policy and Procedure. However, where the Grievance relates to the fair implementation of action being taken under the Disciplinary procedure or process the CEO (or in the case where the disciplinary matter relates to the CEO, the Chair) will, having sought advice from HR, decide whether or not the Disciplinary Policy and Procedure should be suspended whilst the grievance is dealt with. The decision of the CEO (or Chair where appropriate) on this matter shall be final.

- 2.6 There may be occasions where this procedure needs to be modified, for example to comply with the requirements of the CMAT's Child Protection and Safeguarding Policies, for example, by allowing the Local Authority Designated Officer to offer advice to the Board at appropriate stages or where an employee has a disability which means that reasonable adjustments need to be made to this procedure. Where the CMAT's Child Protection and Safeguarding Policies are invoked, this Disciplinary Policy and Procedure may be suspended until such time as the CMAT determines, in its sole discretion, that it is appropriate to resume it.
- 2.7 The CMAT is committed to ensuring respect, objectivity, belief in the dignity of the individual, consistency of treatment and fairness in the operation of this Policy. This commitment extends to promoting equality of opportunity and eliminating unlawful discrimination throughout the CMAT community.
- 2.8 This Disciplinary Policy and Procedure offers opportunities to ensure justice for teachers, support staff and pupils alike and has the potential for the expression of Christian qualities such as honesty, self-knowledge, respect for others and their gifts, recognition of the needs and achievements of others, challenge of self and others, personal growth and openness.
- 2.9 The CMAT's Appraisal Policy and Procedure and Capability Policy and Procedure do not form part of this Disciplinary Policy and Procedure but relevant information from the appraisal and/or capability process, including Appraisal Reports, may be taken into account in relation to the operation of this Disciplinary Policy and Procedure
- 2.10 The CMAT will maintain records of all interviews and reviews which take place under this Disciplinary Policy and Procedure for a period of up to 12 months or longer where necessary and where there is an applicable lawful basis under the GDPR for extending the retention period. All data and evidence collected is to be shared between all the relevant parties, including the employee, where there is an applicable lawful basis under the provisions of the GDPR.
- 2.11 All matters of managing disciplinary issues and related investigations will be treated in confidence as far as possible by all parties involved throughout all stages of this Disciplinary Policy and Procedure.

### **3. INFORMAL ACTION**

- 3.1 Sometimes potential disciplinary issues can be resolved informally in the workplace. This involves drawing the employee's attention to the perceived unsatisfactory conduct, discussing the situation and agreeing an appropriate way forward including any improvement required.

- 3.2 Your line manager may give you informal advice and guidance at any time about any conduct or performance falling short of the standard expected and in many cases the right word at the right time and in the right way may be all that is needed. Where appropriate, support will be provided by your line manager.
- 3.3 Informal advice and guidance may be provided verbally or in writing but will always be noted in writing on your personnel records. Where informal advice and guidance is provided verbally and noted on your personnel records you will be provided with a copy of the note. The provision of informal advice and guidance may be referred to at a later stage to evidence that an informal approach was attempted and to demonstrate the success or failure of such an approach. Except in exceptional circumstances, records of the provision of informal advice and guidance will not be kept on record for longer than 6 months. The provision of informal advice and guidance is not a disciplinary sanction. Employees have the right to have their response to any informal advice and guidance provided, recorded in writing on their personnel records.
- 3.4 Failure to comply with any informal advice and guidance provided will not, on its own, be used as justification for issuing a higher form of sanction than would otherwise have been imposed under the formal process.
- 3.5 Consideration will be given to any difficulties which an employee may be facing, and the CMAT will provide reasonable support and assistance to help the employee to overcome them. Such support and assistance may include, where appropriate, the CMAT seeking appropriate medical or other advice regarding the effective management of any disciplinary issues.

#### **4. SUSPENSION**

- 4.1 Where it is considered appropriate you may be suspended in accordance with the Scheme of delegation, pending an investigation into the allegations against you. Any such suspension shall be kept as short as possible and will be kept under review.
- 4.2 Depending on the specific circumstances, the employee should be given the opportunity to attend a suspension meeting to respond to the recommendation to suspend before a decision is taken to suspend. This response should not be a response to the disciplinary allegations(s) but a response as to whether suspension is appropriate in the circumstances. The employee may be accompanied by a Companion during the suspension meeting, where practicable.
- 4.3 A record should be kept of the determined purpose of the suspension for a period of up to 12 months and of any alternatives to suspension that were considered.

