Special Partnership Trust

DISCIPLINARY POLICY AND PROCEDURE

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1. Introduction

1.1 Every member of staff has a role to play in both achieving and sustaining the highest standards of conduct and performance. This Procedure is designed to ensure that employee's conduct meets the standards required of them and to ensure that employees are treated fairly and consistently and in line with relevant legislation. One of its primary aims is to encourage a permanent improvement in the employee's conduct.

1.2 The Trust will deal with disciplinary matters promptly, consistently, impartially and without unreasonable delay. The need to progress matters promptly will be balanced against the need for a sufficiently thorough and fair process.

1.3 Templates, resources and guidance to support designated officers responsible for managing each stage of the process are available in the HR folder on the Trust Admin Drive. This procedure should also be read alongside the Trust's Staff Code of Conduct, Safeguarding and Child Protection Policy, Managing Allegations and Low-Level Concerns procedures, Whistleblowing Policy, Grievance Procedure, Capability Procedure, Equality Policy, and Data Protection and Records Management policies.

2. Policy Statement

2.1 The Special Partnership Trust aims to ensure that in complying with both legal requirements, and acting as a reasonable employer, that a fair and equitable process will be adhered to in progressing disciplinary matters. In applying this procedure, the Trust will:

- Address disciplinary matters promptly and without unreasonable delay, while allowing sufficient time for a fair and thorough process.
- Prevent any disciplinary sanction from being imposed without a formal disciplinary hearing.
- Inform the staff member in writing of the allegations and possible consequences.
- Provide the employee with the relevant evidence in sufficient time to prepare.
- Give the employee a reasonable opportunity to respond and present relevant evidence.
- Separate the investigation and hearing roles wherever practicable.
- Base decisions on the balance of probabilities.
- Apply only reasonable and proportionate sanctions.

- Provide the employee with a right of appeal.
- Consider reasonable adjustments throughout.
- Avoid actual or apparent conflicts of interest.

3. Scope of Procedure

3.1 The procedure will be applied consistently and equitably in respect of the conduct of all employees of the Special Partnership Trust. This procedure is non-contractual and may be amended by the Trust following appropriate consultation. Nothing in the procedure removes any statutory, contractual or collectively agreed right applying to an employee.

3.2 For teaching staff, the Trust will act consistently with any applicable or incorporated provisions of the School Teachers' Pay and Conditions Document and the Burgundy Book. For support staff, the Trust will act consistently with any applicable or incorporated Green Book/NJC and locally agreed conditions. These documents do not replace the Trust's disciplinary procedure, but relevant contractual and collective rights will be observed.

3.3 The standards of conduct expected by the Trust also apply, as appropriate, to agency workers, contractors, volunteers, trainees and people undertaking work experience. Concerns relating to those individuals will be addressed under the terms of their engagement and any relevant safeguarding or contractual arrangements, rather than automatically under this employee disciplinary procedure.

3.4 Dismissals for any other reason, for example ill health, redundancy or non-renewal of a fixed term contract are dealt with by way of separate procedures. The procedure does not apply to the management of issues relating to capability alone (to whom a separate procedure applies).

3.5 Where a concern involves both conduct and capability, or it is unclear which procedure applies, the Trust will determine the most appropriate procedure after considering the substance of the concern and will explain the decision to the employee. The Trust may move between procedures where appropriate, provided the employee is informed and is not disadvantaged procedurally.

Although the procedure identifies the sanctions to be used its aims are to, wherever possible, facilitate an improvement in conduct.

3.6 Minor concerns should normally be addressed informally where appropriate, through measures such as advice, a management discussion, coaching, training, mediation, clarification of expectations or additional support. The employee must be told that informal action is not a formal disciplinary sanction.

3.7 A brief, factual management note may be retained in accordance with the Trust's records-retention arrangements. It will not be treated as an active disciplinary warning or used to bypass a formal stage. However, it may provide relevant context where it records that an employee was previously informed of a required standard. Informal action will not be appropriate where the allegation may amount to serious or gross misconduct, raise safeguarding concerns, involve alleged discrimination, victimisation, fraud or retaliation, or otherwise require formal investigation.

3.8 Line managers are responsible for applying this procedure. In the first instance, line managers should refer any questions or requests for procedural advice to their school's Administration, Business or Operations Manager, as applicable. The Administration, Business or Operations Manager may seek advice and support from the Trust HR Lead or nominated HR adviser where required. Investigatory, hearing, dismissal and appeal decisions must be taken by senior managers with the appropriate delegated authority under the school or Trust's Scheme of Delegation.

3.9 This procedure will be reviewed every three years by the Trust, or sooner where there is a significant statutory, legislative, regulatory or national terms and conditions update.

4. Standards of Behaviour

4.1 These standards are the minimum expected from every employee in order to achieve a safe, efficient, quality standard of service. These standards are not exhaustive but are indicative of those which, if not met, may lead to appropriate management or disciplinary action following consideration of the circumstances.

4.2 All staff are expected to achieve the following in relation to their conduct. The following examples should be read alongside the Trust's Staff Code of Conduct, professional standards, contractual requirements and safeguarding policies.

