

Common Principles and Practices

The following principles / practices apply to all policies:

Appeals against dismissal decisions: The employee has a right of appeal against a decision to dismiss. The procedure is as follows:

- Appeals against dismissal should be made in writing to the Clerk to the Local Governing Body (or Clerk to the Board of Trustees for appeals against dismissal of a Headteacher or Executive Headteacher) within 10 working days of the receipt of the written decision, and must include the grounds for appeal, including any specific constraints relevant to the policy under which the appeal is brought.
- An appeal against a dismissal decision does not require the reinstatement of the employee pending the appeal.
- The appeal hearing will be held as soon as possible after receipt of the appeal, normally within 15 working days of the receipt of the appeal. The employee will be given at least ten working days' notice of the appeal hearing time, date and venue.
- Any written evidence from either party must be submitted at least five working days before the appeal hearing.
- The purpose of the appeal hearing is to review the grounds for appeal and any new evidence; it is not a re-hearing of the original case.
- The appeal will be heard by an Appeals Panel of Governors / Trustees with no prior involvement in the case. The number of Governors / Trustees on the Appeals Panel will not be less than three.
- The Panel shall be advised by a HR Advisor.
- Where an employee does not attend, written submissions provided in advance by the employee (or by phone if approved by the Chair), or made by their representative at the meeting will be considered. If the employee does not attend without prior notification, the meeting may either proceed in their absence or be postponed, taking into account any known facts. If the meeting is postponed the person chairing the meeting will advise the employee that if the reconvened meeting will proceed in their absence if they do not attend.

The meeting will usually proceed in the following order, unless otherwise confirmed in writing prior to the meeting:

- - The employee or their representative will present their case relating to the permitted grounds for appeal.
 - Where witnesses are required, the employee or their representative will call each witness in turn so that:

- The employee or their representative asks the witness questions;
- The Academy Trust's representative has the opportunity to question the witness;
- The employee or their representative may ask the witness further questions of clarification;
- The Appeal Panel conducting the hearing has the opportunity to question the witness.
 - Each witness withdraws after giving evidence.
 - The Academy Trust's representative may question the employee or their representative;
 - The Academy Trust's representative states the Academy Trust's defence of the original decision;
 - Where witnesses are required, the Academy Trust's representative will call each witness in turn so that:
- The Academy Trust's representative asks the witness questions;
- The employee or their representative has the opportunity to question the witness;
- The Academy Trust's representative may ask the witness further questions of clarification;
- The Appeal Panel conducting the hearing has the opportunity to question the witness.
 - Each witness withdraws after giving evidence;
 - The employee or their representative may question the Academy Trust's representative;
 - The Appeal Panel conducting the hearing ask any questions or clarifications of either the Academy Trust's representative or the employee or their representative at any point during the hearing.
 - The Academy Trust's representative and employee or their representative (in that order) shall have the opportunity to sum up their case if they so wish;
 - Both parties then withdraw;
 - The Appeal Panel conducting the hearing, together with the HR advisor, is to deliberate in private, only recalling the parties to clarify points of uncertainty on evidence already given. If recall is necessary both parties are to return, notwithstanding that only one may be concerned with the point under clarification. The HR advisor shall provide technical and

procedural advice and shall not vote on the matter.

- The Appeal Panel conducting the hearing is to announce the decision to both parties at the close of the proceedings whenever possible. The decision will be confirmed in writing within five working days.
- The Appeal Panel may decide, subject to the content of the specific policy under which the appeal is being heard, to uphold the dismissal, or to issue a warning or a final warning rather than dismiss, and may decide that any warning may last for a specified period longer than the original twelve months of any previous final warning, if appropriate.
- In the event that the Appeal Panel decides not to uphold decision to dismiss, the notice of dismissal shall be immediately withdrawn or the employee will be reinstated, on terms agreed by the panel, if the dismissal has already taken effect.
- There is no further right of appeal within the Academy Trust against a decision of the
- Appeal Panel.
- **Appeals against formal warning decisions:** The employee has a right of appeal against a written warning. The procedure is as follows:
 - Appeals against formal warnings should be made in writing to the Clerk to the Local Governing Body (or Clerk to the Board of Trustees for appeals by a Headteacher or Executive Headteacher) within 10 working days of the receipt of the written decision, and must include the grounds for appeal, including any specific constraints relevant to the policy under which the appeal is brought.
 - The appeal hearing will be held as soon as possible after receipt of the appeal, normally within 15 working days of the receipt of the appeal. The employee will be given at least ten working days' notice of the appeal hearing time, date and venue.
 - Any written evidence from either party must be submitted at least five working days before the appeal hearing.
 - The purpose of the appeal hearing is to review the grounds for appeal and any new evidence; it is not a re-hearing of the original case.
 - The appeal will be heard by:
 - A Headteacher, for a formal warning issued by a Deputy Headteacher;
 - The Executive Headteacher, for a formal warning issued by a Headteacher;
 - An Appeals Panel of Governors / Trustees (usually consisting of three Governors/ Trustees) for a formal warning issued by the Executive Headteacher.
- The Panel shall be advised by a HR Advisor.