- 4.4 A Headteacher may only suspend with the prior knowledge and agreement of the CEO. In the event of suspension by the CEO, the CEO must inform the Chair of the CMAT Board. In all cases advice should be sought from the CMAT HR team before any decision is made to suspend.
- 4.5 The period of suspension referred to in Paragraph 4.1 may be extended, subject to review by the CEO/Chair as applicable. The reason(s) for extending the suspension along with the length of the extension will be confirmed in writing as soon as is reasonably practicable following a decision to extend being made.
- 4.6 Suspension will be ended in accordance with the Scheme of Delegation.
- 4.7 Notification of suspension will usually be done in person but may, where circumstances dictate, be notified to the employee by telephone and/or in writing. In any event, notification of suspension will be confirmed in writing.
- 4.8 In accordance with ACAS guidance suspension may be appropriate in circumstances including, but not limited to:
- (a) Relationships have broken down
  - (b) Gross misconduct is alleged
  - (c) There are reasonable concerns that evidence or witnesses could be prejudiced by the employee's presence during the investigation
  - (d) There are responsibilities to other parties
  - (e) It is necessary for the protection of pupils, staff or property
  - (f) The presence at work of the employee under investigation may be an obstacle to a proper investigation.
- 4.9 Suspension does not constitute a disciplinary sanction. The purpose of suspension is to ensure that an effective investigation can take place and it is not an assumption of guilt. You will receive full pay and benefits during a period of suspension (unless you are otherwise absent from work due to sickness or other leave and have exhausted the pay entitlements connected to such absence). Periods of suspension will be as brief as possible and will be kept under review. For periods of suspension lasting 20 Working Days or longer, they will be reviewed at least every 20 Working Days.
- 4.10 During a period of suspension, the CMAT may require that you do not:
- (a) attend the school, or in the case of a member of the Central Team the CMAT offices, at any time (except with the prior agreement of the Headteacher/ CEO);
  - (b) communicate in any way with parents, pupils or Directors, members of the Local Governing Body or any other third party connected to the School or the CMAT except:

- (i) with the prior written agreement of the Headteacher/CEO; or
  - (ii) where following the investigation you are called to a formal disciplinary meeting, when you may then approach parents, pupils, Directors, members of the Local Governing Body or any third party connected to the School or the CMAT as potential witnesses but this must be done following agreement with the Investigating Manager to avoid any data breach or breach of confidentiality.
- (c) discuss the fact of your suspension or the fact, or nature, of the allegations against you with any member of staff except:
- (i) with the prior written agreement of the Headteacher/CEO;
  - (ii) for communication with your Companion who is a Trade Union representative;
  - (iii) where you are called to an interview with the Investigating Manager, a Disciplinary Meeting or a suspension meeting, when you may approach a Companion who is a colleague; or
  - (iv) where you are called to a formal Disciplinary Meeting you may approach work colleagues as potential witnesses in support of your case but this must be done following agreement with the Investigating Manager to avoid any data breach or breach of confidentiality.
- 4.11 During a period of suspension the CMAT may, where considered appropriate, suspend your access to your email account and to the Managed Learning Environment (MLE)/Virtual Learning Environment (VLE).
- 4.12 During a period of suspension the CMAT may take such steps as necessary to cover your workload.
- 4.13 During any period of suspension you continue to be bound by your contractual obligations to the CMAT (whether express or implied) and must comply with these at all times.
- 4.14 During periods of suspension an appropriate member of staff will be appointed by HR to act as a point of contact for you. This individual will not be able to discuss the disciplinary issue with you but will be responsible for keeping you informed of any relevant workplace developments and maintaining your relationship with the School or Central Offices as applicable.