- behave in such a manner that the interests and wellbeing of the learner and other staff are respected at all times.

- complete mandatory training within the required timescales and maintain any qualifications, registrations or certifications required to undertake their role safely and effectively.

- behave in a co-operative and respectful manner with other staff and learners at all times.

- protect the privacy and confidentiality of any information gained by them from, or about, a learner or another member of staff.

- comply with the Trust's attendance, reporting and notification procedures. Deliberate failure to follow absence reporting requirements, misuse of sick leave arrangements or dishonesty in relation to absence may be treated as a conduct matter. Attendance levels arising from genuine sickness absence will normally be managed under the Trust's Absence Management Policy.

- comply with the Trust's dress code and appearance expectations where these have been clearly communicated, are reasonable, non-discriminatory and appropriate to the employee's role and working environment.

- comply with the Trust's information security, ICT acceptable use and data protection requirements, including the secure handling of confidential information, appropriate use of Trust systems and devices, and reporting any actual or suspected data security breaches.

- maintain appropriate professional boundaries with pupils, families, colleagues and other members of the Trust community at all times and comply with the Trust's safeguarding, child protection, staff conduct and low-level concerns procedures.

- treat others with dignity, courtesy and respect and must not engage in discrimination, harassment, victimisation, bullying or conduct that could undermine an inclusive working and learning environment.

- use social media and other online platforms responsibly and in accordance with the Trust's policies. Conduct outside work, including online activity, may be considered under this procedure where it impacts on professional relationships, safeguarding responsibilities, the reputation of the Trust, or an employee's suitability to perform their role.

- comply with Trust policies, procedures and lawful and reasonable management instructions relevant to their role.

The standards set out above are illustrative rather than exhaustive. Failure to meet these standards may result in informal management action or formal disciplinary action, depending on the circumstances and seriousness of the matter.

5. Procedure

The formal process normally follows these stages: initial assessment; consideration of immediate safeguarding or operational measures; investigation; decision on whether there is a case to answer; invitation to a disciplinary hearing; disciplinary hearing; written outcome; and, where requested, appeal. Some stages may not be required in every case, and the Trust may adapt the process where this is reasonable and fair.

Before deciding whether formal disciplinary action is appropriate, the Trust will undertake a proportionate initial assessment or investigation to establish the relevant facts. The nature and extent of the investigation will depend on the seriousness and complexity of the allegations. Minor matters where the essential facts are agreed may require only limited enquiries, but the employee will still have an opportunity to respond before any formal action is considered.

5.1 The initial assessment is not intended to determine whether misconduct has occurred. Its purpose is to identify the appropriate procedure, any immediate safeguarding or operational measures, the evidence that must be preserved, potential conflicts of interest, reasonable adjustments and whether external advice or referral is required. It should also determine whether the matter can reasonably be addressed informally or requires a formal investigation.

5.2 In more serious cases, including gross misconduct, it may be necessary to undertake a separate investigation and interviews to decide whether or not to proceed with a disciplinary meeting.

The following procedural safeguards apply throughout the formal process and should be considered when arranging investigation meetings, disciplinary hearings and appeals.

5.3 <u>Rights to be accompanied</u>

Employees may be assisted and accompanied at a formal disciplinary hearing and appeal by:

- a fellow worker;
- a trade union official employed by a trade union; or
- a trade union representative certified by the union as competent to act.

5.3.1 The companion may address the hearing, put and sum up the employee's case, respond on the employee's behalf to views expressed during the hearing, take notes and confer privately with the employee. The companion may not answer questions directed to the employee, prevent the employee from answering, obstruct the hearing or prevent another person from contributing.

5.3.2 There is no general statutory right to be accompanied at an investigatory meeting. However, the Trust will consider allowing a workplace colleague, trade union representative or another support person where this is a reasonable adjustment, is provided for by a local agreement or would otherwise support a fair process.

5.3.3 Where disciplinary action is contemplated against an accredited trade union representative, the Trust will, after obtaining the employee's agreement, discuss the circumstances with an employed union official or other appropriate senior union representative before formal action is taken. This does not prevent urgent neutral safeguarding or protective measures.

5.3.4 Legal representation is not ordinarily permitted at internal meetings. The Trust will consider an exceptional request where legal representation is required by law, contract, fairness or as a reasonable adjustment, having regard to the nature and potential consequences of the proceedings.

5.3.5 If the employee's chosen companion is unavailable, the employee may propose a reasonable alternative date within five working days of the original hearing date. The Trust will also consider a longer postponement where this is reasonable in the circumstances, including where required for fairness or as a reasonable adjustment.

5.4 Minute taking and transcription

5.4.1 A designated minute taker will attend formal investigation meetings, disciplinary hearings and appeal hearings to prepare an accurate written record of the meeting. With the knowledge of those attending, the investigating

officer, disciplinary officer or appeal officer may also use an electronic transcription facility to support the preparation and quality assurance of the written minutes. Electronic transcription does not replace the designated minute taker, and the written minutes will remain the official record of the meeting.