- Where an employee does not attend, written submissions provided in advance by the employee (or by phone if approved by the Chair), or made by their representative at the meeting will be considered. If the employee does not attend without prior notification, the meeting may either proceed in their absence or be postponed, taking into account any known facts. If the meeting is postponed the person chairing the meeting will advise the employee that if the reconvened meeting will proceed in their absence if they do not attend.
- The meeting will usually proceed in the following order, unless otherwise confirmed in writing prior to the meeting:
 - The employee or their representative will present their case relating to the permitted grounds for appeal.
 - Where witnesses are required, the employee or their representative will call each witness in turn so that:
 - The employee or their representative asks the witness questions;
 - The Academy Trust's representative has the opportunity to question the witness;
 - The employee or their representative may ask the witness further questions of clarification;
 - The Appeal Panel conducting the hearing has the opportunity to question the witness.
 - Each witness withdraws after giving evidence.
 - The Academy Trust's representative may question the employee or their representative;
 - The Academy Trust's representative states the Academy Trust's defence of the original decision;
 - Where witnesses are required, the Academy Trust's representative will call each witness in turn so that:
 - The Academy Trust's representative asks the witness questions;
 - The employee or their representative has the opportunity to question the witness;
 - The Academy Trust's representative may ask the witness further questions of clarification;
 - The individual or Appeal Panel conducting the hearing has the opportunity to question the witness.
 - Each witness withdraws after giving evidence;

- The employee or their representative may question the Academy Trust's representative;
 - The individual or Appeal Panel conducting the hearing ask any questions or clarifications of either the Academy Trust's representative or the employee or their representative at any point during the hearing.
 - The Academy Trust's representative and employee or their representative (in that order) shall have the opportunity to sum up their case if they so wish;
 - Both parties then withdraw;
 - The individual or Appeal Panel conducting the hearing, together with the HR advisor, is to deliberate in private, only recalling the parties to clarify points of uncertainty on evidence already given. If recall is necessary both parties are to return, notwithstanding that only one may be concerned with the point under clarification. The HR advisor shall provide technical and procedural advice and shall not vote on the matter.
 - The individual or Appeal Panel conducting the hearing is to announce the decision to both parties at the close of the proceedings whenever possible. The decision will be confirmed in writing within five working days.
- The individual or Appeal Panel can generally, subject to the content of the specific policy under which the appeal is being heard, either confirm the warning, reduce a final warning to a first warning, cancel a warning, or impose other sanctions (i.e. increase or reduce the implications for the employee), having regard to the wording of the specific policy. The Panel cannot reach a dismissal decision following an appeal against a warning or final warning.
 - **Confidentiality:** All employees and representatives of the Academy Trust (Manager / Senior Leader / Headteacher / Executive Headteacher / Local Governing Body / Board of Trustees) must treat as confidential any information relating to a case being conducted under any of these policies, including Appraisal documentation. The employee, and anyone accompanying the employee (including witnesses) must not make electronic recordings of any meetings or hearings conducted under any of these policies. Failure to observe confidentiality could be a reason for disciplinary action. [This provision is subject to broader legal responsibilities to disclose information, for instance regarding whistleblowing, safeguarding, or any court proceedings, which would take precedence]
 - **Equalities:** The Academy Trust is an equal opportunity employer and will not discriminate against staff on the basis of age, disability, gender reassignment, marital or civil partner status, pregnancy or maternity, race, colour, nationality, ethnic or national origin, religion or belief, sex or sexual orientation. We will take appropriate steps to accommodate the requirements of different religions, cultures and domestic responsibilities and ensure that our policies are operated and monitored in accordance with Equalities legislation.