## 5. INVESTIGATING, DISCIPLINARY AND APPEAL MANAGERS

5.1 The table below sets out the persons to be appointed throughout the stages of the disciplinary procedure depending on the person who is the subject of the disciplinary proceedings:

<b>Employee Level</b>	<b>Investigating Manager</b>	<b>Disciplinary Manager</b>	<b>Appeal Manager</b>
School support staff (other than School Business Manager)	A person appointed by the Headteacher	Headteacher, but if dismissal a possibility – Directors’ panel	First/Final written – CEO Dismissal – Directors’ panel
Teaching Staff (other than Headteacher, staff on Leadership spine or reserved posts)	(1) A member of Leadership Team (other than Headteacher) or in the event that (1) above cannot be complied with, (2) A person appointed by the Headteacher	Headteacher, but if dismissal a possibility – Directors’ panel	First/Final written– CEO Dismissal - Directors’ Panel
Leadership spine – Non reserved post and School Business Manager	Headteacher	CEO, but if dismissal a possibility – Directors’ panel	Directors’ Panel
Headteacher (and other reserved posts)	CEO or person nominated by the CEO	Directors’ Panel	Directors’ Panel
Staff in Central Team (other than Executive Team)	Line Manager	CEO or Executive level postholder appointed by CEO, but if dismissal a possibility – Directors’ panel	First/Final Written – CEO Dismissal – Directors’ panel.
CMAT Executive Team (other than CEO)	CEO or person nominated by the CEO	Directors’ Panel	Directors’ Panel
CEO	Investigating officer appointed by the Chair of the CMAT Board	Directors’ Panel	Directors’ Panel

- 5.2 In cases relating to any alleged gross misconduct that would bring the School and/or the CMAT into disrepute, particularly in relation to its religious character, the CEO may act as Investigating Manager regardless of the level of the employee involved and the Disciplinary Manager may be the Directors' Disciplinary Panel.
- 5.3 The Diocesan Director of Education must be advised in any case concerning the religious character of the CMAT and/or the School, or when the disciplinary procedure is implemented for any of the following posts:
- CEO
  - Headteacher (including acting and executive headteachers)
  - Any post on the Leadership spine
  - Executive posts within the CMAT central teams.
  - Any other reserved posts

In such cases Diocesan Education Service may send a representative to advise the Disciplinary Manager or Appeal Manager.

- 5.4. Although the Investigating Manager will normally be appointed in accordance with 5.1, the CEO or Chair may engage an external Investigating Manager with a good knowledge of the CMAT and how it operates to enable an efficient investigation to take place.

## **6. FORMAL PROCESS**

### **6.1 Step 1 - Investigation**

- 6.1.1 The Investigating Manager will conduct an investigation into the alleged misconduct in a timely manner and without undue delay. The Investigating Manager should not have any previous involvement in the matter.
- 6.1.2 The Investigating Manager may, in their discretion, appoint any other person from within the School and/or the CMAT to assist in the investigation.
- 6.1.3 The Investigation Manager will notify you in writing of the fact of the investigation and the allegations made and they will provide you with a copy of this Disciplinary Policy and Procedure. The investigation will include a face-to-face interview with you apart from in exceptional circumstances. In the event of a face-to-face interview you will be notified at least 5 working days beforehand. You may, if you wish, provide a written statement or response to the Investigating Manager. You may be accompanied by a Trade Union Representative or Work Colleague.
- 6.1.4 You are required to co-operate fully with the Investigating Manager to ensure that the investigation can be completed as swiftly and thoroughly as possible and, in any event, within a reasonable timeframe.

- 6.1.5 At the conclusion of the investigation, the Investigating Manager will produce an Investigation Report setting out, in detail, the allegations made in respect of your conduct, the evidence considered and a recommendation that either:
- (a) a Disciplinary Manager be appointed and a Disciplinary Meeting be convened in accordance with Step 2 below; or
  - (b) there is insufficient evidence to support the allegations of Misconduct to proceed in accordance with Step 2 below and no further action will be taken under this Disciplinary Policy and Procedure; or
  - (c) a Disciplinary Meeting is not required despite evidence to support the allegations of Misconduct, but informal advice and guidance should be issued to you in accordance with the provisions of Paragraph 3 of this Disciplinary Policy and Procedure;
  - (d) there is no case to answer.
- 6.1.6 In all circumstances, you will be sent a copy of the Investigation Report as soon as is reasonably practicable following the end of the investigation. As a guide, from the time the Investigating Manager begins their investigation, the Investigation Report will normally be produced within 15 Working Days where the matter is straightforward. For allegations of gross Misconduct and more complex cases, the Investigation Report should be produced within 20 Working Days. In very complex or exceptional circumstances, a reasonable timescale will be determined by the Investigating Manager and will be notified to you in writing.