5.4.2 Before electronic transcription begins, attendees will be informed:

- that electronic transcription will be used and its purpose;
- who will be permitted to access the transcript;
- that the transcript is an administrative aid and will not routinely be circulated;
- how the transcript will be stored and when it will be deleted; and
- that the written minutes prepared by the minute taker will remain the official record.

5.4.3 Electronic transcripts will be handled securely, accessed only by those responsible for preparing or checking the minutes, and retained only for as long as reasonably necessary for that purpose, in accordance with the Trust's Data Protection and Records Management policies.

5.4.4 The employee will be provided with a copy of the written minutes and may identify any material inaccuracies or omissions.

5.4.5 Participants must not make their own audio, video or electronic recording or transcription of the meeting unless all participants have agreed in advance, subject to any reasonable adjustment required by law.

5.5 Reasonable Adjustments

The Trust will consider and make reasonable adjustments, where required, to enable an employee to participate fully in any investigation meeting, disciplinary hearing or appeal. Adjustments may include providing information in an accessible format, allowing additional preparation time or rest breaks, arranging communication support or an interpreter, holding the meeting remotely or at an appropriate venue, or permitting an additional support person where reasonable and appropriate. Employees should raise any adjustment requirements as soon as reasonably practicable, although a failure to do so will not prevent the Trust from considering adjustments at a later stage.

5.6 Suspension

5.6.1 Suspension will not be automatic and will be used only where it is a reasonable and necessary precaution. Before suspending, the Trust will consider the risks and whether a less restrictive temporary measure could adequately address them.

5.6.2 Alternatives may include temporary redeployment, amended duties, additional supervision, adjusted reporting lines, restricted access to particular systems or locations, home working or another appropriate temporary arrangement.

5.6.3 Where an allegation may meet the relevant safeguarding threshold, it must be referred immediately under the Trust's Managing Allegations procedure. The appropriate safeguarding lead will consult the Local Authority Designated Officer (LADO) where required. Any decision to suspend remains an employment decision and will take account of safeguarding advice, risk, alternatives and the individual circumstances.

5.6.4 Suspension will normally be on full contractual pay and the employee will remain employed and bound by their contract, except for those duties expressly varied by the suspension arrangements.

5.6.5 Suspension will be for the shortest period reasonably necessary and will be reviewed regularly by a named manager. The reasons, terms, review arrangements and point of contact will be confirmed in writing. The employee will be informed when suspension is lifted, varied or continued and, where it continues, the reasons for this.

5.6.6 Any restriction on contact with colleagues or attendance at Trust premises must be necessary and proportionate. It will not prevent the employee from contacting their trade union representative, companion, medical or legal adviser, an appropriate whistleblowing recipient, safeguarding authority or regulator.

6. Criminal and Regulatory Matters

6.1 An employee must notify the appropriate person in writing as soon as reasonably practicable if they are arrested, charged, cautioned, convicted or questioned about an alleged offence that may be relevant to their employment, safeguarding responsibilities, professional suitability or ability to perform their role.

6.2 School-based employees should notify their Headteacher, and central team employees should notify the Trust HR team or Chief Executive Officer. A matter concerning a member of the Trust HR team should be reported to the Chief Executive Officer; a matter concerning the Chief Executive Officer should be reported to the Chair of Trustees.

6.3 Employees who drive for work must also report any offence, disqualification or restriction that may affect their duties. Failure to make a required disclosure may be considered under this procedure; any action will reflect the nature of the matter and its relevance to the role.

6.4 On receiving a notification, the Trust will assess any immediate safeguarding, regulatory or operational implications and decide whether interim measures, an external referral or action under this procedure are required. Subject to any lawful restriction on disclosure, the employee will be informed of the process.

6.5 An arrest, investigation, charge, caution or conviction will not, by itself, be treated as evidence of misconduct. The Trust will consider whether the alleged conduct has a sufficient connection with the employee's role, safeguarding responsibilities, legal or regulatory requirements, suitability, relationships of trust or ability to perform their duties.

6.6 The Trust will decide case by case whether it is fair to proceed with, pause or limit its investigation, taking account of advice from the police, LADO, a professional regulator or another external agency and avoiding prejudice to any external investigation.

6.7 Where an employee has been advised not to answer questions, the Trust will consider alternative ways of conducting a fair process. It will not automatically treat the employee's silence as evidence that the allegation is true.

7. Confidentiality

7.1 The Trust's aim is to deal with disciplinary matters sensitively and with due respect for the privacy of any individuals involved. All employees must treat as confidential any information communicated to them in connection with an investigation or disciplinary matter.

7.2 Nothing in this section prevents an employee from seeking confidential advice, obtaining trade union representation, making a protected disclosure,

reporting a crime or safeguarding concern, co-operating with an external regulator or exercising a legal right.

7.3 Witness anonymity will be exceptional. Before withholding identity, the Trust will balance the witness's reasons and safety against the employee's right to understand and answer the case. Where identity is withheld, the Trust will provide as much detail as is reasonably possible and will consider carefully the reliability, weight and corroboration of the evidence.

8. Investigation

8.1 It is important that an investigation of the facts of the case is undertaken before any disciplinary action is taken and the purpose of an investigation is to establish a fair and balanced view of the facts before deciding whether to proceed with a disciplinary hearing. The investigator will pursue reasonable lines of enquiry that support and undermine the allegation. The investigation is not intended to build a case against the employee.