- **Formal Meetings:** The following procedural expectations apply to all Formal Meetings between an employee and Academy Trust representatives (Manager / Senior Leader / Headteacher / Executive Headteacher / Local Governing Body / Board of Trustees):
- The employee will be given at least ten working days' written notice of the meeting (including time / date / place of the meeting), the purpose of the meeting and the issues to be discussed, the name of the person conducting or chairing the meeting, their right to be accompanied by a trade union representative or workplace colleague, and their right to call witnesses and produce relevant information; and if a potential outcome of the Formal Meeting is dismissal, this will be included in the letter;
- The meeting may be postponed for up to five working days in certain situations (see
- 'Right to Postpone' in these Common Principles);
- The employee will be provided with written information relating to the reason for and purpose of the meeting (including any investigation report), a copy of the relevant HR policy that the meeting is being held within, copies of any documentation that will be considered, and names of any witnesses being called by the Academy Trust, at least ten working days' in advance of the meeting;
- At least five working days before the meeting, the employee will provide copies of any papers that they will refer to and the names of any witnesses that they will call;
- The employee will be able to be accompanied by a Trade Union representative or a workplace colleague who can help present their case, but may not answer questions on behalf of the employee including questions that are addressed to the employee;
- The Academy Trust will make reasonable adjustments to accommodate individual(s)
- attending who have particular needs;
- The meeting will be chaired by the Manager, a Senior Leader, Headteacher, Executive Headteacher, Governor / Trustees as appropriate, and they may be supported by the HR Advisor. If the Executive Headteacher is the employee who is subject to the hearing, the Academy Trust's case will be brought by the Chair of the Board of Trustees who may remain throughout the meeting if someone other than the Chair of the Board of Trustees presents the case.
- A Formal Meeting that may result in a decision to dismiss must be heard by a
- Headteacher / Executive Headteacher or a panel of Governors / Trustees.
- Where an employee does not attend, written submissions provided in advance by the employee (or by phone if approved by the Chair), or made by their

representative at the meeting will be considered. If the employee does not attend without prior notification, the meeting may either proceed in their absence or be postponed, taking into account any known facts. If the meeting is postponed the person chairing the meeting will advise the employee that if the reconvened meeting will proceed in their absence if they do not attend.

- The meeting will usually proceed in the following order, unless otherwise confirmed in writing prior to the meeting:
 - The Academy Trust representative (Investigating Officer, Manager, Senior Leader, Headteacher, or Executive Headteacher) will state the Academy Trust's case. (If the Academy Trust's case in a disciplinary meeting is presented by someone other than the Investigating Officer, the Investigating Officer may remain in the hearing throughout with the Academy Trust's representative).
 - Where witnesses are required, the Academy Trust representative will call each witness in turn so that:
 - The Academy Trust's representative asks the witness questions;
 - The employee and their representative has the opportunity to question the witness;
 - The Academy Trust's representative may ask the witness further questions of clarification;
 - The individual or Panel conducting the hearing has the opportunity to question the witness.
 - Each witness withdraws after giving evidence.
 - The employee or their representative may question the Academy Trust's representative;
 - The employee or their representative may make an opening address outlining the employee's case;
 - Where witnesses are required, the employee or their representative will call each witness in turn so that:
 - The employee or their representative asks the witness questions;
 - The Academy Trust representative has the opportunity to question the witness;
 - The employee or their representative may ask the witness further questions of clarification;
 - The Senior Leader / Headteacher / Executive Headteacher / Governor or Trustee Panel conducting the hearing has the opportunity to question the witness.
 - Each witness withdraws after giving evidence;

- The Academy Trust's representative may question the employee or their representative;
- - The individual or Panel conducting the hearing ask any questions or clarifications of either the Academy Trust's representative, Investigating Officer, or the employee or their representative at any point during the Meeting.
 - The Academy Trust's representative and employee or their representative (in that order) shall have the opportunity to sum up their case if they so wish;
 - Both parties then withdraw;
 - The individual or Panel conducting the hearing, together with the HR advisor, is to deliberate in private, only recalling the parties to clarify points of uncertainty on evidence already given. If recall is necessary both parties are to return, notwithstanding that only one may be concerned with the point under clarification. The HR advisor shall provide technical and procedural advice and shall not vote on the matter.
 - The individual or Panel conducting the hearing is to announce the decision to both parties at the close of the proceedings whenever possible. The decision will be confirmed in writing within five working days.
 - Where the decision is to dismiss or to give a formal written warning the employee will be advised of their right of appeal against the decision.
- **Formal warning and dismissal decisions:** The Scheme of Delegation of the Academy Trust delegates the power to dismiss to the Executive Headteacher and to Headteacher's, and these policies enable Deputy Headteacher's to issue formal warnings up to and including final warnings. There may be occasions, however, where the Headteacher or Executive Headteacher considers that it would be more appropriate for either of the following:
 - For formal warnings to be issued by the Headteacher or Executive Headteacher rather than a Deputy Headteacher. If this is the case, any meeting that may result in dismissal would be heard by a Governors / Trustees Panel rather than the Headteacher and any appeal would be heard by an Appeals Panel of Governors / Trustees who had not been involved in the initial dismissal hearing (or Trustees if the matter was originally heard by a Trustees Panel).
 - If the formal warnings were issued by a Deputy Headteacher, the Headteacher or Executive Headteacher may decide that a meeting that may result in dismissal should be heard by a Governors / Trustees Panel rather than the Headteacher or Executive Headteacher. If this is the case, any appeal would be heard by an Appeals Panel of Governors / Trustees who had not been involved in the initial dismissal hearing.
 - If either of these situations is the case, the Headteacher or Executive