## **6.2 Step 2 – Disciplinary Meeting**

- 6.2.1 If the Investigation Report contains a recommendation that you must attend a formal disciplinary meeting (“the Disciplinary Meeting”) the Investigating Manager will write to you within 10 working days of you being provided with the Investigation Report, inviting you to the Disciplinary Meeting. Any remaining documents for consideration at the Disciplinary Meeting will be sent to you with the invitation to the Disciplinary Meeting. If dismissal is a possible outcome this will be stated in the Disciplinary Manager’s letter.
- 6.2.2 You will be given at least 10 working days’ notice of the Disciplinary Meeting and you will have the right to be accompanied by a Trade Union Representative or Work Colleague.

- 6.2.3 Any documentation you wish to rely on must be submitted at least 3 days ahead of the Disciplinary Meeting. If you fail to provide any information within this timeframe it may not be considered at the Disciplinary Meeting. If you wish you may also submit a written response to the Disciplinary Manager on any aspect of the documentation you have been sent in advance of the Disciplinary Meeting. This will not affect an employee's right to comment on the evidence during the Meeting itself.
- 6.2.4 In advance of, and at the Disciplinary Meeting the Disciplinary Manager shall consider:
- (a) Evidence presented in support of the allegations of misconduct against you;
  - (b) Evidence presented in defence of the allegations of misconduct against you; and
  - (c) Where misconduct is admitted, whether in whole or in part, any evidence you have in mitigation.
- 6.2.5 The Disciplinary Manager may, at their discretion, adjourn the Disciplinary Meeting (for a period of up to 15 Working Days) to allow for further investigations. This clause will only be exercised in exceptional circumstances for example where a witness at the hearing provides new oral evidence which was not available during the course of the initial investigation. In such circumstances you will be provided with the details of such further investigations following which the Disciplinary Meeting will be reconvened to give you an opportunity to comment on any further evidence produced by further investigations.
- 6.2.6 Written or oral evidence can be presented at a Disciplinary Meeting. If written evidence is to be relied upon, you will be provided with it prior to the Disciplinary Meeting and you will be given a reasonable opportunity to comment on it during the Disciplinary Meeting if you attend the meeting. If you do not attend the Disciplinary Meeting, you will be given an opportunity to provide written responses to any written evidence presented.
- 6.2.7 If oral evidence is heard at the Disciplinary Meeting, you will be given an opportunity to comment on it either by (a) attending the Disciplinary Meeting or (b) reviewing the notes of that oral evidence after the Disciplinary Meeting (if you were not present at the Disciplinary Meeting when such oral evidence was given). In the event of (b) you must provide any response to the notes of the oral evidence within 5 Working Days of being provided with the same.

6.2.8 Once all the evidence has been considered, the Disciplinary Manager will usually confirm the outcome of the Disciplinary Meeting in writing to you within 5 working days of the date of the Disciplinary Meeting or any adjourned Disciplinary Meeting, or receipt of your responses to the notes of the oral evidence provided to you in accordance with Paragraph 6.2.6 above (“the Disciplinary Decision Letter”). The potential outcomes of a Disciplinary Meeting are as follows:

- (a) the imposition of a formal disciplinary sanction in accordance with Paragraph 7; or
- (b) that, on balance, there is insufficient evidence to substantiate the allegations made against you and so the disciplinary proceedings will be terminated and no further action will be taken under this Disciplinary Policy and Procedure; or
- (c) a formal disciplinary sanction is not required despite evidence to support the allegations of Misconduct, but informal advice and guidance should be issued to you in accordance with the provisions of Paragraph 3 of this Disciplinary Policy and Procedure; or
- (d) there is no case to answer.

### **6.3 Step 3 – Appeal**

6.3.1 In the event that you are dissatisfied with the decision of the Disciplinary Manager as set out in the Disciplinary Decision Letter, you can appeal to the Appeal Manager provided that you do so in writing by submitting a completed CMAT Appeal Registration Form to the HR Manager within 10 working days of the Disciplinary Decision Letter being sent to you.