8.2 Every attempt will be made to conclude an investigation as quickly as is reasonably possible - particularly in the case of an individual who is suspended whilst the investigation is carried out - although the need for thorough consideration of all the relevant facts is paramount.

8.3 The Trust will consider reasonable adjustments, health issues, language or communication needs, safeguarding restrictions and legitimate concerns about self-incrimination or external proceedings when making investigation arrangements.

8.4 Accompaniment and support at investigatory meetings will be considered in accordance with clause 5.3.2.

8.5 Employees must co-operate fully and promptly in any investigation. This will include informing the Trust of the names of any relevant witnesses, disclosing any relevant documents and attending investigative interviews if required.

8.6 Witness accounts should normally be provided to the witness for checking. The witness should be invited to confirm that the account is accurate, either by signing it or by written electronic confirmation. If the witness does not confirm the account, this will be recorded and considered when assessing evidential weight.

8.7 The investigating officer will prepare a factual report setting out the evidence obtained, relevant evidence that supports and undermines each allegation, and any material gaps or limitations. The report will recommend whether there is no further action to take, whether informal management action or another procedure should be considered, or whether there is sufficient evidence for referral to a formal disciplinary hearing. The investigating officer will not decide whether misconduct is proven or determine any disciplinary sanction.

8.8 The employee will receive the investigation report and relevant evidence in sufficient time to prepare for the hearing. Information may be redacted or withheld only where there is a lawful and compelling reason, such as safeguarding, confidentiality, legal privilege, protection of third-party personal data or serious risk to a witness. Any non-disclosure must not prevent the employee from understanding and answering the substance of the case.

8.9 Where consideration is being given to withholding a witness's identity, the provisions set out at clause 7.3 will apply.

9. Grievances raised during investigation or disciplinary proceedings

9.1 Where an employee raises a grievance during an investigation or disciplinary process, the Trust will consider whether the grievance and disciplinary matters are related.

Depending on the circumstances, the Trust may:

- temporarily pause the disciplinary process so that the grievance can be considered;
- consider the grievance and disciplinary matters concurrently;
- address the grievance as part of the disciplinary process where the issues are directly related; or
- continue with the disciplinary process while the grievance is dealt with separately.

9.2 A grievance will not automatically suspend disciplinary proceedings. The decision on how the matters will be managed will take account of fairness, the nature and seriousness of the concerns, any alleged conflict of interest, safeguarding or operational risks and the need to avoid unreasonable delay. The employee will be informed of the decision and the reasons for it.

9.3 Where the grievance alleges discrimination, victimisation, retaliation, procedural unfairness or bias by a person involved in the disciplinary process, the Trust will ensure that the concern is considered by an appropriately impartial person.

10. Disciplinary Action

10.1 The procedure is designed to be a series of progressive warnings to employees and to incorporate at each stage the opportunity to improve conduct.

- First Written Warning
- Final Written Warning
- Dismissal

10.2 It is not necessary to progress through every stage in sequence. A final written warning may be appropriate for a first instance of sufficiently serious misconduct. Gross misconduct may result in summary dismissal following a fair investigation and hearing. The level of sanction will depend on the seriousness and circumstances of the case.

10.3 Managers may, in certain circumstances, wish to consider supplementary action/redeployment.

10.4 If the investigation suggests there is a case to answer, the employee will be invited to a disciplinary hearing and will be sent:

- sufficiently detailed allegations;
- dates or examples where reasonably available;
- the investigation report;
- evidence and relevant witness statements;
- the identity of the hearing chair or panel;
- the possible outcomes;
- explicit wording if dismissal may be considered;
- companion rights;
- details of how the employee may request reasonable adjustments or other support to participate in the hearing;
- the employee's deadline for submitting evidence and witnesses.

10.5 Where dismissal is a possible outcome, this will be stated expressly in the invitation letter.

10.6 Names of witnesses to be called on behalf of the employee, and any documentation to be referred to at the meeting, should wherever possible be supplied to management at least 5 days prior to the date of the meeting. Evidence or witness requests submitted after the stated deadline will be considered fairly. The hearing may be adjourned where additional time is necessary to allow the other party to consider new material.

10.7 Attempts to find a date and time for the disciplinary meeting which is convenient for all parties will be made. If the date for the meeting turns out to be inconvenient then the employee or the employee's representative should notify the person who issued the invitation letter as soon as possible, explaining the reason and, where appropriate, proposing alternative dates.

10.8 Employees are expected to make reasonable efforts to attend. If the employee or companion cannot attend, the Trust will consider the reasons, any medical evidence, reasonable adjustments and alternative arrangements.

10.9 Ill health and participation in proceedings

10.9.1 Where an employee is unable to attend or participate fully because of ill health, the Trust will consider the individual circumstances, including any relevant medical evidence, Occupational Health advice and reasonable adjustments. The Trust may consider a reasonable postponement, remote attendance, a different venue, shorter meetings, additional breaks, written representations or attendance through or with the employee's companion.