Headteacher shall confirm this to the employee. If the meeting that may result in dismissal is heard by a Governors / Trustees Panel, the Headteacher or Executive Headteacher may be the Investigating Officer and / or may present the case to the Governors / Trustees Panel.

- **Governors / Trustees Panels:** These will comprise of not less than three (and must be an odd number) of Governors / Trustees from across the trust. The Panel shall be convened by the Chair of the relevant body (the Local Governing Body where the employee is based, or the Chair of Trustees if it involves a Headteacher, Executive Headteacher or central trust staff).
- **Investigative role of the Headteacher or Executive Headteacher:** The Headteacher or Executive Headteacher may delegate their investigate role under any policy to another suitably trained Senior Leader where this is considered appropriate and is not in contravention of the Scheme of Delegation of the Academy Trust. An external investigating officer may be appointed if deemed appropriate by the Headteacher or Executive Headteacher in the circumstances.
- **Representation at Formal Meetings:** The Employment Relations Act 1996 give workers and employees a statutory right to a “companion” at a formal hearing who can be a trade union representative or workplace colleague.
- **Representation at informal meetings** Although there is no legal right to be accompanied by a trade union representative or workplace colleague at informal meetings this can be requested and such requests will not be refused. An employee may choose to represent themselves, and in this situation the employee may be questioned as a witness.
- **Right to postpone Formal Meetings or Appeal Hearings:** An employee may seek to postpone a Formal Meeting or an Appeal Hearing in order to have more time to consider his/her position, because of ill health (which requires a medical certificate), because of exceptional other reasons preventing the employee’s attendance (to be granted at the discretion of the Chair of the meeting), or because of non-availability of his/her chosen representative. If an employee’s representative cannot attend on the intended date, the Academy Trust will propose another date, ideally within 5 working days of the original date. Except in exceptional circumstances, only one postponement will be permitted – at the time of the postponement the employee will be notified that the reconvened meeting may proceed even if they do not attend.
- **Statements from pupils:** The principles below apply whenever statements are taken from pupils:
 - Statements must be taken as soon as possible after the alleged event has occurred.
 - Statements must be taken individually and pupils must be kept separately until this has happened so that any possible collusion is avoided.

- Care needs to be taken to ensure that the pupil does not, as far as possible, feel intimidated by the process. This is particularly true for a pupil who might have been the subject of the alleged event.
- Pupils should not be interviewed more than once unless this is clearly necessary.
- Interview statements from third parties (ie police or social care) must be requested and used. The pupil may be interviewed by the Investigating Officer to obtain clarification of matters in the interview statements or to obtain additional information, but only if this is clearly necessary.
- The parent/carer of a pupil should always be informed and invited to attend any interview with their child. They should be informed that the pupil's evidence may be used as part of the Academy Trust's processes, but that the pupil would not be required to attend the hearing to give evidence in person.
- If the Investigating Officer is not well-known to the pupil consideration should be given to whether the pupil would feel more comfortable speaking if the school's Designated Safeguarding Lead or another familiar Senior Leader undertook the interview.
- Any interview with a pupil should have two adults present, the role of the second adult being to take a complete and accurate record. This must include the time, date and place of the interview and who was present.
- Where possible, taking into account their age and capabilities, the pupil should write down an account of what happened. Where this is not practicable, the person carrying out the investigation should write the account for the pupil and check carefully that the account accurately records what the pupil wishes to say. It is likely to be particularly helpful for the person carrying out the investigation to prepare questions in advance.
- The purpose of the interview is to seek clarification of what the pupil saw and experienced, and who else may have been present and so have relevant information. Leading questions must be avoided.
- **Trade Union Officials:** All employees are equally subject to the policies. Where an employee is an elected trade union representative, the circumstances of the case will be raised with the relevant professional trade union officer before any formal action is taken without delay.