6.3.2 Your Appeal Registration Form must clearly set out the full grounds of your appeal. Your appeal will normally be a review of any formal disciplinary sanction imposed. However, in the event of an appeal on procedural grounds and based on the contents of your appeal letter, the Appeal Manager, having sought advice from HR, may determine whether there should be a re-hearing. The decision of the Appeal Manager in this regard will be final. When preparing your Appeal Registration Form, you may wish to consider the following grounds:

- (a) that the action taken was unfair;
- (b) that this disciplinary policy and procedure was applied defectively or unfairly;
- (c) that new evidence has come to light which was not available when the relevant decision was made by the Investigating Manager or Disciplinary Manager;
- (d) that the sanction was overly harsh in all the circumstances.

- 6.3.3 The Appeal Meeting will normally be held within 20 working days of your appeal letter being received by the HR Manager. You will be given at least 10 working days' notice of the Appeal meeting and you will have the right to be accompanied by a Trade Union Representative or Work Colleague.
- 6.3.4 Any new evidence submitted as part of an appeal should explain how it would have influenced the original decision and why it was not available at the original hearing/meeting. The Appeal Manager may decide during the course of the hearing that further investigation of the new evidence is required before it can be properly considered. In such circumstances, the Appeal Manager may, at their discretion, adjourn the Appeal Meeting (for a period of up to 15 Working Days) to allow for further investigations. In such circumstances you will be provided with the details of such further investigations following which the Appeal Meeting will be reconvened to give you an opportunity to comment on any further evidence produced by further investigations.
- 6.3.5 Written or oral evidence can be presented at an Appeal Meeting. If written evidence is to be relied upon, you will be provided with it prior to the Appeal Meeting and you will be given a reasonable opportunity to comment on it during the Appeal Meeting if you attend the meeting. If you do not attend the Appeal Meeting, you will be given an opportunity to provide written responses to any written evidence presented.
- 6.3.6 If oral evidence is heard, you will be given an opportunity to comment on it either by (a) attending the Appeal Meeting or (b) reviewing the notes of that oral evidence after the Appeal Meeting (if you were not present at the Appeal Meeting where such oral evidence was given). In the event of (b) you must provide any response to the notes of the oral evidence within 5 Working Days of being provided with the same. The Appeal Manager will consider all of the evidence provided in order to determine whether the relevant decision was fair and reasonable.
- 6.3.7 The Appeal Manager will usually confirm the outcome of the Appeal Meeting in writing to you within 5 working days of the date of the Appeal Meeting or receipt of your responses to the notes of the oral evidence provided to you in accordance with Paragraph 6.3.6 above (as appropriate). The decision of the Appeal Manager is final and there will be no further right of appeal. The potential outcomes of the Appeal Meeting are that:
- (a) the Appeal Manager may uphold the decision of the Disciplinary Manager and any formal disciplinary sanction imposed by the Disciplinary Manager will be upheld; or

- (b) the Appeal Manager may uphold your appeal and overturn the decision of the Disciplinary Manager and any formal sanction imposed by the Disciplinary Manager will be overturned and/or
- (c) the Appeal Manager may impose a lesser formal disciplinary sanction to that imposed by the Disciplinary Manager.

## **7. FORMAL SANCTIONS**

The Disciplinary Manager may impose the following sanctions:

### **7.1 A First Written Warning**

- 7.1.1 A First Written Warning will remain live for 6 months from the date of the First Written Warning.
- 7.1.2 For a first disciplinary offence (ignoring any informal advice and guidance), a First Written Warning will be the normal response unless the Misconduct is serious as set out in Paragraph 7.2.3 below.
- 7.1.3 A First Written Warning will set out the nature of the Misconduct and the change in behaviour needed (with a suitable timescale where relevant).

### **7.2 A Final Written Warning**

- 7.2.1 A Final Written Warning will remain live for 12 months from the date of the Final Written Warning.
- 7.2.2 A Final Written Warning would normally be given for a second disciplinary offence committed or discovered during the currency of a live First Written Warning (even if that First Written Warning related to a different type of misconduct, if appropriate in the circumstances).
- 7.2.3 A Final Written Warning could be given for serious misconduct regardless of previous disciplinary history.
- 7.2.4 A Final Written Warning will set out the nature of the Misconduct and the change in behaviour needed (with a suitable timescale where relevant). A Final Written Warning will also confirm the consequences of further Misconduct.