10.9.2 Ill health will not automatically prevent the procedure from progressing, and proceedings will not be delayed indefinitely. Before deciding to proceed in the employee's absence, the Trust will consider the seriousness of the matter, the reason for and likely duration of the employee's absence, any medical advice, previous postponements, the employee's ability to provide written representations, available adjustments and whether it would be fair and reasonable to proceed.

10.9.3 If an employee fails to attend a disciplinary meeting or is persistently unable to attend, the Trust may proceed in their absence where it is reasonable and fair to do so. Any such decision will be made after considering the matters set out in this clause. The employee will be informed in advance that the hearing may proceed and will be given a reasonable opportunity to provide written representations and supporting evidence.

10.9.4 Before proceeding in absence, the chair should consider:

- reasons for non-attendance;
- medical evidence;
- disability and adjustments;
- whether the hearing has previously been postponed;
- seriousness of the allegations;
- written representations;
- remote attendance;
- representation by the companion;
- fairness of proceeding.

10.9.5 Where the statutory referral criteria are met, the Trust will make a referral to the Disclosure and Barring Service or other appropriate regulatory body within the applicable legal timescale. Referral will not be delayed solely because an internal appeal remains outstanding. The Trust may also be required to refer relevant matters to the Teaching Regulation Agency, police, local authority or another professional regulator.

11. Disciplinary Hearing

11.1 At the disciplinary hearing, the employee may be accompanied in accordance with the Rights to be accompanied provisions in section 5. The employee should give the Trust the name of their chosen companion as soon as reasonably practicable.

11.2 Any concern about the impartiality of the chair or panel should be raised promptly and will be considered before the hearing where practicable.

11.3 The purpose of the meeting is to give the employee the opportunity to present their version of events and any points the employee would like the disciplinary panel/disciplining manager to take into account, including mitigating factors.

11.4 The hearing will be chaired by a senior manager or an appropriately constituted panel with the delegated authority to determine the allegations and impose any disciplinary outcome that may arise under the school or Trust's Scheme of Delegation.

11.5 The Investigating Officer may attend to present the management case, explain the investigation undertaken and answer questions about the evidence. The Investigating Officer will not advise the chair or panel on whether the allegations are substantiated or what disciplinary outcome should be imposed.

11.6 A member of the Trust HR team or nominated HR adviser may also attend to provide impartial advice on the procedure, employment law, consistency and the range of reasonable outcomes available. The HR adviser will not determine the facts, decide whether the allegations are substantiated or make the disciplinary decision, which remains the responsibility of the chair or panel.

11.7 The chair or panel will reach its own independent findings and decision based on the evidence considered at the hearing.

11.8 At the disciplinary hearing, the allegations against the employee and the evidence gathered during the investigation will be presented. The employee will be given a reasonable opportunity to respond, ask relevant questions, present their own evidence and raise any mitigating circumstances.

11.9 The employee and individual(s) presenting the evidence may ask relevant questions of witnesses. The chair may require questions to be put through the chair where direct questioning would be inappropriate, including in sensitive safeguarding, bullying or harassment cases. The chair may refuse questions that are irrelevant, repetitive, abusive or likely to cause unnecessary harm, but must ensure that each party has a fair opportunity to test and comment on material evidence.

11.10 The Trust may adjourn the disciplinary hearing if it needs to carry out any further investigations such as re-interviewing witnesses in the light of any new points the employee has raised at the hearing. The employee will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.

11.11 The outcome will be confirmed in writing without unreasonable delay, normally within five working days of the hearing. Where this is not possible, the employee will be informed of the reason and the anticipated next step.

12. Disciplinary Outcomes

12.1 The employee will be told how long the warning will remain active. Once the active period expires, the warning will normally be disregarded when deciding any future disciplinary sanction. Records will be retained only for as long as necessary in accordance with the Trust's records-retention schedule and data protection obligations. Different retention arrangements may apply to safeguarding or regulatory records.

12.2 The live period will be specified when the warning is issued and will not normally be extended retrospectively. An appropriately longer period may be imposed at the outset where objectively justified by the circumstances and explained in the outcome letter. Warnings will not be indefinite.

12.3 Warnings will generally remain “live” on an employee's record for the following periods of time:

- First written warning – 6 months
- Final written warning – 12 months

These are normal periods. The chair may set a different reasonable period where objectively justified, provided the reasons are stated in the outcome letter.

12.4 The outcome of the hearing will be recorded in a letter on the employee's personnel file. The letter will detail:

- findings on each allegation;
- reasons;
- sanction;
- live period;
- required standards;
- support or training;
- review arrangements;
- consequences of further misconduct;
- appeal recipient, deadline and process;
- effective termination date and notice arrangements if dismissed.

A copy should only be sent to the representative with the employee’s consent.

- **Stage 1: first written warning**. A first written warning will usually be appropriate for a first act of misconduct where there are no other active written warnings on the employee’s disciplinary record.

- **Stage 2: final written warning**: A final written warning will usually be appropriate for:

(a) misconduct where there is already an active written warning on the employee’s record; or

(b) misconduct that the Trust consider sufficiently serious to warrant a final written warning even though there are no other active warnings on the employee's record.