### **7.3 Dismissal on notice**

- 7.3.1 Dismissal on contractual notice may be given for a disciplinary offence (other than an act of gross misconduct) committed or discovered during the currency of a live Final Written Warning (even if the Final Written Warning related to a different type of misconduct, if appropriate in the circumstances). This clause would only be exercised following a further formal disciplinary process.
- 7.3.2 For the avoidance of doubt the notice period commences immediately and does not await the outcome of any appeal. If your contract of employment contains a garden leave clause the Board may exercise that clause so that you are not required to attend the School or Central Offices as applicable during the notice period but remain employed and so bound by the terms of your contract of employment until the expiry of the notice period. The CMAT may, in its absolute discretion, pay you in lieu of your notice period.

### **7.4 Dismissal without notice or termination payment**

- 7.4.1 Dismissal without notice or termination payment (also known as Summary Dismissal) will usually occur if you have committed an act of gross misconduct or otherwise have destroyed the trust and confidence required between an employee and their employer. In this case between you and the CMAT. For the avoidance of doubt, where appropriate, dismissal without notice or termination payment may occur regardless of previous disciplinary history.
- 7.4.2 In such circumstances your dismissal takes effect immediately and does not await the outcome of any appeal. You will have no entitlement to notice or payment in lieu of notice.
- 7.4.3 The following is a non-exhaustive list of matters which the CMAT, depending on the level of severity, considers may amount to gross misconduct:
- (a) Conduct incompatible with, or prejudicial to, the religious character of the School/CMAT or the precepts or tenets of the Catholic Church.
  - (b) Conduct that is likely to bring the School/CMAT or the Church into disrepute
  - (c) Conduct giving rise to any Child Protection issue including, but not limited to, a change in your DBS status during the course of your employment
  - (d) Failure to disclose your DBS status/submit to a DBS check where requested to do so by the Headteacher and/or the CMAT
  - (e) A serious breach of any relevant code of conduct or professional standards
  - (f) Theft of any property
  - (g) Malicious or wilful damage to any property

- (h) Knowingly or recklessly falsifying, or knowingly or recklessly causing falsification of, any documents whether for personal gain or not
- (i) Ordering any goods or services on behalf of the School/CMAT from a supplier in which you or a relative have a personal interest (whether financial or not) without declaring that interest and without the permission of the Directors/Governors' Finance Committee
- (j) Dishonesty
- (k) Violence to any person
- (l) Unlawfully restraining a pupil
- (m) Abusive, threatening or offensive language or behaviour to any person
- (n) Discrimination or harassment
- (o) Bullying
- (p) Disclosing the contents of any live examination paper or assessment in advance to any pupil or parent
- (q) Concealing any actual or attempted cheating by any pupil or colleague
- (r) Attending work or undertaking duties whilst under the influence of alcohol or unlawful substances
- (s) Misuse of the School's/CMAT's ICT (including internet and email access and any social networking policy) to view or distribute obscene, pornographic, defamatory or otherwise unacceptable material
- (t) Supplying your personal contact details to a pupil without express authorisation from the Headteacher
- (u) Interacting with a pupil online out of school hours other than through the Managed Learning Environment
- (v) Making any sexual or romantic contact with any pupil whatever the age of the pupil
- (w) Breaching the confidentiality or data protection obligations surrounding the School/CMAT, a parent, pupil, colleague, CMAT Director or member of the Local Governing Body
- (x) Covert recording of any meetings without the knowledge or consent of all persons present
- (y) Serious breach of health and safety procedures
- (z) Serious negligence (whether or not leading to any actual loss)
- (aa) Criminal activity during the course of employment
- (bb) Making a false malicious or vexatious allegation against the School/CMAT, a parent, pupil, colleague, CMAT Director or member of the Local Governing Body
- (cc) Repeated acts of less serious Misconduct which collectively may amount to Gross Misconduct

## **7.5 Voluntary demotion as an alternative to higher formal sanction**

- 7.5.1 There may be a situation where the Disciplinary Manager considers that a recent promotion or job change has been a contributory factor in your Misconduct.
- 7.5.2 Where paragraph 7.5.1 applies, the Disciplinary Manager may offer you the option of agreeing to voluntarily give up a promotion or job change as an alternative to a higher formal disciplinary sanction. Any such offer shall be made in writing. Should the option of voluntary demotion or job change be accepted this will not need to be a post with equivalent terms and conditions and protection of salary will not apply. For the avoidance of doubt, whether such an offer is made will be at the sole discretion of the Disciplinary Manager. There may be circumstances where it is not appropriate to make such an offer, for example, where there has been a safeguarding issue or where an allegation of bullying has been proven.