- **Stage 3: dismissal**: Dismissal will usually only be appropriate for:

a) further misconduct occurs while a relevant final written warning is active;
b) misconduct is sufficiently serious to justify dismissal with notice; or
c) gross misconduct is established and summary dismissal is reasonable in all the circumstances.

Summary dismissal means dismissal without notice or payment in lieu of notice. Any accrued salary, holiday pay and other sums properly due will remain payable.

12.5 Gross Misconduct

12.5.1 Gross misconduct is conduct so serious that it fundamentally destroys the relationship of trust and confidence and may justify dismissal without notice. A breach of a Trust policy will not automatically amount to gross misconduct. The assessment will depend on all the circumstances, including the employee's role, intent, actual or potential impact, safeguarding responsibilities and mitigation.

12.5.2 Legitimate trade union activity, raising a protected disclosure, reporting a safeguarding concern or approaching an appropriate regulator will not constitute misconduct.

12.5.3 The following examples are illustrative and not exhaustive. Depending on the circumstances, the Trust may regard the following as gross misconduct:

- Any serious safeguarding breach, including conduct that places a pupil at risk of harm or creates a risk of harm to a child or vulnerable learner.
- Abuse of trust, inappropriate professional boundaries, grooming behaviour, or an inappropriate relationship with a pupil, former pupil or vulnerable learner.
- Physical assault, threatening behaviour, violence or serious intimidation towards pupils, parents, carers, colleagues or other members of the Trust community.
- Serious bullying, harassment, victimisation or discrimination, including conduct relating to disability, race, religion or belief, sex, sexual orientation, gender reassignment, pregnancy or maternity.
- Deliberate neglect of a learner's care, support or supervision needs where this places the learner or others at significant risk.

- Serious breaches of a pupil's education, health and care arrangements, medication procedures, intimate care procedures or behaviour support arrangements where harm or significant risk of harm results.
- Serious breach of the Staff Code of Conduct, safeguarding procedures or Keeping Children Safe in Education requirements.
- Theft, fraud, financial irregularity, deliberate falsification of records or misuse of Trust funds or resources.
- Deliberate falsification of pupil records, attendance records, safeguarding records, examination or assessment records, employment records or any official Trust documentation.
- Serious breaches of confidentiality, data protection legislation or information security requirements, including unauthorised access to, or disclosure of, sensitive pupil, staff or Trust information.
- Serious misuse of Trust ICT systems, including accessing, storing, creating or distributing inappropriate, offensive or unlawful material.
- Being under the influence of alcohol or illegal drugs at work where this affects the employee's ability to carry out their duties safely or appropriately.
- Possession, use, supply or distribution of illegal drugs on Trust premises or whilst undertaking Trust business.
- Serious or deliberate breaches of health and safety requirements which place individuals at significant risk of injury or harm.
- Serious negligence, recklessness or deliberate acts or omissions resulting in, or having the potential to result in, significant harm to a pupil, visitor, colleague or member of the public.
- Serious insubordination, including deliberate refusal to comply with a lawful and reasonable management instruction.
- Deliberate damage to Trust property or misuse of Trust equipment.
- Conduct, whether inside or outside work, which fundamentally undermines the employee's suitability to work with children or vulnerable learners, brings the Trust into serious disrepute, or irreparably damages the relationship of trust and confidence.
- Retaliation against an individual who has raised a safeguarding concern, whistleblowing disclosure, complaint or allegation.

12.5.4 As an alternative to dismissal, the Trust may consider redeployment, transfer or demotion where:

  - there is a clear contractual power to impose the alternative; or
  - the employee agrees to the contractual change following appropriate consultation.

12.5.5 Any alternative to dismissal will normally be accompanied by a final written warning and will carry a right of appeal. The Trust will not impose a financial penalty, unpaid suspension, reduction in contractual pay or loss of accrued seniority unless there is clear lawful and contractual authority to do so.

13. Appeals

13.1. Requesting an Appeal Meeting

Where a disciplinary warning has been issued, supplementary action has been taken, or an employee has been dismissed, the employee will have an entitlement to appeal against the decision. The member of staff must request such an appeal, in writing, stating the grounds of the appeal, to the Headteacher within 5 days of notification of the disciplinary action. A late appeal will be considered where there is a reasonable explanation, the employee was unable to comply because of ill health or disability, or accepting the appeal is otherwise necessary in the interests of fairness.

13.2. Grounds of Appeal

An appeal may be made on one or more of the following grounds:

- the disciplinary procedure was not followed fairly or correctly, and this may have affected the outcome;
- the findings were not reasonable in light of the evidence available;
- relevant evidence was not considered, or new evidence has become available that could not reasonably have been provided at the original hearing;
- the disciplinary sanction was unreasonable or disproportionate in the circumstances;
- the outcome was inconsistent with the treatment of comparable cases, without reasonable justification;
- there was a conflict of interest, bias or a reasonable concern about the impartiality of the process or decision-maker;
- relevant mitigating circumstances were not given sufficient consideration;
- there was unlawful discrimination, victimisation or a failure to make reasonable adjustments; or
- there was another material concern that may have affected the fairness or reasonableness of the decision.

The employee should explain their grounds of appeal and the outcome they are seeking. The employee is not required to use legal terminology when submitting an appeal.

13.3. The appeal hearing may be a complete re-hearing of the matter 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. The form of the appeal will be determined by its grounds and what is required for a fair consideration of the case.

13.4. The appeal will be heard by a manager or panel who has not previously been involved and who has sufficient delegated authority. Wherever practicable, the appeal decision-maker will be more senior than the original chair. Where internal independence is not reasonably available, the Trust may obtain external support.

13.5. If the employee is appealing against dismissal, the date on which dismissal takes effect will not be delayed pending the outcome of the appeal. If the appeal overturns the dismissal, the employee will normally be reinstated with continuity of service and back pay, subject to the appeal decision.

13.6. If the employee raises any new matters in the appeal, the Trust may need to carry out further investigation. If any new information comes to light the Trust will provide 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, and they or their companion may comment on any new evidence arising during the appeal before any decision is taken.

13.7. The Trust will give reasonable written notice of the appeal hearing, normally at least five working days, together with the relevant papers.

13.8. Accompaniment and support at appeal meetings will be considered in accordance with clause 5.3.2.

13.9. The Trust may adjourn the appeal hearing if it needs to carry out any further investigations in the light of any new points the employee has raised at the hearing. The employee will be given a reasonable opportunity to consider any new information obtained before the hearing is reconvened.

13.10. The appeal may confirm, revoke or reduce the sanction, substitute another reasonable outcome, direct further investigation or require a

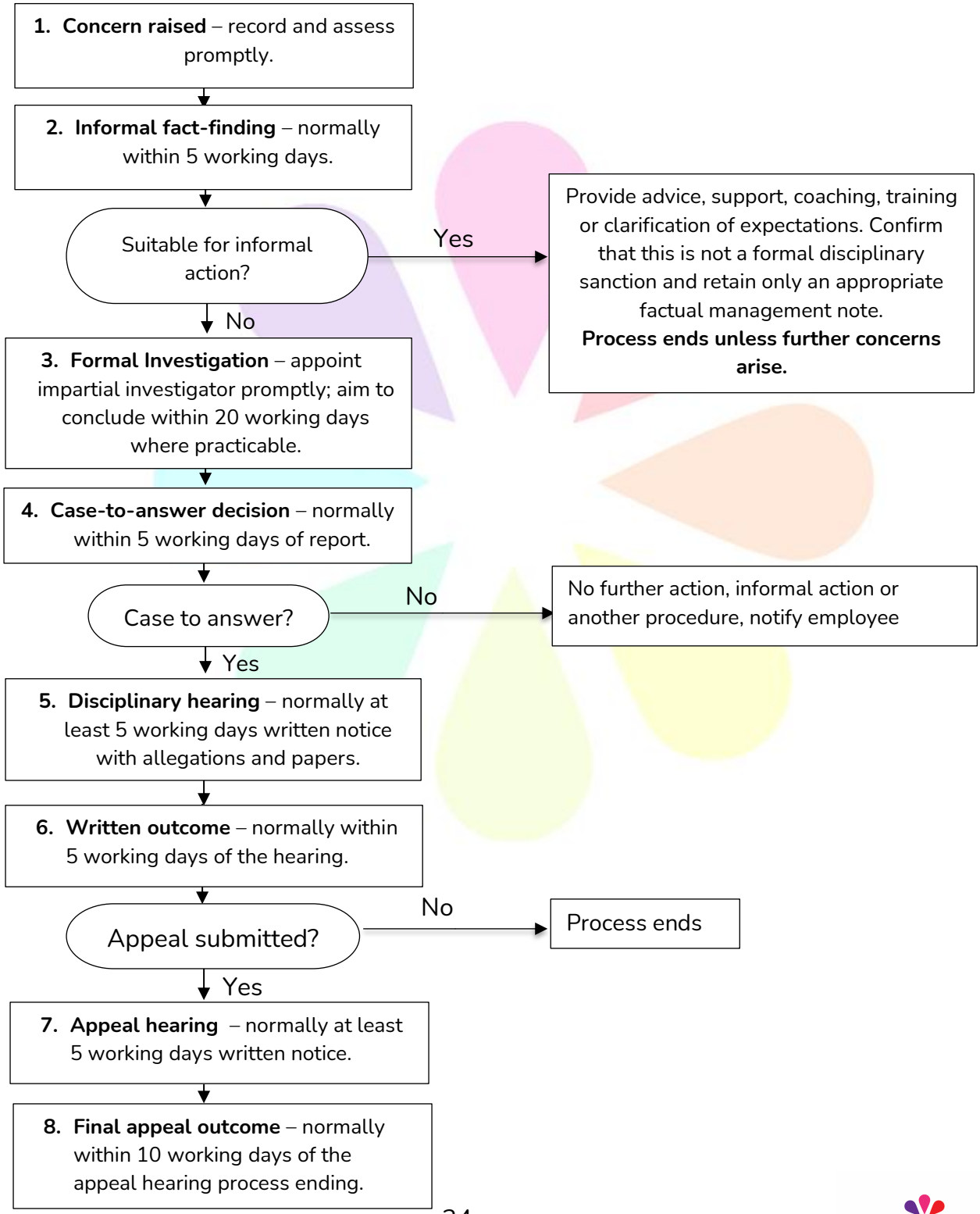
rehearing. The sanction will not normally be increased. If an increased sanction is exceptionally contemplated, the employee must be warned in advance, allowed to respond and given a further right of appeal against the increased outcome to an impartial decision-maker.