## **8. DIRECTORS' PANELS**

- 8.1 Directors' Disciplinary and Appeal Panels shall comprise three Directors not previously involved in the matter.
- 8.2 In the event that there are insufficient numbers of Directors available to participate in a Directors' Disciplinary or Appeal Panel, the CMAT may, in its absolute discretion, appoint associate members solely to participate in the appropriate Panel on the recommendation of the Diocesan Education Service.

## **9. COMPANION**

- 9.1 If you are the subject of disciplinary allegations leading to a meeting with the Investigation Manager, the Disciplinary Manager or the Appeal Manager, you may be accompanied at such interview or meeting by a Companion.
- 9.2 You must let the relevant Manager know who your Companion will be at least one working day before the relevant interview or meeting.
- 9.3 If you have any particular reasonable need, for example, because you have a disability, you can also be accompanied by a suitable helper.
- 9.4 Your Companion can address the relevant interview or meeting in order to:
- (a) put your case;
  - (b) sum up your case;
  - (c) respond on your behalf to any view expressed at the relevant interview or meeting;
- and

(d) ask questions on your behalf.

9.5 Your Companion can also confer with you during the relevant interview or meeting.

9.6 Your Companion has no right to:

- (a) answer questions on your behalf;
- (b) address the relevant interview or meeting if you do not wish it; or
- (c) prevent you from explaining your case.

9.7 Where you have identified your Companion and they have confirmed in writing to the relevant Manager that they cannot attend the date or time set for the relevant interview or meeting, the relevant Manager will not usually postpone the meeting for a period in excess of five working days from the date set by the CMAT to a date or time agreed with your Companion provided that it is reasonable in all the circumstances. Should your Companion subsequently be unable to attend the rearranged date, the meeting may be held in their absence or written representations will be accepted.

## **10. TIMING OF INTERVIEW MEETINGS**

10.1 The aim is that interviews and meetings under this Disciplinary Policy and procedure will be held at mutually convenient times but depending on the circumstances, interviews and meetings may:

- (a) need to be held when you were timetabled to teach (if that is appropriate to your role);
- (b) normally not be held during planning, preparation and administration time if this does not impact on lesson preparation (if that is appropriate to your role);
- (c) exceptionally be held after the end of the School/working day;
- (d) not be held on days on which you would not ordinarily work;
- (e) be extended by agreement between the parties if the time limits cannot be met for any justifiable reason.

10.2 Where an employee is persistently unable or unwilling to attend an interview or meeting without good cause the relevant manager will make a decision on the evidence available.

## **11. VENUE FOR INTERVIEWS OR MEETINGS**

11.1 If the allegations are sensitive the relevant Manager may hold the interview or meeting off the School or Central Offices site to minimise any distress to the employee.

11.2 Meetings may also be held virtually.

## 12. **TRADE UNION OFFICERS**

- 12.1 The CMAT notes and adopts the ACAS Code of Practice's statement "Where disciplinary action is being considered against an employee who is a trade union representative the normal disciplinary procedure should be followed. Depending on the circumstances, however, it is advisable to discuss the matter at an early stage with an official employed by the union, after obtaining the employee's agreement."

## 13. **REFERRALS**

- 13.1 Where a teacher is dismissed for serious misconduct (or may have been dismissed for serious misconduct if the teacher had not resigned) the CMAT must consider whether to refer the circumstances to the Department for Education and Teaching Regulation Agency.
- 13.2 Where a person working within the CMAT (whether a teacher or not) is dismissed or would have been dismissed if they had not resigned because that person committed conduct:
- (a) which endangered a child or was likely to endanger a child;
  - (b) which, if repeated against or in relation to a child, would endanger that child or would be likely to endanger him/her;
  - (c) involving sexual material relating to children (including possession of such material);
  - (d) involving sexually explicit images depicting violence against human beings (including possession of such images);
  - (e) of a sexual nature involving a child;

the CMAT must refer that person to the Disclosure & Barring Service ("DBS")

## 14. **MONITORING**

The policy will be monitored to ensure consistency of application and adherence to Equalities legislation.