13.11. The outcome of the appeal will be confirmed to the employee in writing without unreasonable delay, normally within ten working days of the appeal hearing. The outcome letter will set out the appeal decision, the reasons for that decision and any resulting action. Where it is not possible to provide the outcome within this timeframe, the employee will be informed of the reason for the delay.

13.12. The appeal decision will be final and there will be no further right of appeal under this procedure. This does not affect the employee's right to exercise any external statutory right available to them.

Appendix 1: Disciplinary Process Flowchart and Indicative Timescales

The timescales below are indicative. The Trust will act without unreasonable delay but may adapt them where this is necessary for a fair and thorough process, reasonable adjustments, safeguarding requirements, witness availability or police, LADO or regulatory enquiries. The employee will be kept informed of material delays.



Indicative process timescales		
Stage	**Indicative timescale**	**Key action or outcome**
Concern and informal fact-finding	Promptly; normally within 5 working days	Record the concern, assess risk and decide whether informal action is suitable.
Formal investigation	Aim to conclude within 20 working days where practicable	Appoint an impartial investigator, gather relevant evidence and prepare a factual report.
Case-to-answer decision	Normally within 5 working days of the report	Decide whether there is no further action, informal action, another procedure or referral to a hearing.
Disciplinary hearing	Normally at least 5 working days' written notice	Provide the allegations and papers; hear the evidence and the employee's response.
Written outcome	Normally within 5 working days of the hearing	Confirm findings, reasons, outcome and right of appeal.
Appeal request	Normally within 5 working days of receiving the written outcome	Employee submits the grounds of appeal in writing.
Appeal hearing	Normally at least 5 working days' written notice	An impartial manager or panel reviews or rehearses the case, as appropriate.
Final appeal outcome	Normally within 10 working days of the appeal hearing	Confirm the final decision and reasons in writing.

Appendix 3: Employee Wellbeing Resources and Sources of Support

The Trust is committed to creating a supportive working environment in which colleagues are treated with dignity, respect and fairness throughout formal HR processes. A wide range of practical, emotional and wellbeing support is available, and employees are encouraged to access the options that will help them feel informed, supported and able to participate fully at any stage. Seeking support will not affect the fair and impartial consideration of the matter.

Support within the Trust

- **Line manager or named contact:** employees may discuss practical support, communication arrangements and any concerns about participation.
- **Trust HR:** employees may request guidance on the process, policy, their rights and available support by emailing hr@specialpartnership.org. HR cannot act as the employee's advocate.
- **Trade union or workplace colleague:** employees are encouraged to seek advice and may be accompanied at formal meetings in accordance with this procedure.
- **Occupational Health (Medigold Health):** a referral may be requested through the employee's line manager or HR where wellbeing or health is being affected. Occupational Health can advise on health-related support and workplace adjustments.
- **Reasonable adjustments:** employees should tell HR or their manager if adjustments would help them participate. Depending on individual need, these may include additional breaks, remote attendance, adjusted meeting times, a support person or written questions in advance.

Trust wellbeing services

- **Employee Assistance Programme (EAP):** free and confidential support, available 24 hours a day, 365 days a year. Call 0800 028 0199. Access the Wisdom AI app using organisation code **RGER**; Wisdom Online uses the published client code.
- **SimplyHealth:** available to all SPT employees and includes mental-health support.
- **Thrive Mental Wellbeing app:** provided through Medigold Occupational Health. It includes tools for stress, anxiety and low mood; guided relaxation and breathing; mood tracking and journalling; CBT-based activities; sleep support; and access to talking therapy. Use access code **A94N7** through the Medigold Protect employee dashboard.

External support and wellbeing resources

- **Education Support:** specialist support for education staff experiencing stress, anxiety, workload or workplace challenges. Call 08000 562 561 or visit Education Support's helpline.

- **Mind:** mental-health information and support. Call 0300 123 3393 or visit Mind's helplines.
- **Samaritans:** confidential emotional support, available 24 hours a day. Call 116 123 free or visit Samaritans.
- **ACAS:** independent guidance on workplace rights and processes. Visit www.acas.org.uk.
- **Hub of Hope:** a searchable directory of local and national mental-health support. Employees can enter their postcode and select relevant needs, such as anxiety or bereavement, to identify suitable services. Visit www.hubofhope.co.uk.
- **NHS support:** employees may contact their GP and can access NHS information, self-help resources and NHS Talking Therapies through Every Mind Matters.

Urgent or emergency support

For urgent mental-health help, use NHS 111 online or call 111 and select the mental-health option. If there is an immediate risk to life, or a person cannot keep themselves or someone else safe, call 999 or go to A&E. Further guidance is available from NHS urgent mental-health support.